



**ORDER NUMBER
F-9-24**

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

and

British Columbia Hydro and Power Authority
Optional Residential Time-of-Use Rate Application
Participant Cost Award Application

BEFORE:

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

on February 5, 2024

ORDER

WHEREAS:

- A. On February 27, 2023, British Columbia Hydro and Power Authority (BC Hydro) filed its Optional Residential Time-of-Use Rate Application (Application) seeking, among other things, approval of Rate Schedule 2101 - Residential Service - Time-of-Use-Rate (Optional Residential TOU Rate), effective the later of April 1, 2024 or the first day of the fourth calendar month following the British Columbia Utilities Commission (BCUC) order approving the rate schedule;
- B. By Orders G-49-23 and G-228-23, the BCUC established a regulatory timetable for the review of the Application that included, among other things, a round of information requests (IRs) to BC Hydro, a second round of IRs with limited scope, and final and reply arguments;
- C. The following interveners registered in the proceeding:
- Movement of United Professionals (MoveUP);
 - Residential Consumer Intervener Association (RCIA);
 - Commercial Energy Consumers Association of British Columbia (the CEC);
 - BC Sustainable Energy Association and Vancouver Electric Vehicle Association (BCSEA-VEVA);
 - BC Old Age Pensioners' Organization, Council of Senior Citizens' Organizations of BC, Active Support Against Poverty, Disability Alliance BC, Tenants Resource and Advisory Centre, and Together Against Poverty Society (BCOAPO); and
 - Riverside Energy and Brent Lipson (Riverside-Lipson);

- D. On December 12, 2023, by Decision and Order G-342-23, the BCUC approved, among other things, Rate Schedule 2101 – Residential Service – Time of Use, effective April 1, 2024 or the earliest date that BC Hydro can launch the Optional Residential TOU Rate;
- E. The following interveners filed Participant Cost Award (PCA) applications with the BCUC with respect to their participation in the proceeding:

Date (2023)	Participant	Application
November 29	MoveUP	\$6,696.55
December 12	RCIA	\$30,757.65
December 14	BCSEA-VEVA	\$24,569.65
December 16	Brent Lipson (Lipson)	\$39,973.50
December 18	The CEC	\$27,318.78
December 20	BCOAPO	\$49,337.09

- F. By letter dated January 10, 2024, BC Hydro provided its comments on the PCA applications, noting reservations with the PCA amounts being sought by BCOAPO, Lipson, and RCIA;
- G. BCOAPO and RCIA provided responses to BC Hydro's comments by letters dated January 15, 2024 and January 17, 2024, respectively. Lipson did not provide a response; and
- H. 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. Costs are awarded to the following interveners in the listed amounts, inclusive of applicable taxes, for their participation in the BC Hydro Optional Residential TOU Rate proceeding:

Participant	Award
MoveUP	\$6,609.93
RCIA	\$30,757.65
BCSEA-VEVA	\$24,029.60
Lipson	\$5,315.63
The CEC	\$27,318.78
BCOAPO	\$49,337.09

2. BC Hydro 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 5th day of February, 2024.

BY ORDER

Original signed by:

T. A. Loski
Commissioner

Attachment

British Columbia Hydro and Power Authority
Optional Residential Time-of-Use Rate Application
Participant Cost Award Application

REASONS FOR DECISION

1.0 Background

On February 27, 2023, British Columbia Hydro and Power Authority (BC Hydro) filed its Optional Residential Time-of-Use Rate Application (Application) seeking, among other things, approval of Rate Schedule 2101 - Residential Service - Time-of-Use-Rate (Optional Residential TOU Rate), effective the later of April 1, 2024 or the first day of the fourth calendar month following the British Columbia Utilities Commission (BCUC) order approving the rate schedule.

By Orders G-49-23 and G-228-23, the BCUC established a regulatory timetable for the review of the Application that included, among other things, a round of information requests (IRs) to BC Hydro, a second round of IRs with limited scope, and final and reply arguments.

The following interveners registered in the proceeding:

- Movement of United Professionals (MoveUP);
- Residential Consumer Intervener Association (RCIA);
- Commercial Energy Consumers Association of British Columbia (the CEC);
- BC Sustainable Energy Association and Vancouver Electric Vehicle Association (BCSEA-VEVA);
- BC Old Age Pensioners' Organization, Council of Senior Citizens' Organizations of BC, Active Support Against Poverty, Disability Alliance BC, Tenants Resource and Advisory Centre, and Together Against Poverty Society (BCOAPO); and
- Riverside Energy and Brent Lipson (Riverside-Lipson).

On December 12, 2023, by Decision and Order G-342-23, the BCUC approved, among other things, Rate Schedule 2101 – Residential Service – Time of Use, effective April 1, 2024 or the earliest date that BC Hydro can launch the Optional Residential TOU Rate.

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

2.0 Legislative Framework

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

Rules 34.04 to 34.09 set out the limitations applied to participants with respect to their eligibility for costs.

3.0 PCA Applications

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

Date (2023)	Participant	Application
November 29	MoveUP	\$6,696.55
December 12	RCIA	\$30,757.65
December 14	BCSEA-VEVA	\$24,569.65

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

December 16	Brent Lipson (Lipson)	\$39,973.50
December 18	The CEC	\$27,318.78
December 20	BCOAPO	\$49,337.09

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

Participant	Legal Counsel	Consultant	Total
MoveUP	13.40	5.50	18.90
RCIA	13.20	152.25	165.45
BCSEA-VEVA	48.20	23.00	71.20
Lipson	-	162.00	162.00
The CEC	29.30	75.00	104.30
BCOAPO	74.30	87.00	161.30

Positions of Parties

By letter dated January 10, 2024, BC Hydro provided its comments on the PCA applications, noting reservations with the PCA amounts being sought by BCOAPO, Lipson, and RCIA.

BC Hydro notes that there appears to be higher duplication of efforts between BCOAPO's legal counsel and consultant during the review process resulting in higher total hours spent and higher total PCA request compared to the other interveners.² This is based on BC Hydro's observation that BCOAPO's hours spent on activities throughout the proceeding were relatively higher than other interveners which, in BC Hydro's view, participated in each stage of the proceeding to a relatively comparable degree.³

BC Hydro notes that Lipson's requested cost award is higher than most interveners in the proceeding while his intervention was focused on representing the interests of residential net metering customers.⁴

BC Hydro notes that RCIA recorded several people working on the proceeding resulting in higher total reported hours and higher requested PCA amount than other interveners, which, in BC Hydro's view, had a similar or higher level of involvement and contribution.⁵

BCOAPO and RCIA provided responses to BC Hydro's comments by letters dated January 15, 2024 and January 17, 2024, respectively. No other interveners responded to BC Hydro's comments.

² BC Hydro PCA Comments, p. 2.

³ BC Hydro Additional PCA Comments, p. 1.

⁴ BC Hydro PCA Comments, p. 2.

⁵ BC Hydro PCA Comments, p. 2.

In reply, BCOAPO submits that there is no duplication of efforts between its legal counsels and consultant.⁶ BCOAPO submits that the scope of its participation was broader than other parties'; it resulted in a change to BC Hydro's proposal related to the application of the Deferral Account Rate Rider (DARR) and a refinement to Rate Schedule 2101 to improve clarity; and BCOAPO's intervention was unique as it was the only party that opposed the proposed Optional TOU Rate.⁷ BCOAPO submits that it would be unfair to reduce its PCA based solely on an arbitrary measure and limitation of its time spent as compared to that spent by other interveners.⁸

In its reply to BC Hydro's comments, RCIA submits that its PCA request is not out of line with the level of effort required to appropriately intervene in the proceeding. RCIA states that it represents the ratepayers most affected by the proposed Optional TOU Rate and it notes the significance and novelty of the new rate. RCIA explains that its approach to interventions is "to prudently manage PCA costs by allocating tasks to the most cost-effective resources while ensuring diverse opinions and expertise are incorporated..." RCIA submits that its work is non-duplicative as different issues of potential concern are assigned to different experts.⁹

Panel Determination

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

With the exception of the costs applied for by MoveUP, BCSEA-VEVA, and Lipson, the Panel finds the amounts in the PCA applications to be reasonable and awards the participants their respective costs as applied for.

MoveUP is seeking a cost award for its consultant at an hourly rate of \$250, which is higher than the maximum hourly consultant rate of \$235 pursuant to Rule 34.05.2. MoveUP did not demonstrate the need or provide justification for the claimed increased rate. The Panel is not persuaded that a higher rate is reasonably necessary for MoveUP's consultant to address the issues in the proceeding. **Therefore, the Panel reduces MoveUP's cost award to reflect the maximum hourly consultant rate of \$235 pursuant to Rule 34.05.2 and awards \$6,609.93 to MoveUP, inclusive of applicable taxes.**

BCSEA-VEVA included time spent reviewing the BCUC's Decision and Order G-342-23 in its PCA application.¹⁰ The Panel finds that this activity does not contribute to a better understanding of the issues in the proceeding pursuant to Rule 36.01(c)(i). **Therefore, the Panel reduces BCSEA-VEVA's cost award to exclude the time spent reviewing the BCUC's Decision and Order G-342-23 and awards \$24,029.60 to BCSEA-VEVA, inclusive of applicable taxes.**

Lipson is seeking a cost award for his time spent on the proceeding at the maximum consultant hourly rate of \$235. Lipson and Riverside Energy were granted joint intervener status in the proceeding. Lipson is an individual representing his own interests as a residential net metering customer. Although Lipson has qualifications as an electrical engineering consultant, Rule 34.04.2 limits a participant that is an individual to forgone earnings, dependent care costs and disbursements. Further, Lipson did not use professional services pursuant to Rule

⁶ BCOAPO PCA Reply Comments, pp. 1–2.

⁷ BCOAPO PCA Reply Comments, p. 3.

⁸ BCOAPO PCA Reply Comments, p. 4.

⁹ RCIA PCA Reply Comments, pp. 1–2.

¹⁰ BCSEA-VEVA PCA Application, p. 7 includes 1.0 hour on December 13, 2023 for "Review decision" by Mr. Andrews; p. 9 includes 0.6 hours on December 12, 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 of \$540.05 for this activity.

34.05.4. The Panel acknowledges BC Hydro's comment that Lipson's participation in the proceeding was at a narrower scope compared to other interveners in the proceeding. However, the Panel is satisfied that Lipson's hours are proportionate with the effort required for an individual to actively participate in the proceeding considering the level of depth, complexity, and importance of the issues pursued by Lipson. Lipson's participation contributed to a better understanding of the Optional TOU Rate with respect to net metering and resulted in a change to BC Hydro's proposal to expand the availability of the Optional TOU Rate to net metering customers' consumption load. **Having regard to all these factors, the Panel reduces Lipson's cost award to reflect the maximum rate for forgone earnings of \$250 per proceeding day for an individual based on an 8-hour proceeding day and awards \$5,315.63 to Lipson, inclusive of applicable taxes.¹¹**

The Panel acknowledges BC Hydro's comments regarding BCOAPO's and RCIA's applied for PCA amounts. However, the Panel is satisfied that the hours and costs incurred by BCOAPO and RCIA are proportionate with the scope, complexity, and novelty of the proceeding. The Panel is not persuaded that there was a duplication of efforts between BCOAPO's legal counsel and consultant. The Panel is also not persuaded that having several people working on the proceeding resulted in RCIA recording more costs than it otherwise would have.

¹¹ 162 hours as applied for divided by 8 hours x \$250, plus applicable taxes, results in a total of \$5,315.63.