



**ORDER NUMBER
F-25-24**

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

and

British Columbia Hydro and Power Authority
Public Electric Vehicle Charging Service Rates
Participant Cost Award Application

BEFORE:

A. K. Fung, KC, Panel Chair
E. B. Lockhart, Commissioner

on May 7, 2024

ORDER

WHEREAS:

- A. On July 28, 2023, British Columbia Hydro and Power Authority (BC Hydro) applied to the British Columbia Utilities Commission (BCUC) for approval of the BC Hydro Public Electric Vehicle (EV) Charging Service Rates Application pursuant to sections 58 to 61 and 90 of the *Utilities Commission Act* (UCA) (Application);
- B. By Orders G-219-23, G-259-23 and G-263-23 and letter dated December 12, 2023, the BCUC established a regulatory timetable for the review of the Application, which included public notice, letters of comment, intervenor registration, one round of information requests to BC Hydro, a streamlined review process, and written final arguments;
- C. By Decision and Order G-67-24 dated March 13, 2024, the BCUC approved BC Hydro's applied for energy-based rates for its public EV charging service on a permanent basis and the extended stay charge of 40 cents per minute, among other matters;
- D. The following interveners filed Participant Cost Award (PCA) applications with the BCUC with respect to their participation in the proceeding:

Date	Participant	Application
January 30, 2024	Commercial Energy Consumers Association of BC (the CEC)	\$34,587.09
February 5, 2024	BC Sustainable Energy Association and Vancouver Electric Vehicle Association (BCSEA-VEVA)	\$47,000.14
March 18, 2024 and revised March 27, 2024	Donald Flintoff (Flintoff)	\$5,000.80

March 19, 2024	Residential Consumer Intervener Association (RCIA)	\$30,560.16
March 20, 2024	BC Old Age Pensioners' Organization <i>et al.</i> (BCOAPO)	\$34,656.44

- E. By letter dated April 11, 2024, BC Hydro provided its comments on the PCA applications, stating that Flintoff's PCA claim for professional services costs should be recalculated in accordance with Rule 34.04.2 of the BCUC's Rules of Practice and Procedure (Rules), which limits an individual participant to forgone earnings, dependent care costs and reimbursements;
- F. By letter dated April 12, 2024, Flintoff responded to BC Hydro's comments on his PCA application; and
- G. The BCUC has reviewed the PCA applications in accordance with the criteria and rates set out in the Rules and makes the following determinations.

NOW THEREFORE pursuant to section 118 of the UCA, and for the reasons outlined in the decision accompanying this order, the BCUC orders as follows:

1. Costs are awarded to the following participants in the listed amounts for their participation in the BC Hydro Public Electric Vehicle Charging Service Rates proceeding:

Participant	Award
The CEC	\$34,587.09
BCSEA-VEVA	\$47,000.14
Flintoff	\$665
RCIA	\$30,560.16
BCOAPO	\$34,656.44

2. BC Hydro is directed to reimburse the above-noted participants for the awarded amounts in a timely manner.

DATED at the City of Vancouver, in the Province of British Columbia, this 7th day of May 2024.

BY ORDER

Original signed by:

A. K. Fung, KC
Commissioner

British Columbia Hydro and Power Authority
Public Electric Vehicle Charging Service Rates
Participant Cost Award Application

DECISION

1.0 Background

On July 28, 2023, British Columbia Hydro and Power Authority (BC Hydro) applied to the British Columbia Utilities Commission (BCUC) for approval of the BC Hydro Public Electric Vehicle (EV) Charging Service Rates Application pursuant to sections 58 to 61 and 90 of the *Utilities Commission Act* (UCA) (Application).

By Orders G-219-23, G-259-23 and G-263-23 and letter dated December 12, 2023, the BCUC established a regulatory timetable for the review of the Application, which included public notice, letters of comment, intervenor registration, one round of information requests to BC Hydro, a streamlined review process, and written final arguments.

By Decision and Order G-67-24 dated March 13, 2024, the BCUC approved BC Hydro's applied for energy-based rates for its public EV charging service on a permanent basis and the extended stay charge of 40 cents per minute, among other matters.

The BCUC received applications for Participant Cost Awards (PCA) from five intervenors with respect to their participation in the BC Hydro Public EV Charging Service Rates proceeding, as outlined in Section 3.0 below.

2.0 Legislative Framework

Section 118(1) of the 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 rules¹, applicable to proceedings initiated since June 30, 2022, are set out in Part VI of the BCUC Rules of Practice and Procedure (Rules). 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 applicable criteria as set out in the Rules.

Rule 34 sets out the limitations applied to participants with respect to their eligibility for costs. Rule 34.04.2 provides that a participant that is an individual, subject to Rule 34.05.4, is limited to a cost award for forgone earnings, dependent care costs and disbursements. Rule 34.05.4 provides that the BCUC may, on application by an individual participant, award costs for use of professional services where it deems that the individual's position is unique and not otherwise represented by another participant, and such services are reasonably necessary for the individual to participate effectively in a proceeding.

Attachment A of the PCA rules sets out the maximum rate for forgone earnings.

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

3.0 PCA Applications

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

Date	Participant	Application
January 30, 2024	Commercial Energy Consumers Association of BC (The CEC)	\$34,587.09
February 5, 2024	BC Sustainable Energy Association and Vancouver Electric Vehicle Association (BCSEA-VEVA)	\$47,000.14
March 18, 2024 and revised March 27, 2024	Donald Flintoff (Flintoff)	\$5,000.80
March 19, 2024	Residential Consumer Intervener Association (RCIA)	\$30,560.16
March 20, 2024	BC Old Age Pensioners' Organization <i>et al.</i> (BCOAPO)	\$34,656.44

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

Participant	Legal Counsel	Consultant	Total
The CEC	37.80	87.00	124.80
BCSEA-VEVA	81.40	51.90	133.30
Flintoff	-	19.00	19.00
RCIA	24.80	134.00	158.80
BCOAPO	53.80	65.50	119.30

By letter dated April 11, 2024, BC Hydro provided its comments on the PCA applications. BC Hydro states that in its view, all interveners actively participated in the proceeding and contributed to a better understanding by the BCUC of the issues in the proceeding, and that it believes that each intervener is eligible for a cost award. However, BC Hydro also notes Mr. Flintoff's PCA claim for professional services costs despite his participation as an individual intervener. BC Hydro submits that Mr. Flintoff's PCA claim should be recalculated in accordance with Rule 34.04.2 of the Rules, which limits an individual participant to forgone earnings, dependent care costs and reimbursements.

In his reply dated April 12, 2024, Mr. Flintoff states that the BCUC can exercise discretion in awarding costs, considering factors such as the uniqueness of the individual's position and contributions, and submits that "Section 34 of the Rules does not specifically restrict the BCUC from awarding an amount exceeding the norm based solely on regulatory experience." Mr. Flintoff also reiterates that he actively participated in the proceeding and contributed to a better understanding by the BCUC of the issues in the proceeding.

Other interveners did not provide reply comments.

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.

The Panel finds the amounts in the PCA applications for the CEC, BCSEA-VEVA, RCIA and BCOAPO to be reasonable and awards these participants their respective costs as applied for.

Mr. Flintoff is seeking a cost award for 19.00 hours of his time spent on the proceeding at the maximum consultant hourly rate of \$235. He 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. Rule 34.05.4 provides that the BCUC may award costs for the use of professional services to individual participants, 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.”

The Panel acknowledges that Mr. Flintoff is an experienced intervener in the BCUC’s regulatory proceedings and agrees that the BCUC may exercise discretion in awarding individual participants professional fees if warranted. However, we do not consider that professional services are reasonably necessary for Mr. Flintoff to participate effectively in this proceeding based on his participation as an individual, nor did Mr. Flintoff offer a unique position to this proceeding. The issues Mr. Flintoff covered included the levelized EV charging rates, extended stay charge, and future monitoring and evaluation by BC Hydro, which were also covered by other interveners. Further, prior to filing his PCA claim, Mr. Flintoff did not apply to the BCUC under Rule 34.05.4 for the use of professional services. Therefore, we decline to exercise our discretion to award Mr. Flintoff an award in excess of forgone earnings as an individual participant, as per Rule 34.04.2.

Accordingly, the Panel grants Mr. Flintoff’s cost award to reflect the maximum rate of forgone earnings of \$250 per proceeding day based on an 8-hour proceeding day. As such, the Panel awards \$665 to Mr. Flintoff, inclusive of applicable taxes.² Since the Panel considers that Mr. Flintoff’s participation provided a better understanding of some of the issues in the proceeding, we consider it fair and reasonable to award the maximum daily rate for forgone earnings for individual interveners.

The BCUC reached a similar conclusion³ for Mr. Flintoff’s PCA claim at the maximum consultant hourly rate of \$235 in the BCUC Regulatory Efficiency Initiative proceeding, in which the BCUC also reduced Flintoff’s cost award to reflect the maximum rate of forgone earnings of \$250 per proceeding day.

The Panel reminds Mr. Flintoff that where an individual seeks an award for costs for the use of professional services, an application under Rule 34.05.4 must be made to the BCUC as soon as practicable after the granting of intervener status in a proceeding.

DATED at the City of Vancouver, in the Province of British Columbia, this 7th day of May 2024.

Original signed by:

A. K. Fung, KC
Panel Chair

Original signed by:

E. B. Lockhart
Commissioner

² 19.00 hours divided by 8-hour proceeding day *\$250 per day, plus GST and PST, results in a total of \$665.00.

³ Order F-11-24 dated February 12, 2024.