



**ORDER NUMBER**  
**F-25-22**

IN THE MATTER OF  
the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

FortisBC Energy Inc.  
Application for an Updated Code of Conduct and Transfer Pricing Policy  
Participant Assistance/Cost Award Application

**BEFORE:**

A. K. Fung, KC, Panel Chair  
A. Pape-Salmon, Commissioner

on October 7, 2022

**ORDER**

**WHEREAS:**

- A. On March 3, 2022, FortisBC Energy Inc. (FEI) filed with the British Columbia Utilities Commission (BCUC), pursuant to sections 58 to 61 of the *Utilities Commission Act*, an application for approval of an updated Code of Conduct (COC) and Transfer Pricing Policy (TPP), effective April 1, 2022 (Application);
- B. By Order G-77-22 dated March 15, 2022, the BCUC established a regulatory timetable for the review of the Application which included FEI providing public notice, letters of comment from stakeholders, FEI reply comments, and further process to be determined;
- C. By April 8, 2022, pursuant to Order G-77-22, the BCUC received one letter of comment from the Commercial Energy Consumers Association of British Columbia (the CEC) recommending one round of intervenor information requests (IRs) to better understand FEI's proposed changes;
- D. By Order G-108-22 dated April 25, 2022, the BCUC amended the regulatory timetable for the review of the Application which included intervenor registration, one round of BCUC and intervenor written IRs, and written final and reply arguments;
- E. The following parties registered as intervenors in the proceeding:
  - Commercial Energy Consumers Association of British Columbia (the CEC);
  - British Columbia Old Age Pensioners' Organization et al. (BCOAPO); and
  - BC Sustainable Energy Association (BCSEA);
- F. By Order G-237-22 with Reasons for Decision dated August 18, 2022, the BCUC approved FEI's Application, subject to certain adjustments as directed;

- G. The following interveners filed Participant Assistance/Cost Award (PACA) applications with the BCUC with respect to their participation in the proceeding:

Date	Participant	Application
June 21, 2022	BCSEA	\$1,568.00
July 7, 2022 and revised August 12, 2022	the CEC	\$11,827.20
August 18, 2022	BCOAPO	\$8,351.70

- H. By letter dated September 9, 2022, FEI provided its comments on the PACA applications, stating that it has no further comment in respect of the PACA applications if the BCUC is satisfied that the participants have met the eligibility requirements, that the funding days claimed are appropriate, and that the level of participation has met with the BCUC's criteria and requirements; and
- I. The BCUC has reviewed the PACA applications in accordance with the criteria and rates set out in the PACA Guidelines attached to BCUC Order G-97-17, and makes the following determinations.

**NOW THEREFORE** pursuant to section 118(1) of the *Utilities Commission Act* and for the reasons outlined in Appendix A to this order, the BCUC orders as follows:

1. Funding is awarded to the following interveners in the listed amounts below for their participation in the FEI Application for an Updated Code of Conduct and Transfer Pricing Policy proceeding:

Participant	Award
BCSEA	\$1,568.00
the CEC	\$7,942.20
BCOAPO	\$7,623.26

2. FEI is directed to reimburse the above-noted interveners for the awarded amount in a timely manner.

**DATED** at the City of Vancouver, in the Province of British Columbia, this 7<sup>th</sup> day of October 2022.

BY ORDER

*Original signed by:*

A. K. Fung, KC  
Commissioner

Attachment

FortisBC Energy Inc.  
Application for an Updated Code of Conduct and Transfer Pricing Policy  
Participant Assistance/Cost Award Application

## REASONS FOR DECISION

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### 1.0 Background

On March 3, 2022, FortisBC Energy Inc. (FEI) filed with the British Columbia Utilities Commission (BCUC), pursuant to sections 58 to 61 of the *Utilities Commission Act* (UCA), an application for approval of an updated Code of Conduct (COC) and Transfer Pricing Policy (TPP), effective April 1, 2022 (Application).

The BCUC established and later amended a regulatory timetable for the review of the Application, which included an opportunity for stakeholders to submit comments on the Application, intervener registration, one round of BCUC and intervener information requests (IRs) to FEI, and followed by written and reply arguments.<sup>1</sup> By letter dated May 11, 2022, the BCUC specified that the purpose of the proceeding is to review FEI's requests as outlined in the Application's approvals sought.<sup>2</sup>

By Order G-237-22 with Reasons for Decision dated August 18, 2022, the BCUC approved FEI's Application subject to certain adjustments as directed.

The BCUC received applications for Participant Assistance/Cost Award (PACA) from three participants with respect to their participation in the proceeding.

### 1.1 Legislative Framework

Section 118 of the UCA provides that the BCUC may order a participant in a proceeding before the BCUC to pay all or part of the costs of another participant in the proceeding.

Order G-97-17, dated June 15, 2017, outlines the BCUC's PACA Guidelines (PACA Guidelines). Section 3.0 of the PACA Guidelines relates to participant eligibility for a cost award and Section 4.0 relates to criteria for a cost award. In accordance with section 4.3 of the PACA Guidelines, the BCUC considers the following in determining the amount of a participant's cost award:

- (a) Has the participant contributed to a better understanding by the BCUC of the issues in the proceeding?
- (b) To what degree will the participant be affected by the outcome of the proceeding?
- (c) Are the costs incurred by the participant fair and reasonable?
- (d) Has the participant joined with other groups with similar interests to reduce costs?
- (e) Has the participant made reasonable efforts to avoid conduct that would unnecessarily lengthen the duration of the proceeding, such as ensuring participation was not unduly repetitive?
- (f) The funding day calculation for funding in accordance with sections 4.1 and 4.2, if one is provided.

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<sup>1</sup> Orders G-77-22 and G-108-22.

<sup>2</sup> Exhibit A-4.

(g) Any other matters which the BCUC determines appropriate in the circumstances.

Sections 7.0 through 13.0 of the PACA Guidelines outline the types of eligible costs that may be awarded to participants including, among other things, professional fees, disbursements, taxes and other costs.

## 2.0 PACA Applications

The following interveners filed PACA applications with the BCUC with respect to their participation in the proceeding:

Date (2022)	Participant	Application
June 21	BC Sustainable Energy Association (BCSEA)	\$1,568.00
July 7 (revised on August 12)	Commercial Energy Consumers Association of British Columbia (the CEC)	\$11,827.20
August 18	British Columbia Old Age Pensioners' Organization et al. (BCOAPO)	\$8,351.70

The table below summarizes the number of funding days requested by interveners in their respective PACA applications:

Participant	Legal Counsel	Consultant	Total
BCSEA	0.500	0.000	0.500
the CEC	1.575	4.000	5.575
BCOAPO	1.500	1.875	3.375

On September 9, 2022, FEI provided its comments on the PACA applications, stating that it has no further comment in respect of the PACA applications if the BCUC is satisfied that the participants have met the eligibility requirements, that the funding days claimed are appropriate, and that the level of participation has met with the BCUC's criteria and requirements.

### *Panel Determination*

**With the exception of the consulting fees applied for by the CEC and BCOAPO discussed below, the Panel finds the amounts in the PACA applications to be fair and reasonable awards on account of the respective funding as applied for. The Panel approves the award of participant costs of \$1,568.00, inclusive of applicable taxes, to BCSEA.**

The Panel, having considered the criteria in the PACA Guidelines, finds that all participants are eligible for PACA funding in this proceeding as they represent the direct interests of ratepayer groups and considers that each applicant contributed to a better understanding of the issues raised in this proceeding.

### The CEC

As noted above, the Panel acknowledges that the CEC participated fully in the proceeding and contributed to a better understanding by the BCUC of the issues in the proceeding. In particular, the Panel recognizes that the CEC was the sole stakeholder who submitted initial comments on the Application and regulatory process, suggesting that one round of information requests should be established to better understand certain issues in FEI's application.

However, the Panel notes that the number of days (4.0 days) claimed by the CEC for consulting services is significantly higher than the funding days sought by other participants and exceeds the Panel's expectation of funding days for this proceeding given the Application's limited size and scope. Instead, the Panel finds a maximum of 2.0 funding days for each of legal and consulting services to be fair and reasonable for the amount of regulatory effort necessary to participate fully in the proceeding, inclusive of the letter of comment process.

**Therefore, the Panel approves the award to the CEC of total participant costs of \$7,942.20, inclusive of applicable taxes, which is based on a reduction of its funding days for consulting services to 2.0 days.** The award is calculated as follows:

PACA Application			PACA Award	
	Funding Days	Amount	Funding Days	Amount <sup>3</sup>
Legal Counsel	1.575	\$4,057.20	1.575	\$4,057.20
Consultant	4.000	\$7,770.00	2.000	\$3,885.00
<b>Total</b>	<b>5.575</b>	<b>\$11,827.20</b>	<b>3.575</b>	<b>\$7,942.20</b>

### BCOAPO

BCOAPO's PACA application includes a claim for 1.5 funding days for legal counsel and 1.875 funding days for consulting services. While the number of days claimed by BCOAPO is within the Panel's expectations for full participation in the proceeding, the Panel notes that BCOAPO did not submit an initial letter of comment on the Application and regulatory process. The Panel also observes that BCOAPO's final arguments, at times, were not substantiated or included submissions which were out of scope and therefore, disregarded by the Panel. For example, the BCOAPO made submissions pertaining to explicit BCUC oversight of the actual overhead charged and a change to the overhead percentage for two other off-site services. Since these submissions were beyond the scope of the proceeding, the Panel considers that a downward adjustment of BCOAPO's funding days on account of consulting services is warranted. The Panel acknowledges, however, that BCOAPO participated in the IRs to FEI and final argument.

For the reasons stated above, **the Panel approves the award to BCOAPO for total participant costs of \$7,623.26**

<sup>3</sup> All amounts include GST and PST for legal counsel, and GST only for consulting services.

inclusive of applicable taxes, which is based on a reduction of its funding days for consulting services to 1.5 days. The award is calculated as follows:

	PACA Application		PACA Award	
	Funding Days	Amount	Funding Days	Amount <sup>4</sup>
Legal Counsel	1.500	\$4,704.00	1.500	\$4,704.00
Consultant	1.875	\$3,642.19	1.500	\$2,913.75
Disbursements		\$5.51		\$5.51
<b>Total</b>	<b>3.375</b>	<b>\$8,351.70</b>	<b>3.000</b>	<b>\$7,623.26</b>

<sup>4</sup> All amounts include GST and PST for legal counsel, and GST only for consulting services and disbursements.