



ORDER NUMBER
F-11-24

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

and

British Columbia Utilities Commission
Regulatory Efficiency Initiative
Participant Cost Award Application

BEFORE:

M. Jaccard, Commissioner

on February 12, 2024

ORDER

WHEREAS:

- A. On September 1, 2023, by Order G-233-23, the British Columbia Utilities Commission (BCUC) established a proceeding to explore ways to enhance the BCUC's regulatory processes, invited stakeholders to provide submissions, and established a regulatory timetable;
- B. By letter dated November 16, 2023, the BCUC invited a further round of stakeholder submissions;
- C. Following review and consideration of stakeholder submissions, the BCUC issued a Final List of Efficiencies by letter dated December 22, 2023;
- D. The following interveners, among others, registered in the proceeding:
 - Residential Consumer Intervener Association (RCIA);
 - BC Sustainable Energy Association (BCSEA);
 - 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
 - Donald Flintoff (Flintoff);
- E. The following interveners filed Participant Cost Award (PCA) applications with the BCUC with respect to their participation in the proceeding:

Date	Participant	Application
November 22, 2023, revised November 24, 2023	BCSEA	\$12,321.40
January 14, 2024	Flintoff	\$3,788.20
January 15, 2024	BCOAPO	\$2,159.15
January 15, 2024	RCIA	\$2,412.38

- F. By letter dated September 1, 2023 (Exhibit A-2), the BCUC stated that PCA would be available for this proceeding;
- G. By letter dated November 16, 2023 (Exhibit A-4), the BCUC stated that PCA would not be available for the second round of stakeholder submissions; 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(2) of the *Utilities Commission Act*, and for the reasons set out in Appendix A to this order, the BCUC orders as follows:

- Costs are awarded to the following interveners in the listed amounts, inclusive of applicable taxes, for their participation in the Regulatory Efficiency Initiative proceeding:

Participant	Award
BCSEA	\$12,321.40
Flintoff	\$385.00
BCOAPO	\$2,159.15
RCIA	\$2,412.38

DATED at the City of Vancouver, in the Province of British Columbia, this 12th day of February 2024.

BY ORDER

Original signed by:

M. Jaccard
Commissioner

Attachment

British Columbia Utilities Commission
Regulatory Efficiency Initiative
Participant Cost Award Application

REASONS FOR DECISION

1.0 Background

On September 1, 2023, by Order G-233-23, the British Columbia Utilities Commission (BCUC) established a proceeding to explore ways to enhance the BCUC's regulatory processes, invited stakeholders to provide submissions, and established a regulatory timetable. By letter dated September 1, 2023,¹ the BCUC noted that participant cost awards (PCA) would be available for the proceeding.

By letter dated November 16, 2023,² the BCUC invited a further round of stakeholder submissions, and noted that PCA would not be available for this second round of submissions. Following review and consideration of stakeholder submissions, the BCUC issued a Final List of Efficiencies by letter dated December 22, 2023.

The following interveners, among others, registered in the proceeding:

- Residential Consumer Intervener Association (RCIA);
- BC Sustainable Energy Association (BCSEA);
- 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
- Donald Flintoff (Flintoff).

The BCUC received applications for PCA from RCIA, BCSEA, BCOAPO and Flintoff with respect to their participation in the proceeding.

2.0 Legislative Framework

Section 118(2) of the *Utilities Commission Act* provides that if "the commission considers it to be in the public interest, the commission may pay all or part of the costs of participants in proceedings before the commission that were commenced on or after April 1, 1993 or that are commenced after June 18, 1993."

The BCUC PCA rules,³ 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.

¹ Exhibit A-2.

² Exhibit A-4.

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

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.

Rule 34 sets 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	Participant	Application
November 22, 2023, revised November 24, 2023	BCSEA	\$12,321.40
January 14, 2024	Flintoff	\$3,788.20
January 15, 2024	BCOAPO	\$2,159.15
January 15, 2024	RCIA	\$2,412.38

Panel Determination

Having considered the criteria in the PCA rules, the Panel finds that all of the 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 Flintoff, the Panel finds the amounts in the PCA applications to be reasonable and awards the participants their respective costs as applied for.

Flintoff is seeking a cost award for 13.0 hours of his time spent on the proceeding at the maximum consultant hourly rate of \$235. Flintoff was granted intervener status in the proceeding as an individual representing his own interests. Rule 34.04.2 limits a participant that is an individual to forgone earnings, dependent care costs, and disbursements, subject to an application by the individual under Rule 34.05.4 for costs for the use of professional services, on the basis that “the individual’s position is unique and not otherwise represented by another participant, and such services are reasonably necessary and appropriate for the individual to participate effectively in a proceeding.” Flintoff has not made any such application under Rule 34.05.4, nor has his PCA application addressed the criteria under Rule 34.05.4 regarding whether an individual should be eligible for costs for the use of professional services.

Flintoff’s PCA application also includes 2.0 hours of time with the description of “Preparation of PACA Form.” Rule 34.03 provides that participants “are not eligible for costs for making an application for either interim or final cost awards.”

Accordingly, the Panel disallows 2.0 hours of time for the purpose of determining Flintoff’s PCA award, and also reduces Flintoff’s cost award to reflect the maximum rate for forgone earnings of \$250 per proceeding day based on an 8-hour proceeding day. As such, the Panel awards \$385.00 to Flintoff inclusive of applicable taxes.⁴

⁴ 11.0 hours (being 13.0 hours minus the 2.0 disallowed hours) divided by 8 hours x \$250, plus GST and PST, results in a total of \$385.00.