



**ORDER NUMBER
F-27-22**

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

and

British Columbia Hydro and Power Authority
Application for a Certificate of Public Convenience and Necessity
Participant Assistance/Cost Award Application

BEFORE:

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

on October 12, 2022

ORDER

WHEREAS:

- A. On November 5, 2021, British Columbia Hydro and Power Authority (BC Hydro) filed an application with the British Columbia Utilities Commission (BCUC) pursuant to sections 45 and 46 of the *Utilities Commission Act* seeking a Certificate of Public Convenience and Necessity (CPCN) for the Mainwaring substation upgrade project (CPCN Application);
- B. In the CPCN Application, BC Hydro proposed to replace two power transformers, a feeder section and associated equipment at the Mainwaring distribution substation (Project);
- C. By Orders G-347-21, G-353-21, and G-64-22 dated November 26, 2021, December 2, 2021 and March 4, 2022, respectively, the BCUC established and amended the regulatory timetable for the review of the CPCN Application, which included public notification, filing of confirmation of compliance with public notification directives, two rounds of BCUC and intervener information requests, letters of comment submissions and final and reply arguments;
- D. By January 7, 2022, British Columbia Old Age Pensioners' Organization et al. (BCOAPO), Commercial Energy Consumers Association of British Columbia (the CEC) and the Residential Consumer Intervener Association (RCIA) registered as interveners in the proceeding;
- E. By Order C-4-22, dated August 16, 2022, the BCUC granted a CPCN to BC Hydro for the Project;

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

| Date | Participant | Application |
|--------------------|-------------|-------------|
| July 26, 2022 | BCOAPO | \$25,861.86 |
| August 12, 2022 | The CEC | \$45,280.90 |
| September 19, 2022 | RCIA | \$30,035.25 |

- G. By letter dated October 3, 2022, BC Hydro provided its comments on the PACA applications, stating that in its view, all applicants have participated in the proceeding and contributed to a better understanding by the BCUC of the issues in the proceeding. BC Hydro believes all participants are eligible for a cost award and has no objection to them receiving the PACAs that they have requested; and
- H. The BCUC has reviewed the PACA applications in accordance with the criteria and rates set out in the PACA Guidelines, attached to Order G-97-17, and determines the following cost awards should be approved.

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 proceeding:

| Participant | Award |
|-------------|-------------|
| BCOAPO | \$25,736.41 |
| The CEC | \$45,280.90 |
| RCIA | \$29,701.35 |

2. BC Hydro 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 12th day of October 2022.

BY ORDER

Original signed by:

A. K. Fung, KC
Commissioner

Attachment

British Columbia Hydro and Power Authority
Application for a Certificate of Public Convenience and Necessity
Participant Assistance/Cost Award Application

REASONS FOR DECISION

1.0 Introduction

On November 5, 2021, British Columbia Hydro and Power Authority (BC Hydro) filed an application with the British Columbia Utilities Commission (BCUC) pursuant to section 45 and 46 of the *Utilities Commission Act* (UCA) seeking a Certificate of Public Convenience and Necessity (CPCN) for the Mainwaring substation upgrade project (CPCN Application). In the CPCN Application, BC Hydro proposed to replace two power transformers, a feeder section and associated equipment at the Mainwaring distribution substation in south Vancouver (the Project).¹

Pursuant to an order issued on November 26, 2021, as amended December 2, 2021, the BCUC established a regulatory timetable for the review of the CPCN Application, which included public notification, filing of confirmation of compliance with public notification directives, two rounds of BCUC and intervener information requests, submission of letters of comment and further process to be determined.² By order issued on March 4, 2022, the BCUC amended the regulatory timetable to include final and reply arguments.³

By January 7, 2022, three parties registered as interveners in the proceeding:

- British Columbia Old Age Pensioners' Organization et. al (BCOAPO);
- The Commercial Energy Consumers Association of British Columbia (the CEC); and
- The Residential Consumer Intervener Association (RCIA).

On August 16, 2022, the BCUC granted a CPCN to BC Hydro for the Project.⁴

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

1.1 Regulatory and Legislative Framework

Section 118(1) 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.

As a proceeding that commenced prior to June 30, 2022, the BCUC's Participant Assistance/Cost Award Guidelines (PACA Guidelines) are applicable to this proceeding.⁵

¹ Exhibit B-1, p. 1-1

² G-347-21, dated November 26, 2021; G-353-21, dated December 2, 2021.

³ G-64-22, dated March 4, 2022.

⁴ Order C-4-22, dated August 16, 2022, Directive 1.

⁵ G-178-22, dated June 30, 2022, Directive 2.

BCUC Order G-97-17 dated June 15, 2017, sets out the BCUC’s PACA Guidelines. Section 3.0 of the PACA Guidelines relates to participant eligibility for a cost award. Section 4.3 of the PACA Guidelines provides that the BCUC, in determining the amount of a participant’s cost award, may consider the following:

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

1.2 PACA Applications

The following table summarizes the cost award sought by each intervenor in its respective PACA application:

| Participant | Application |
|-------------|-------------|
| BCOAPO | \$25,861.86 |
| The CEC | \$45,280.90 |
| RCIA | \$30,035.25 |

Pursuant to section 14 of the PACA Guidelines, BC Hydro was provided a copy of the PACA applications and given an opportunity to provide comments. By letter dated October 3, 2022, BC Hydro provided its comments on the PACA applications, stating that in its view, all applicants have participated in the proceeding and contributed to a better understanding by the BCUC of the issues in the proceeding. BC Hydro believes all participants are eligible for a cost award and has no objection to them receiving the PACAs that they have requested.

The Panel has reviewed the PACA applications in accordance with the criteria and rates set out in the PACA Guidelines, and concludes that the cost award should be approved in full for the CEC; and that partial cost awards should be approved for BCOAPO and RCIA. These reasons for decision explain the Panel’s decision with respect to the adjustments to the funding awards for BCOAPO and RCIA.

2.0 BCOAPO

On July 26, 2022, BCOAPO filed its PACA application with the BCUC. In its PACA application, BCOAPO seeks a cost award of \$25,861.86, which includes:⁶

- 4 days for legal counsel Ms. Worth;
- 1 day for legal counsel Ms. Barham;

⁶ BCOAPO PACA Application dated July 26, 2022, pp. 3-7.

- 5.75 days for consultant Mr. Harper; and
- Disbursements for printing/photocopying.

BCOAPO includes in its PACA application supporting invoices and a breakdown of time spent on the proceeding for all professionals noted above. Ms. Worth's time breakdown includes a line-item dated June 3, 2022 for 0.3 hour with a description "Draft PACA."⁷

Panel Determination

The Panel, having considered the criteria in the PACA Guidelines, finds that BCOAPO is eligible for PACA funding and contributed to a better understanding of the issues raised in this proceeding. However, the Panel notes that BCOAPO's supporting timesheet for legal counsel Ms. Worth includes 0.3 hours of time spent preparing its PACA application. In the Panel's view, it is not reasonable for the cost award to include these costs, as they relate to matters of billing. **Therefore, the Panel awards BCOAPO with \$25,736.41, inclusive of taxes, which is based on a reduction of Ms. Worth's time by 0.3 hour. The award is calculated as follows:**

| BCOAPO | Daily Rate | Days | Subtotal | GST | PST | Total |
|----------------------------|------------|-------------------|-------------|----------|----------|--------------------|
| Ms. Worth - Legal Counsel | \$2,800 | 3.96 ⁸ | \$11,095.00 | \$554.40 | \$776.16 | \$12,418.56 |
| Ms. Barham - Legal Counsel | \$1,900 | 1.00 | \$1,900.00 | \$95.00 | \$133.00 | \$2,128.00 |
| Mr. Harper - Consultant | \$1,850 | 5.75 | \$10,637.50 | \$531.88 | | \$11,169.38 |
| Disbursements | | | \$19.50 | \$0.98 | | \$20.48 |
| Total Award | | | | | | \$25,736.41 |

3.0 RCIA

On June 16, 2022, RCIA filed its PACA application with the BCUC. This PACA application was subsequently revised and resubmitted by RCIA on August 25, 2022, September 13, 2022 and September 19, 2022.

In its September 19, 2022 PACA application, RCIA seeks a cost award of \$30,035.25, which includes:⁹

- 5.2 days for consultant Mr. Oakley;
- 5.8 days for consultant Mr. Helland;
- 7.4 days for Mr. Matusiak, which is comprised of 6.1 days at the consultant rate and 1.3 days at the case manager rate; and
- 0.6 days for legal counsel Mr. Cass.

RCIA included in its September 19, 2022 PACA application supporting invoices and a breakdown of time spent on the proceeding for all professionals noted above.¹⁰ Mr. Matusiak's time breakdown includes 4.25 hours described as "PACA Award."¹¹ In response to BCUC staff questions, RCIA explained that the 4.25 hours described

⁷ BCOAPO PACA Application dated July 26, 2022, PDF p. 10.

⁸ 3.96 days is calculated as 4.0 days – (0.3 hours / 8 hours).

⁹ RCIA PACA Application dated September 19, 2022, pp. 4-10.

¹⁰ RCIA PACA Application dated September 19, 2022, PDF pp. 11-16.

¹¹ RCIA PACA Application dated September 19, 2022, PDF p. 14.

as “PACA Award” pertain to preparing a budget estimate and the PACA application for this proceeding. RCIA also explained that this time is billed at the case manager rate.¹²

Panel Determination

The Panel, having considered the criteria in the PACA Guidelines, finds that RCIA is eligible for PACA funding and contributed to a better understanding of the issues raised in this proceeding. However, the Panel notes that RCIA’s supporting timesheet for Case Manager, Mr. Matusiak includes 4.25 hours of time spent preparing its PACA budget and PACA application. Consistent with the Panel’s views described in the previous section, the Panel considers it is not reasonable for the cost award to include these costs, as they relate to matters of billing. **Therefore, the Panel awards RCIA with \$29,701.35, inclusive of taxes, which is based on a reduction of 4.25 hours billed by Mr. Matusiak as Case Manager. The award is calculated as follows:**

| RCIA | Daily Rate | Days | Subtotal | GST | PST | Total |
|-----------------------------|------------|--------------------|-------------|----------|-----|--------------------|
| Mr. Oakley - Consultant | \$1,850 | 5.20 | \$9,620.00 | \$481.00 | | \$10,101.00 |
| Mr. Helland - Consultant | \$1,850 | 5.80 | \$10,730.00 | \$536.50 | | \$11,266.50 |
| Mr. Matusiak - Consultant | \$950 | 6.10 | \$5,795.00 | \$289.75 | | \$6,084.75 |
| Mr. Matusiak - Case Manager | \$600 | 0.77 ¹³ | \$462.00 | \$23.10 | | \$485.10 |
| Ms. Cass - Legal Counsel | \$2,800 | 0.60 | \$1,680.00 | \$84.00 | | \$1,764.00 |
| Total Award | | | | | | \$29,701.35 |

¹² RCIA response to BCUC staff questions, dated September 13, 2022, PDF pp. 22-25.

¹³ 0.77 days is calculated as 1.3 days – (4.25 hours / 8 hours).