



ORDER NUMBER
F-4-24

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

and

FortisBC Energy Inc.
2024 Annual Review of Delivery Rates
Participant Cost Award Application

BEFORE:

A. K. Fung, KC, Panel Chair
T. A. Loski, Commissioner
E. A. Brown, Commissioner

on January 24, 2024

ORDER

WHEREAS:

- A. On June 22, 2020, the British Columbia Utilities Commission (BCUC) issued its Decision and Order G-165-20 for FortisBC Energy Inc. (FEI) and G-166-20 for FortisBC Inc., approving a Multi-Year Rate Plan (MRP) for 2020 through 2024 (MRP Decision). In accordance with the MRP Decision, FEI is to conduct an annual review (Annual Review) process to set delivery rates for each year;
- B. By Orders G-194-23 and G-241-23, the BCUC established and amended the regulatory timetable for the review of the FEI 2024 Annual Review of delivery rates, which included FEI filing its Annual Review materials, intervener registration, one round of information requests, a workshop, FEI's response to undertakings at the workshop, and final and reply arguments;
- C. On July 28, 2023, FEI submitted its materials for the 2024 Annual Review of Delivery Rates application (Application) requesting, among other things, a 4.50 percent delivery rate increase, effective January 1, 2024. On October 10, 2023, FEI filed an evidentiary update to the Application proposing, among other things, an amended 2024 delivery rates increase of 8.00 percent;
- D. The following interveners registered in the proceeding:
 - Movement of United Professionals (MoveUP);
 - Residential Consumer Intervener Association (RCIA);
 - BC Sustainable Energy Association (BCSEA);
 - Commercial Energy Consumers Association of British Columbia (the CEC);

- Air Products; and
 - BC Old Age Pensioners' Organization, Council of Senior Citizens' Organizations of BC, Disability Alliance BC, Tenant Resource and Advisory Centre, and Together Against Poverty Society (BCOAPO);
- E. On December 7, 2023, by Decision and Order G-334-23, the BCUC approved, among other things, FEI's applied for 2024 delivery rate increase of 8.00 percent on an interim and refundable/recoverable basis, effective January 1, 2024, pending the outcome of the FEI 2024–2027 Demand Side Management Expenditures proceeding;
- F. The following interveners filed Participant Cost Award (PCA) applications with the BCUC with respect to their participation in the proceeding:

Date (2023)	Participant	Application
December 7	MoveUP	\$5,566.40
December 13 and revised December 14	RCIA	\$20,235.25
December 14	BCSEA	\$17,402.53
December 7	The CEC	\$27,085.60
December 18	BCOAPO	\$42,316.65

- G. By letter dated January 8, 2024, FEI provided its comments on the PCA applications, noting a discrepancy between BCOAPO's and other interveners' PCA applications. FEI stated that if the BCUC is satisfied that the participants have met the eligibility requirements, then it has no further comment;
- H. Intervenors did not reply to FEI's letter of comment dated January 8, 2024; and
- I. The BCUC has reviewed the PCA applications in accordance with the criteria and rates set out in the Rules of Practice and Procedure for Participant Cost Awards, attached to BCUC Order G-72-23, and makes the following determinations.

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

1. Funding is awarded to the following intervenors in the listed amounts, inclusive of applicable taxes, for their participation in the FEI 2024 Annual Review of Delivery Rates proceeding:

Participant	Award
MoveUP	\$5,566.40
RCIA	\$19,988.50
BCSEA	\$16,961.18
The CEC	\$22,350.76
BCOAPO	\$26,104.65

2. FEI 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 24th day of January 2024.

BY ORDER

Original signed by:

A. K. Fung, KC
Commissioner

Attachment

FortisBC Energy Inc.
2024 Annual Review of Delivery Rates
Participant Cost Award Application

REASONS FOR DECISION

1.0 Background

On June 22, 2020, the British Columbia Utilities Commission (BCUC) issued its Decision and Order G-165-20 for FortisBC Energy Inc. (FEI) and G-166-20 for FortisBC Inc., approving a Multi-Year Rate Plan (MRP) for 2020 through 2024 (MRP Decision). In accordance with the MRP Decision, FEI is to conduct an annual review (Annual Review) process to set delivery rates for each year.

By Orders G-194-23 and G-241-23, the BCUC established and amended the regulatory timetable for the review of the FEI 2024 Annual Review of delivery rates, which included FEI filing its Annual Review materials, intervener registration, one round of information requests, a workshop, FEI's response to undertakings at the workshop, and final and reply arguments.

On July 28, 2023, FEI submitted its materials for the 2024 Annual Review of Delivery Rates application (Application) requesting, among other things, a 4.50 percent delivery rate increase, effective January 1, 2024. On October 10, 2023, FEI filed an evidentiary update to the Application proposing, among other things, an amended 2024 delivery rates increase of 8.00 percent.

The following interveners registered in the proceeding:

- Movement of United Professionals (MoveUP);
- Residential Consumer Intervener Association (RCIA);
- BC Sustainable Energy Association (BCSEA);
- Commercial Energy Consumers Association of British Columbia (the CEC);
- Air Products; and
- BC Old Age Pensioners' Organization, Council of Senior Citizens' Organizations of BC, Disability Alliance BC, Tenant Resource and Advisory Centre, and Together Against Poverty Society (BCOAPO).

On December 7, 2023, by Decision and Order G-334-23, the BCUC approved, among other things, FEI's applied for 2024 delivery rate increase of 8.00 percent on an interim and refundable/recoverable basis, effective January 1, 2024, pending the outcome of the FEI 2024–2027 Demand Side Management Expenditures proceeding.

The BCUC received applications for participant cost awards (PCA) from five interveners with respect to their participation in the proceeding.

2.0 Legislative Framework

Section 118(1) of the *Utilities Commission Act* (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.

The BCUC PCA rules,¹ applicable to proceedings initiated since June 30, 2022, are set out in Part VI of the BCUC Rules of Practice and Procedure. The PCA rules stipulate the eligibility requirements and criteria used in assessing cost awards, including the process for applying for a cost award, eligible costs, and rates in BCUC proceedings.

Rule 32.03 states that a participant may only claim costs for participation in a proceeding from the date the proceeding is initiated until the date of the final decision or report.

Rule 36.01 provides that the BCUC will determine the amount of a cost award, if any, in accordance with the purpose of the PCA rules and that it will consider the following criteria, as applicable:

- a) Whether such costs were necessarily and properly incurred in the conduct of the proceeding;
- b) Whether such costs are reasonable;
- c) Whether the participant has demonstrated through its participation that it has:
 - i. Contributed to a better understanding by the BCUC of one or more of the issues in the proceeding;
 - ii. Made reasonable efforts to combine or coordinate its participation with that of one or more participants with similar interests, in order to avoid duplication and reduce costs;
 - iii. Engaged in conduct or activity that resulted in a more efficient and/or shorter proceeding;
 - iv. Refrained from conduct or activity that unnecessarily lengthened the duration of the proceeding or resulted in unnecessary costs;
 - v. Refrained from conduct or activities which the BCUC considers inappropriate or irresponsible;
 - vi. Made reasonable efforts to ensure participation in the proceeding, including information requests, issues raised, evidence, cross-examination, and arguments, was within the scope of the proceeding or not unduly repetitive;
 - vii. Engaged in conduct consistent with the participant's approved scope of participation in the proceeding;
 - viii. Incurred time participating in the proceeding that was proportionate to the scope of the proceeding and/or the complexity or novelty of the proceeding;
 - ix. Complied with the BCUC's orders, directions, and rules; and
- d) Any other matter the BCUC determines appropriate in the circumstances.

3.0 PCA Applications

The following table summarizes the PCA funding sought by each intervener in its respective PCA application:

¹ Established by Order G-178-22 dated June 30, 2022, and amended by Order G-72-23 dated April 3, 2023.

Date (2023)	Participant	Application
December 7	MoveUP	\$5,566.40
December 13 and revised December 14	RCIA	\$20,235.25
December 14	BCSEA	\$17,402.53
December 7	The CEC	\$27,085.60
December 18	BCOAPO	\$42,316.65

The following table summarizes the funding hours sought by each intervener in its respective PCA application:

Participant	Legal Counsel	Consultant	Total
MoveUP	14.2	-	14.2
RCIA	17.0	55.0	72.0
BCSEA	36.4	12.7	49.1
The CEC	28.0	73.5	101.5
BCOAPO	42.9	110.0	152.9

On January 8, 2024, FEI provided its comments with respect to the PCA applications, noting a discrepancy between BCOAPO’s hours claimed for both legal and consultant services and the resulting amount applied for as compared to other interveners. FEI states that if the BCUC is satisfied that the participants have met the eligibility requirements, that the time claimed for participation is reasonable and appropriate in the circumstances of this proceeding, and that the level of participation has met with the BCUC’s criteria and requirements in accordance with the PCA Rules, then FEI has no further comment.²

Intervenors did not provide reply comments.

Panel Determination

Having considered the criteria in the PCA rules, the Panel finds that all of the intervenors in the proceeding that filed PCA applications are eligible for PCA funding and contributed to a better understanding of the issues in the proceeding.

With the exception of the funding applied for by MoveUP, however, the Panel finds the amounts in the PCA applications of the remaining intervenors to not be reasonable as explained below.

² FEI Comments dated January 8, 2024, p. 2.

The Panel notes that BCSEA³ and RCIA⁴ included time spent reviewing the BCUC's Decision and Order G-334-23 in their PCA applications. The Panel finds that this activity does not meet the criteria specified in Rule 32.03, as it was incurred outside of the eligible period for claiming costs. In particular, this activity does not contribute to a better understanding of the issues in the proceeding as required pursuant to Rule 36.01(c)(i). **Therefore, the Panel reduces BCSEA's and RCIA's respective cost awards to exclude the time spent reviewing the BCUC's Decision and Order G-334-23 in the preparation of their PCA applications and awards \$16,961.18 to BCSEA and \$19,988.50 to RCIA, inclusive of applicable taxes.**

The Panel finds the time and funding amounts claimed by both the CEC and BCOAPO in their PCA applications to be disproportionate to the scope, complexity, and novelty of the proceeding pursuant to Rule 36.01(c)(viii). This was the fourth Annual Review under the MRP Decision. The CEC and BCOAPO have participated in the MRP proceeding and each of the four Annual Reviews thereunder to date. While there were some novel issues in this Annual Review, it was not an overly complex proceeding that would warrant the magnitude of PCA funding being claimed by the CEC and BCOAPO. The Panel notes that each of the CEC's and BCOAPO's total funding hours are significantly higher than the funding hours sought by the other interveners. Although the Panel acknowledges that the CEC and BCOAPO contributed to a better understanding of the issues in the proceeding, the Panel is not persuaded that they materially exceeded the relative effort and contribution made by the other interveners, all of which have claimed fewer total funding hours.

For example, the CEC is requesting funding for 44.5 consultant hours and 4.7 legal counsel hours related to preparation and/or review of arguments.⁵ Similarly, BCOAPO is requesting 45.0 consultant hours and 20.9 legal counsel hours related to preparation and/or review of arguments.⁶ In the Panel's view, the CEC's and BCOAPO's time spent in relation to arguments are disproportionately high when compared to the other intervener's total time spent by their legal counsel and consultants on the same activity. In addition, the Panel observes that the CEC's and BCOAPO's respective final arguments restate portions of the evidentiary record and FEI's arguments. The Panel does not consider such an approach to be helpful in the understanding of the issues in the proceeding, particularly for topics where the participant submitting its final argument does not have any specific issues or concerns, or the topic is otherwise uncontroversial. The Panel encourages these participants to reconsider their approach to final arguments in future proceedings.

The Panel finds a reasonable level of legal counsel and consultant hours to be equivalent to the next highest total legal counsel hours (i.e. 35.40 hours for BCSEA after removal of decision review time) and consultant hours (i.e. 54.0 hours for RCIA after removal of decision review time) for the regulatory effort necessary to participate fully in the proceeding. **Accordingly, the Panel awards \$22,350.76 to the CEC and \$26,104.65 to BCOAPO, inclusive of applicable taxes, based on a reduction of their funding hours, calculated as follows:**

³ BCSEA PCA Application, p. 5 includes 1.0 hour on December 12, 2023 for "Review decision" by Mr. Andrews; p. 6 includes 0.2 hours on December 7, 2023 for "review BCUC decision" by Mr. Hackney. Using an hourly rate of \$350 for Mr. Andrews and \$235 for Mr. Hackney, plus applicable taxes, results in a total \$441.35 cost of this time.

⁴ RCIA Revised PCA Application, p. 5 includes 1.0 hours on December 11, 2023 for "Decision Review" by Mr. Mason. Using an hourly rate of \$235, plus applicable taxes, results in a total of \$246.75 cost of this time.

⁵ CEC PCA Application, Attachment "CEC-PCA-Attachment.xlsx", tab "Description of Hourly Costs".

⁶ BCOAPO PCA Application, Attachment "BCOAPO-PCA-Application.xlsx", tab "Description of Hourly Costs".

	Hours	Hourly Rate	Applicable Tax	Total
Legal Counsel	13.9	\$350.00	\$583.80	\$5,448.80
Legal Counsel	14.1	\$240.00	\$406.08	\$3,790.08
Consultant	54.0	\$231.25	\$624.38	\$13,111.88
Total Award – The CEC				\$22,350.76
Legal Counsel	20.3	\$350.00	\$852.60	\$7,957.60
Legal Counsel	15.1	\$285.00	\$516.42	\$4,819.92
Consultant	54.0	\$235.00	\$634.50	\$13,324.50
Disbursements		\$2.50	\$0.13	\$2.63
Total Award – BCOAPO				\$26,104.65