



ORDER NUMBER
F-6-24

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

and

British Columbia Utilities Commission
An Inquiry into the Regulation of Hydrogen Energy Services
Participant Cost Award Application

BEFORE:

A. K. Fung, KC, Panel Chair
M. Kresivo, KC, Commissioner

on January 29, 2024

ORDER

WHEREAS:

- A. On November 21, 2022, the British Columbia Utilities Commission (BCUC) established an inquiry to explore the development of hydrogen as an energy resource (Hydrogen Energy Services) in British Columbia and to examine the role of the BCUC in the effective and efficient regulation of these services (Inquiry);
- B. On January 20, 2023, the BCUC hosted an interactive workshop at which registered participants were invited to present on topics related to Hydrogen Energy Services;
- C. On April 26, 2023, the BCUC issued its Hydrogen Inquiry Draft Report (Draft Report) which proposed to extend exemptions to public utilities providing certain Hydrogen Energy Services. The BCUC sought submissions on the draft findings and recommendations included in the Draft Report;
- D. On June 8, 2023, BC Old Age Pensioners' Organization et al. (BCOAPO) filed its submission regarding the Draft Report;
- E. On November 23, 2023, the BCUC issued its final recommendations regarding the BCUC's regulation of Hydrogen Energy Services (Final Report);
- F. On December 22, 2023, BCOAPO filed a Participant Cost Award (PCA) Application requesting an award of \$13,382.81; and
- G. The BCUC has reviewed BCOAPO's PCA application in accordance with the criteria and rates set out in the BCUC's Rules of Practice and Procedure for Participant Cost Awards, attached to BCUC Order G-72-23, and determines that the following cost award should be approved.

NOW THEREFORE pursuant to section 118(2) of the *Utilities Commission Act* and for the reasons outlined in Appendix A to this order, the BCUC orders that funding is awarded to BCOAPO in the amount of \$9,767.57 for its participation in the Inquiry.

DATED at the City of Vancouver, in the Province of British Columbia, this 29th day of January 2024.

BY ORDER

Original signed by:

A. K. Fung, KC
Commissioner

Attachment

British Columbia Utilities Commission
Inquiry into the Regulation of Hydrogen Energy Services
Participant Cost Award Application

REASONS FOR DECISION

1.0 Background

The British Columbia Utilities Commission (BCUC) established an inquiry to explore the development of hydrogen as an energy resource (Hydrogen Energy Services) in British Columbia and to examine the role of the BCUC in the effective and efficient regulation of these services (Inquiry). The BCUC led a workshop on January 20, 2023 to gather information regarding Hydrogen Energy Services (January 2023 Workshop). On April 26, 2023, the BCUC issued its Hydrogen Inquiry Draft Report (Draft Report) which proposed to extend exemptions to public utilities providing certain Hydrogen Energy Services. The BCUC sought submissions on the draft findings and recommendations included in the Draft Report.

BC Old Age Pensioners' Organization et al. (BCOAPO) participated in the Hydrogen Inquiry by filing a written submission on June 8, 2023, regarding the Draft Report.

On November 23, 2023, the BCUC issued its final recommendations regarding the BCUC's regulation of Hydrogen Energy Services (Final Report).

BCOAPO filed its Participant Cost Award (PCA) application on December 22, 2023.

2.0 Legislative Framework

Section 118(2) of the *Utilities Commission Act* (UCA) provides that the BCUC may pay all or part of the costs of participants in proceedings before the BCUC, if the BCUC considers doing so to be in the public interest.

Part IV – Participant Cost Awards of the BCUC Rules of Practice and Procedure establishes the eligibility requirements and criteria used in assessing cost awards, including the process for applying for a cost award, eligible costs, and rates.

Rule 33 of the BCUC's Rules of Practice and Procedure establishes the eligibility criteria for cost awards. A participant is eligible for a cost award in a proceeding, subject to Rule 33.02 which lists certain ineligible participants. BCOAPO is an eligible participant.

Rule 36.01 of the BCUC's Rules of Practice and Procedure sets out the assessment criteria for a cost award. In determining the amount of a participant's cost award, the BCUC considers 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; and
- ix. Complied with the BCUC’s orders, directions, and rules.

3.0 BCOAPO PCA Application

BCOAPO acts on behalf of a number of organizations. The constituent groups of BCOAPO represent a large and diverse cross-section of residential energy utility ratepayers within British Columbia.¹

The following table summarizes the total cost award applied for by BCOAPO:

Professional Fees	Rate (\$/hour)	Time (hours)	Amount (incl. tax)
Legal Counsel			
Leigha Worth	\$350	12.1	\$4,743.20
Consultant			
Kelly Derksen	\$235	35.0	\$8,636.25
Final Cost Award Requested			\$13,382.81

BCOAPO notes in its PCA application that its Legal Counsel claims 6.8 hours related to preparation of its five page written submission regarding the Draft Report; BCOAPO’s consultant claims 18.5 hours related to the preparation of that written submission.²

BCOAPO claims total disbursements of \$3.36, inclusive of applicable taxes.

Panel Determination

The Panel is satisfied that BCOAPO meets the eligibility criteria for a cost award in this Inquiry, as outlined in Rule 33.

The Panel acknowledges that BCOAPO contributed to a better understanding of the issues in this Inquiry, and therefore considers it to be in the public interest for the BCUC to pay all or part of BCOAPO’s costs to participate. In particular, the Panel found BCOAPO’s submissions in respect of whether an exemption from

¹ BCOAPO PCA application, p. 1.

² Ibid., pp. 2-3.

active regulation for the production of hydrogen should be extended to entities which are not otherwise public utilities contributed to a better understanding of that issue.

However, based on the assessment criteria set out in Rule 36.01, the Panel finds certain cost award amounts requested by BCOAPO to be excessive. Specifically, the Panel considers that the time spent on BCOAPO’s written submission in this Inquiry is not proportionate to the length and complexity of the filing submitted. As already noted, BCOAPO’s written submission totalled 5 pages in length. Further, the Panel considers that BCOAPO’s written submission on several topics requested in the Draft Report, such as safety oversight, annual reporting and hydrogen delivery by pipeline, offered limited complexity.

Therefore, the Panel considers that it is fair and reasonable to cut in half the hours claimed by BCOAPO’s legal counsel and consultant respectively for the preparation of the written submission. Accordingly, the Panel awards BCOAPO \$9,767.57, inclusive of applicable taxes.

Professional Fees	Rate (\$/hour)	Time (hours)	Amount (incl. tax)
Legal Counsel			
Leigha Worth	\$350	8.70	\$3,410.40
Consultant			
Kelly Derksen	\$235	25.75	\$6,353.81
		Disbursements	\$3.36
		Final Cost Award	\$9,767.57