



**ORDER NUMBER**  
**F-36-23**

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

and

Coalition for the Reduction of Electropollution  
Application for Reconsideration and Variance of Order F-26-23

**BEFORE:**  
R. I. Mason, Commissioner

on August 25, 2023

**ORDER**

**WHEREAS:**

- A. On May 5, 2021, FortisBC Energy Inc. (FEI) filed an application with the British Columbia Utilities Commission (BCUC) for a Certificate of Public Convenience and Necessity (CPCN) pursuant to sections 45 and 46 of the *Utilities Commission Act* (UCA) for FEI's Advanced Metering Infrastructure (AMI) Project (Application);
- B. On September 8, 2021, the Coalition for the Reduction of Electropollution (CORE) registered as an intervener in the FEI AMI CPCN proceeding;
- C. By Order C-2-23, dated May 15, 2023, the BCUC granted a CPCN to FEI for the AMI Project;
- D. On June 9, 2023, CORE applied for PACA funding of \$188,038.50 (Requested PACA Award), including \$8,953.50 in Goods and Services Tax (GST), inclusive of its interim award of \$74,305 granted by Order F-22-22 (PACA Application);
- E. On July 6, 2023, in response to BCUC staff questions, CORE confirmed that it could recover the amounts of its GST claim as an Input Tax Credit;
- F. By Order F-26-23, dated July 27, 2023, the BCUC denied CORE's request for \$1,060 for legal fees for preparation of CORE's PACA Application, and, pursuant to the PACA Guideline 12.1, determined that the GST amounts on CORE's invoices were not recoverable as part of its PACA Application as they could be recovered through an Input Tax Credit. The resulting total funding awarded to CORE was therefore \$178,025 (Requested PACA Award of \$188,038.50 less the denied amount of \$1,060 less GST of \$8,953.50) (Total PACA Award), of which \$74,305 was already granted to CORE in interim funding, leading to an approved PACA award of \$103,720.00 (Approved PACA Award);
- G. By letter dated August 2, 2023, Ackroyd LLP on behalf of CORE requested a reconsideration of Order F-26-23 (Request for Reconsideration), stating that it is obligated to collect GST on its legal invoices and remit same to the Canada Revenue Agency. CORE states that in its PACA Application incorrectly stated that the GST

amount could be recovered. CORE requests the BCUC direct FEI to reimburse Ackroyd LLP the sum of \$8,954.25 representing the GST it is required to remit to the Canada Revenue Agency;

- H. By letter dated August 9, 2023, the BCUC invited FEI to comment on CORE's request for reconsideration. On August 16, 2023, FEI filed its comments;
- I. By letter dated August 23, 2023, CORE provided reply and stated it has no further submissions; and
- J. The BCUC has reviewed CORE's request for reconsideration in accordance with the BCUC's Rules of Practice and Procedure in Order G-72-23, the PACA Guidelines attached to Order G-97-17, and determines that Order F-26-23 CORE should be varied to award CORE the GST applicable to its Approved PACA Award.

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

1. The BCUC varies Order F-26-23, by adding GST of \$8,901.25 to CORE's award of \$103,720, for a total award of \$112,621.25.

Participant	Award
CORE	\$112,621.25

2. FEI is directed to reimburse CORE for the awarded amount in a timely manner.

**DATED** at the City of Vancouver, in the Province of British Columbia, this 25<sup>th</sup> day of August 2023.

BY ORDER

*Original signed by:*

R. I. Mason  
Commissioner

Coalition for the Reduction of Electropollution  
Application for Reconsideration and Variance of Order F-26-23

## REASONS FOR DECISION

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### 1.0 Introduction

On May 5, 2021, FortisBC Energy Inc. (FEI) filed an application with the British Columbia Utilities Commission (BCUC) for a Certificate of Public Convenience and Necessity (CPCN) pursuant to sections 45 and 46 of the *Utilities Commission Act* (UCA) for FEI's Advanced Metering Infrastructure (AMI) Project (Application).

By September 8, 2021, the Coalition for the Reduction of Electropollution (CORE), registered, among others, as an intervener in the FEI AMI CPCN proceeding.

On July 4, 2022, CORE filed an application for interim Participant Assistance/Cost Award (PACA) funding (Interim PACA Application). On August 12, 2022, CORE filed a revised application for interim PACA funding (Revised Interim PACA Application). By Order F-22-22, dated September 29, 2022, the BCUC awarded CORE interim PACA funding in the amount of \$74,305.

By Order C-2-23, dated May 15, 2023, the BCUC granted a CPCN to FEI for the AMI Project.

By Order F-26-23, dated July 27, 2023, the BCUC granted PACA funding to CORE in the amount of \$103,720. In its Reasons for Decision, the BCUC denied CORE's request for PACA funding for legal counsel to prepare its PACA Application, in the amount of \$1,060 before Goods and Services Tax (GST). Also, the BCUC denied CORE's request for PACA funding for the GST amounts on its invoices, as CORE indicated it can recover the GST through an Input Tax Credit.<sup>1</sup> Pursuant to the PACA Guideline section 12.1, GST amounts associated with a participant's costs may be recoverable as part of a PACA request if the amounts are not recoverable by the participant through an Input Tax Credit.

### 2.0 Reconsideration Application

By letter dated August 2, 2023, Ackroyd LLP on behalf of CORE requested a reconsideration of Order F-26-23 (Request for Reconsideration), stating that it is obligated to collect and remit GST on its legal invoices and that the claimed GST amounts cannot be recovered by way of an Input Tax Credit. CORE states that in its PACA Application incorrectly stated that the GST amount could be recovered. CORE requests the BCUC direct FEI to reimburse Ackroyd LLP the sum of \$8,954.25 representing the GST it is required to remit to the Canada Revenue Agency.

By letter dated August 9, 2023, the BCUC invited FEI to comment on CORE's Request for Reconsideration. On August 16, 2023, FEI filed its comments, stating that the other interveners granted PACA by Order F-26-23 had noted in their PACA applications that GST either cannot be recovered or cannot be fully recovered and therefore the BCUC had included GST in their PACA awards. FEI states that, consequently, based on CORE's confirmation that GST is not recoverable by way of an Input Tax Credit, it would be reasonable for the BCUC to direct that the GST applicable to the approved PACA award amount granted to CORE be reimbursed, excluding GST applicable on any amounts denied.

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<sup>1</sup> CORE Response to BCUC Staff Questions July 6, 2023.

By letter dated August 23, 2023, CORE stated it has reviewed FEI's response and has no further submissions.

### **3.0 Legislative Framework**

Pursuant to section 99 of the UCA, the BCUC, "on application or on its own motion, may reconsider a decision, an order, a rule or a regulation of the commission and may confirm, vary or rescind the decision, order, rule or regulation."

Section 118(1) of the UCA provides that "The commission may order a participant in a proceeding before the commission to pay all or part of the costs of another participant in the proceeding."

Rule 27.04 (d) of the BCUC's Rules of Practice and Procedure (BCUC Rules) provides that an application for reconsideration must be filed in accordance with the rules pertaining to document filing and must describe the impact of the decision and how it is material.

Rule 27.05 of the BCUC's Rules provides that an application for reconsideration must contain a concise statement of the grounds for reconsideration and include one or more of the following grounds:

- a) The BCUC has made an error of fact, law, or jurisdiction which has a material bearing on the decision;
- b) Facts material to the decision that existed prior to the issuance of the decision were not placed in evidence in the original proceeding and could not have been discovered by reasonable diligence at the time of the original proceeding;
- c) New fact(s) have arisen since the issuance of the decision which have material bearing on the decision;
- d) A change in circumstances material to the decision has occurred since the issuance of the decision; or
- e) Where there is otherwise just cause.

### **4.0 Reconsideration Decision**

**The Panel determines that Order F-26-23 should be varied to award CORE \$112,621.25, including GST of \$8,901.25.**

In its response to BCUC staff questions about its PACA application, dated July 6, 2023, CORE stated that it could claim its GST amounts as an Input Tax Credit. However, in its Request for Reconsideration, CORE states that it erred in its earlier response, and that it is not able to claim its GST amounts as an Input Tax Credit. The Panel considers this to be a new fact that has arisen since the issuance of the original decision, Order F-26-23, which is a valid ground for reconsideration in section 27.05 of the BCUC's Rules.

The BCUC typically reimburses a participant's GST amount in a PACA award where the participant is not able to claim it as an Input Tax Credit. Further, FEI does not object to CORE being reimbursed for GST on its Approved PACA Amount. For these reasons, the Panel finds that it is reasonable that CORE is reimbursed for GST on its Total PACA Award of \$178,025. The amount of GST related to CORE's Approved PACA Amount is \$8,901.25 (Total PACA Award of \$178,025 \* the GST rate of 5 percent). The varied amount of CORE's PACA award is therefore \$112,621.25 (Approved PACA Award of \$103,720 plus GST of \$8,901.25).

The Panel rejects CORE's claim for GST of \$8,954.25 because this amount includes GST on the \$1,060 of CORE's Requested PACA Award that was denied by the BCUC by Order F-26-23.