



**ORDER NUMBER
F-8-23**

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

and

FortisBC Inc.
2021 Long-Term Electric Resource Plan and 2021 Long-Term Demand-Side Management Plan
Participant Assistance/Cost Award Application

BEFORE:

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

on March 10, 2023

ORDER

WHEREAS:

- A. On August 4, 2021, FortisBC Inc. (FBC) filed its 2021 Long-Term Electric Resource Plan (2021 LTERP) including its 2021 Long-Term Demand-Side Management (DSM) Plan (2021 LT DSM Plan) for acceptance by the British Columbia Utilities Commission (BCUC) pursuant to section 44.1(6) of the *Utilities Commission Act* (UCA) (Application);
- B. By Order G-265-21, dated September 9, 2021, and as amended by Orders G-292-21, G-314-21, G-24-22, G-130-22, and G-199-22, the BCUC established a public hearing and regulatory timetable, including intervenor registration, two rounds of information requests (IRs), filing of intervenor evidence, IRs on intervenor evidence, filing of rebuttal evidence, IRs on rebuttal evidence, two Panel IRs and final and reply arguments;
- C. British Columbia Hydro and Power Authority, BC Sustainable Energy Association (BCSEA), British Columbia Old Age Pensioners' Organization et al. (BCOAPO); BC Solar and Storage Industries Association (BCSSIA), Columbia Power Corporation, Brilliant Power Corporation, Brilliant Expansion Power Corporation and Waneta Expansion Power Corporation, Commercial Energy Consumer Association of British Columbia (the CEC), the Industrial Consumers Group (ICG), Movement of Unite Professionals (MoveUP) and the Residential Consumer Intervenor Association (RCIA) registered as intervenors in the proceeding;
- D. On December 21, 2022, by Decision and the accompanying Order G-380-22, the BCUC issued a decision accepting FBC's 2021 LTERP, including the 2021 LT DSM Plan, in whole as being in the public interest;
- E. The following intervenors filed Participant Assistance/Cost Award (PACA) applications with the BCUC with respect to their participation in the proceeding:

Date	Participant	Application
October 12, 2022	The CEC	\$64,062.69
October 13, 2022	MoveUP	\$10,548.16
October 24, 2022	BCSEA	\$38,458.35
October 31, 2022	ICG	\$42,570.50
November 4, 2022	BCSSIA	\$70,210.00
November 7, 2022	RCIA	\$87,024.00
December 22, 2022	BCOAPO	\$41,860.79

- F. By letter dated January 24, 2023, FBC provided its comments on the PACA applications, stating that if the BCUC is satisfied that the PACA applicants 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, then FBC has no further comment; and
- G. The BCUC has reviewed the PACA applications in accordance with the criteria and rates set out in the PACA Guidelines, attached to Commission Order G-97-17, and concludes that for the Reasons for Decision set out in Appendix A to this order, the following cost awards should be approved.

NOW THEREFORE pursuant to section 118(1) of the *Utilities Commission Act*, the BCUC orders as follows:

- For the Reasons for Decision attached as Appendix A to this order, funding is awarded to the following interveners in the listed amounts for their participation in the 2021 LTERP proceeding:

Participant	Amount requested	Amount approved
The CEC	\$64,062.69	\$64,062.69
MoveUP	\$10,548.16	\$10,548.16
BCSEA	\$38,458.35	\$38,458.35
ICG	\$42,570.50	\$42,570.50
BCSSIA	\$70,210.00	\$70,210.00
RCIA	\$87,024.00	\$73,657.50
BCOAPO	\$41,860.79	\$41,860.79

- FBC is directed to reimburse the above-noted interveners for the awarded amounts in a timely manner.

DATED at the City of Vancouver, in the Province of British Columbia, this 10th day of March 2023.

BY ORDER

Original signed by:

A. K. Fung, KC
Commissioner

Attachment

FortisBC Inc.
2021 Long-Term Electric Resource Plan and 2021 Long-Term Demand-Side Management Plan
Participant Assistance/Cost Award Applications

REASONS FOR DECISION

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1.0 BACKGROUND

On August 4, 2021, FortisBC Inc. (FBC) filed the 2021 Long-Term Electric Resource Plan (2021 LTERP) including its 2021 Long-Term Demand-Side Management Plan (LT DSM Plan) under section 44.1(2) of the *Utilities Commission Act* (UCA). On September 9, 2021, the British Columbia Utilities Commission (BCUC) established a public hearing and regulatory timetable by Order G-265-21,¹ which included Intervener Notice of Intent to File Evidence. On December 21, 2022, the BCUC issued the Decision² accepting FBC's 2021 LTERP, including the 2021 LT DSM Plan, in whole as being in the public interest.

Applications for PACA were received from the following interveners and are evaluated in these Reasons for Decision:

- BC Sustainable Energy Association (BCSEA);
- British Columbia Old Age Pensioners' Organization et al. (BCOAPO);
- BC Solar and Storage Industries Association (BCSSIA);
- the Commercial Energy Consumer Association of British Columbia (the CEC);
- the Industrial Consumers Group (ICG);
- Movement of Unite Professionals (MoveUP); and
- the Residential Consumer Intervener Association (RCIA).

2.0 LEGISLATIVE AND REGULATORY FRAMEWORK

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

Order G-97-17 outlines the BCUC's PACA Guidelines (PACA Guidelines). Section 4.0 of the PACA Guidelines outlines criteria for a cost award. The criteria outlined in Section 4.3 include the considerations in determining the amount of the award the BCUC will award, including: a) whether the participant contributed to a better understanding by the BCUC of the issues in the proceeding, c) if the costs incurred by the participant are fair and reasonable; and e) whether the participant made reasonable efforts to avoid conduct that would unnecessarily lengthen the duration of the proceeding, such as ensuring its participation was not unduly repetitive. Subsection (g) also provides for consideration of any other matters which the BCUC determines appropriate in the circumstances.

Section 7.0 of the PACA Guidelines outlines the BCUC's expectations for PACA applicants including the use of professional services in a cost-effective manner and making efforts to avoid duplication of services, and as such the BCUC may adjust cost awards where it appears any duplication appears to have occurred. Specialists are expected to provide services specific to their specialized technical expertise, and in addition, expert witnesses are expected to provide fair, objective and non-partisan opinion evidence.

Section 7.9 of the PACA Guidelines also provides that a participant may seek prior approval for costs for a specialist or expert witness, so the BCUC may determine whether or not the participant is approved for the costs for the specialist or expert witness.

¹ Amended by Orders G-292-21 and G-314-21.

² Decision and Order G-380-22 dated December 21, 2021.

3.0 PACA APPLICATIONS RECEIVED

The following interveners submitted Participant Assistance/Cost Award (PACA) applications, as summarized in the table below:

Date	Participant	Application
October 12, 2022	The CEC	\$64,062.69
October 13, 2022	MoveUP	\$10,548.16
October 24, 2022	BCSEA	\$38,458.35
October 31, 2022	ICG	\$42,570.50
November 4, 2022	BCSSIA	\$70,210.00
November 7, 2022	RCIA	\$87,024.00
December 22, 2022	BCOAPO	\$41,860.79

Pursuant to Section 14 of the PACA Guidelines, FBC was provided a copy of the PACA applications with the opportunity to provide its comments. By letter dated January 24, 2023, FBC provided its comments, stating that if the BCUC is satisfied that the PACA applicants 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, then FBC has no further comment on the PACA applications.

Panel Determination

The Panel is guided by the BCUC's PACA Guidelines in its review of the PACA applications. The Panel is satisfied that all of the PACA applicants meet the eligibility criteria outlined in the BCUC's PACA Guidelines for a cost award in this proceeding.

The Panel finds that the following applicants made substantive contributions to the FBC 2021 LTERP proceeding, contributed to the Panel's better understanding, and with the exception of RCIA, whose PACA application is discussed separately below, the funding amounts requested are consistent with the rates established in the PACA Guidelines. **The Panel therefore approves in full the following interveners' funding requests as set out below:**

Participant	Application
The CEC	\$64,062.69
MoveUP	\$10,548.16
BCSEA	\$38,458.35
ICG	\$42,570.50
BCSSIA	\$70,210.00
BCOAPO	\$41,860.79

4.0 RCIA'S PACA APPLICATION

4.1 Intervener Evidence Provided by RCIA

On January 6, 2022, RCIA informed the BCUC and FBC of its intent to submit evidence regarding “benefits of optionality and diversification as it pertains to the Application.”³

Following receipt of RCIA's submission, the Panel requested⁴ that RCIA provide the following additional information regarding the evidence it intended to file, including: details regarding who would be preparing the evidence; their credentials; the estimated cost; and the anticipated length of the evidence; and further explanation of the relevance of the evidence in the context of section 44.1 of the UCA, and how it would assist the Panel in making its determination on the issues related to the Application.

RCIA proposed the following personnel to contribute to RCIA's proposed evidence submission, stating that:

credentials of staff are consistent with credentials submitted to the BCUC in past RCIA interventions:

- Michael Walsh (RCIA) – Consultant (7+ Years' Experience);
- Chris Oakley (RCIA) - Consultant (7+ Years' Experience);
- Peter Helland (RCIA) - Consultant (7+ Years' Experience); and
- Matthew Matusiak (RCIA) - Consultant (0 - 4 Years' Experience).⁵

RCIA proposed to submit ‘a complementary evaluation framework to enhance assessment of candidate resource options by appropriately considering the increasingly important parameters “flexibility” and “resiliency.”’⁶

With respect to how it would assist the Panel in reviewing the FBC Application, RCIA stated that “its proposed resource evaluation framework will assist the BCUC in assessing and approving resource additions that will best meet the needs of ratepayers, by providing all parties with a more complete understanding of the full benefits and costs attributable to each of the candidate resources being evaluated.”⁷

On April 27, 2022, RCIA submitted its evidence in the form “of an expert report prepared by Midgard Consulting Inc. ... regarding a framework for evaluating alternative resource portfolio performance under plausible scenarios, to determine investment priority for achieving optimal portfolios.”⁸ The contributing authors included Chris Oakley, Peter Helland, Michael Walsh, Matthew Matusiak, and Adesewa Odetayo, Ph.D. of Midgard Consulting Inc., on behalf of RCIA.

On June 6, 2022, following the submission of evidence, RCIA submitted a revised budget estimate which included the use of both consultant and specialist/expert witness rates for the same individuals.

³ Exhibit C8-3.

⁴ Exhibit A-7.

⁵ Exhibit C8-4, pp. 1-2.

⁶ Ibid., p. 3.

⁷ Ibid., p. 4.

⁸ Exhibit C8-6, p. 1.

4.2 RCIA's PACA Application

On November 7, 2022, RCIA submitted a PACA application for a total of \$87,024.00, as summarized in the table below.

Person	Professional Role	Claimed professional rate (\$)	Days	PACA Claim (incl relevant taxes) (\$)
Michael Walsh	Consultant	1,850	2.2	4,273.50
Michael Walsh	Specialist/Expert witness	2,150	3.2	7,224.00
Peter Helland	Consultant	1,850	4	7,770.00
Peter Helland	Specialist/Expert witness	2,150	6.1	13,770.75
Chris Oakley	Consultant	1,850	4.1	7,964.25
Chris Oakley	Specialist/Expert witness	2,150	7	15,802.50
Matthew Matusiak	Case manager	\$600	1.5	\$ 945.00
Matthew Matusiak	Consultant	\$950	13.8	13,765.50
Adesewa Odetayo	Specialist/Expert witness	2,150	2.7	6,095.25
Michael Manarovici	Consultant	1,850	0.5	971.25
Vikramjeeet Sandhu	Consultant	950	0.8	798.00
				79,380.00
Fred Cass	Legal counsel	2,800	2.6	7,644.00
Total			48.5	87,024.00

RCIA is claiming both consultant and specialist rates for the same four individuals from Midgard Consulting Inc., depending on the task involved as outlined below.

Specialist rates have been claimed for the preparation of intervenor evidence provided by Midgard Consulting Inc. and responding to IRs on intervenor evidence. The following notes were provided with respect to the time spent on the preparation of intervenor evidence and related IR responses:

- M. Walsh acted as a specialist in this proceeding, preparing evidence for RCIA and responding to applicable IRs, notably on the topics of **Modern Portfolio Theory and comparing risk to uncertainty**, and **other proposed evaluation frameworks** for preferred resource portfolios.
- P. Helland acted as a specialist in this proceeding, preparing evidence for RCIA and responding to applicable IRs, notably on the topics of **risk management and other proposed evaluation frameworks** for preferred resource portfolios.
- C. Oakley acted as a specialist in this proceeding, preparing evidence for RCIA and responding to applicable IRs, notably on the topics of **scenario planning and other proposed evaluation frameworks** for preferred resource portfolios.
- A. Odetayo is a specialist for Midgard Consulting Inc., who prepared evidence on behalf of the RCIA. Research, review, and prepare evidence for RCIA, contributing to **all aspects of evidence, but particularly the various evaluation framework proposals discussed**. [Emphasis added]

RCIA states in its PACA application that the “costs incurred by RCIA are fair and reasonable because RCIA used cost-effective resources efficiently to consider all materials in the evidentiary record.”

4.3 Issues Arising

4.3.1 Appropriate Use of Specialist and Expert Witness Rates

The Panel notes that in RCIA’s initial response to the Panel’s request for additional information relating to its proposed intervener evidence, RCIA referred to the use of RCIA staff, with the associated professional role of consultant. RCIA did not request approval for the use of specialist or expert witness rates in connection with the preparation of the intervener evidence at that time.

In RCIA’s PACA application, the same four individuals listed as RCIA Consultants in Exhibit C8-4, are described as both Midgard employees and Midgard Consulting’s “specialist/expert witness.” No rationale has been provided for the change in professional roles and associated rates claimed by those individuals.

The Panel finds that RCIA has failed to justify the use of specialist/expert witness rates for the submission of intervener evidence nor sought prior approval of same in this instance. Accordingly, the Panel finds that the daily rate of \$1,850 for a consultant with over 7 years experience (rather than the maximum specialist/expert witness rate of \$2,100) claimed by four of the individuals involved in the preparation of RCIA’s intervener evidence (Messrs. Walsh, Helland, Oakley and Odetayo) is appropriate. The adjusted award based on the reduction in hourly rates for the provision of RCIA’s intervener evidence is outlined in the table below:

	Role	Rate (\$/day)	Days	Applicable Taxes (\$)	Adjusted award (\$)
Michael Walsh	Consultant 7yrs+	1,850	5.4	499.50	10,489.50
Peter Helland	Consultant 7yrs+	1,850	10.1	934.25	19,619.25
Chris Oakley	Consultant 7yrs+	1,850	11.1	1,026.75	21,561.75
Matthew Matusiak	Case manager	600	1.5	45.00	945.00
Matthew Matusiak	Consultant 0-4yrs	950	13.8	655.50	13,765.50
Adesewa Odetayo	Consultant 7yrs+	1,850	2.7	249.75	5,244.75
Michael Manarovici	Consultant 7yrs+	1,850	0.5	46.25	971.25
Vikramjeeet Sandhu	Consultant 0-4yrs	950	0.8	38.00	798.00
Total consultant fees					73,395.00
Fred Cass	Counsel	2,800	2.6	364.00	7,644.00
Revised Total			48.5		81,039.00

4.3.2 Value of Intervener Evidence Provided

RCIA stated in its PACA application that it contributed to a better understanding by the BCUC by focusing on FBC’s evaluation of the performance of its preferred resource portfolio, specifically by proposing a framework that would enable comparative evaluation of the portfolio’s performance of alternative resources. By defining key differences between the concepts of reliability and resiliency, RCIA introduced evidence that allows FBC to enhance its preferred resource portfolio to meet both reliability and resiliency objectives through several proposed portfolio evaluation techniques (e.g., Modern Portfolio Theory, risk management and structured

decision-making). RCIA clarified that it is not suggesting FBC is imprudent in its preferred resource portfolio evaluations but suggesting opportunities to enhance evaluation activities in subsequent FBC proceedings.

In its decision on the Application, the Panel noted that in the final argument RCIA agreed with FBC's choice of portfolio C3 as the preferred portfolio,⁹ and RCIA concluded that the FBC 2021 LTERP is generally in the public interest, while submitting the initial Application was deficient given concerns around the consideration of resiliency in the 2021 LTERP.¹⁰

In accepting the 2021 LTERP as being in the public interest, the Panel noted its support for FBC's willingness to explore an enhanced approach to resiliency with input and feedback from stakeholders, such as through the LTERP RPAG process, and its view of resilience as an important lens for considering scenarios in the context of a long-term electricity resource plan.¹¹

While the Panel appreciates the work undertaken by RCIA to highlight the importance of resilience, it has concerns over possible duplication of effort, given the use of multiple resources amounting to a minimum of 19 days of professional time spent on the preparation of intervenor evidence and responses to IRs regarding same. Given that RCIA's key message appears intended as recommendations for improvement in FBC's preparation of the next long-term resource plan, a more concise submission would have been appropriate, and would in turn have reduced the time and associated costs required by all other intervenors and FBC to test RCIA's evidence through the preparation of IRs.

Accordingly, the Panel finds that awarding RCIA the full claim of \$36,907.50 for the preparation of intervenor evidence and responses to IRs based on the 19 days claimed by the four individuals seeking the specialist/expert witness rates is not fair or reasonable. The Panel finds that a downward adjustment of 20% of the requested award to RCIA for the preparation of intervenor evidence by those four individuals is warranted, resulting in a further reduction of \$7,381.50 including applicable taxes.

RCIA costs related to the preparation of evidence and response to IRs on intervenor evidence		Daily Rate (\$)	Days	Applicable Taxes (\$)	Total (\$)
Original claim in days (with adjusted rates for Consultants >7 years)		1850	19	1,757.50	36,907.50
Percentage reduction in days	20%		-3.8		
Adjusted award for intervenor evidence		1850	15.2	1,406.00	29,526.00
Difference (original – adjusted)					7,381.50

⁹ Decision and Order G-380-22 dated December 21, 2022, p. 43.

¹⁰ Ibid., p. 58.

¹¹ Ibid., p. 64.

Accordingly, the Panel approves a final PACA award to RCIA as follows:

RCIA Costs	Claimed amounts (\$)	Awarded amounts (\$)
Preparation of intervener evidence and responses to IRs regarding intervener evidence by four individuals claiming specialist/expert witness rate	42,892.50	29,526.00
Remaining proceeding related costs	44,131.50	44,131.50
Total costs	87,024.00	73,657.50