



ORDER NUMBER
G-274-24

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

and

Residential Consumer Intervener Association
Reconsideration of Order F-29-24

BEFORE:
T. A. Loski, Panel Chair

on October 25, 2024

ORDER

WHEREAS:

- A. On March 20, 2024, the British Columbia Utilities Commission (BCUC) issued Decision and Order G-78-24 in the matter of the FortisBC Energy Inc. (FEI) 2022 Long-Term Gas Resource Plan (LTGRP) Application;
- B. Residential Consumer Intervener Association (RCIA) was one of the registered interveners in the 2022 LTGRP proceeding;
- C. On March 27, 2024, RCIA submitted a Participant Assistance/Cost Award (PACA) application requesting \$92,983.81 in funding related to RCIA's participation in the 2022 LTGRP proceeding;
- D. By Order F-29-24 dated July 18, 2024, the BCUC issued its decision on the PACA applications received for the 2022 LTGRP proceeding, and awarded RCIA \$69,737.86;
- E. On August 30, 2024, RCIA filed an application for reconsideration of Order F-29-24 (Reconsideration Application); and
- F. The BCUC has reviewed the Reconsideration Application in accordance with sections 118 and 99 of the *Utilities Commission Act* (UCA) and the criteria set out in the BCUC's Participant Assistance/Cost Award Guidelines attached to Order G-97-17, and determines the following order is warranted.

NOW THEREFORE pursuant to section 99 of the UCA, and for the reasons outlined in the decision accompanying this order, the BCUC orders that the Reconsideration Application is summarily dismissed without the need for further process.

DATED at the City of Vancouver, in the Province of British Columbia, this 25th day of October 2024.

BY ORDER

Original signed by:

T. A. Loski
Commissioner

Residential Consumer Intervener Association
Reconsideration of Oder F-29-24

DECISION

Table of Contents

Page no.

1.0	Introduction	2
1.1	Regulatory Framework	2
1.2	Order F-29-24	3
2.0	RCIA's Reconsideration Application	3
3.0	Panel Determination	5

1.0 Introduction

On March 20, 2024, the British Columbia Utilities Commission (BCUC) issued Decision and Order G-78-24 in the matter of the FortisBC Energy Inc. (FEI) 2022 Long-Term Gas Resource Plan (LTGRP) Application (LTGRP Decision). Residential Consumer Intervener Association (RCIA) was one of the registered interveners in the 2022 LTGRP proceeding.

On March 27, 2024, RCIA submitted a Participant Assistance/Cost Award (PACA) application requesting \$92,983.81 in costs related to RCIA's participation in the 2022 LTGRP proceeding (PACA Application). By Order F-29-24 dated July 18, 2024, the BCUC issued its decision on the PACA applications received for the 2022 LTGRP proceeding, and awarded RCIA \$69,737.86.

On August 30, 2024, RCIA filed an application for reconsideration of Order F-29-24 (Reconsideration Application). The Reconsideration Application is summarized further in Section 2 of this Decision.

1.1 Regulatory Framework

Section 99 of the *Utilities Commission Act* (UCA) states:

The commission, on application or on its own motion, may reconsider a decision, an order, a rule or a regulation of the commission and may confirm, vary or rescind the decision, order, rule or regulation.

The BCUC's Rules of Practice and Procedure attached to Order G-72-23 (Rules)¹ outline the rules for reconsideration applications. Rule 26.05 provides that an application for reconsideration of a decision must contain a concise statement of the grounds for reconsideration, which must include one or more of the following:

- (b) the BCUC has made an error of fact, law, or jurisdiction which has a material bearing on the decision;
- (c) facts material to the decision that existed prior to the issuance of the decision were not placed in evidence in the original proceeding and could not have been discovered by reasonable diligence at the time of the original proceeding;
- (d) new fact(s) have arisen since the issuance of the decision which have material bearing on the decision;
- (e) a change in circumstances material to the decision has occurred since the issuance of the decision; or
- (f) where there is otherwise just cause.

Rule 28.01 provides that the BCUC may, without further process, summarily dismiss a reconsideration application, in whole or in part, on the basis that it fails to establish, on its face, any reasonable grounds for reconsideration of the decision.

Pursuant to section 118(1) of the UCA, 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 approved the BCUC's Participant Assistance/Cost Award Guidelines attached to Order G-97-17 (PACA Guidelines) pursuant to section 118 of the

¹ [Order G-72-23 BCUC's Rules of Practice and Procedure](#)

UCA. The PACA Guidelines apply to proceedings commenced prior to June 30, 2022,² and set out the BCUC's procedure for considering PACA applications. Since the 2022 LTGRP proceeding commenced prior to June 30, 2022, the BCUC reviewed interveners' PACA applications in the proceeding under the PACA Guidelines.

Section 4.3 of the PACA Guidelines provides that, in determining the amount of a participant's PACA award, the BCUC will consider the following:

- a) Has the participant contributed to a better understanding by the BCUC of the issues in the proceeding?
- b) To what degree will the participant be affected by the outcome of the proceeding?
- c) Are the costs incurred by the participant fair and reasonable?
- d) Has the participant joined with other groups with similar interests to reduce costs?
- e) Has the participant made reasonable efforts to avoid conduct that would unnecessarily lengthen the duration of the proceeding, such as ensuring participation was not unduly repetitive?
- f) The funding day calculation for funding in accordance with Sections 4.1 and 4.2, if one is provided.
- g) Any other matters which the BCUC determines appropriate in the circumstances.

1.2 Order F-29-24

By Order F-29-24 dated July 18, 2024 (PACA Decision), the BCUC provided its determinations on PACA awards for the 2022 LTGRP proceeding. The BCUC awarded RCIA \$69,737.86, which is 25 percent lower than the amount RCIA applied for in its PACA Application. The BCUC cited several reasons for the funding reduction,³ including:

- Disallowance of \$1,301.34 of costs due to using daily rates for consultants that are above the prescribed maximum daily fees allowable in the PACA Guidelines;
- RCIA did not make cost-effective use of its consulting resources and the allocation of funding days among consultants suggested likely duplication of effort and inefficient use of resources resulting in an unreasonably high number of funding days claimed; and
- The BCUC was not persuaded that RCIA's costs were proportionate to its overall contribution to a better understanding of issues in the proceeding, noting for example that RCIA's final submissions were fairly limited in scope and did not address several key issues in the proceeding, including the requirements of section 44.1 of the UCA, demand forecasting, and pillars 3 and 4 of FEI's Clean Growth Pathway.

2.0 RCIA's Reconsideration Application

RCIA submits that Order F-29-24 should be reconsidered on the grounds that the BCUC made errors of fact and law in its assessment of the contribution of RCIA's evidence to the proceeding, as listed below:⁴

- The BCUC erred in fact by stating that RCIA had not addressed the requirements of section 44.1 of the UCA in its submissions;
- The BCUC erred in law by suggesting that RCIA should have addressed all issues in the proceeding, contrary to previous BCUC direction towards efficiency and conciseness of submissions;

² Order G-178-22.

³ Order F-29-24, Decision, pp. 4-5.

⁴ Exhibit B-1, p. 3.

- The BCUC erred in law by considering the weight it placed on RCIA’s arguments in determining RCIA’s cost award; and
- The BCUC erred in fact by finding RCIA’s time and costs to be excessive and its submissions to be limited in scope.

RCIA acknowledges that it incorrectly applied Participant Cost Awards⁵ billing rates for its consultants, instead of applying the PACA billing rates.⁶ Therefore, RCIA is requesting that the remaining deductions be reimbursed. Overall, RCIA requests that the BCUC vary Order F-29-24 to reimburse RCIA an additional \$21,944.61.⁷

RCIA states the BCUC’s decision to apply a 25 percent disallowance to RCIA’s PACA application in aggregate appears arbitrary, and therefore there are sufficient grounds for the BCUC to reconsider its decision.⁸ In addition, RCIA submits that the disallowed participant funding will have a serious impact on RCIA’s ability to represent residential ratepayers and notes that RCIA is the only intervener group that specifically represents this sector in BCUC proceedings.⁹

In the Reconsideration Application, RCIA questions examples provided by the BCUC in Order F-29-24 regarding the limited scope of RCIA’s final submission and that RCIA didn’t address several key issues in the proceeding, including the requirements of section 44.1 of the UCA, demand forecasting, and pillars 3 and 4 of FEI’s Clean Growth Pathway.

RCIA submits that its final submission did address section 44.1 of the UCA. RCIA states that section 44.1(8) of the UCA has 4 subsections, a) to d). RCIA poses that information in subsection a), British Columbia’s energy objectives, was included in previous proceedings, specifically the 2024-2027 FEI DSM Expenditure Plan, and that RCIA did not reiterate its arguments in the 2022 LTGRP proceeding to avoid being repetitive. RCIA’s position is that the other 3 subsections of s. 44.1(8) of the UCA either were not applicable to the 2022 LTGRP or were addressed in its final argument.¹⁰

On the matter of addressing issues in the proceeding, RCIA poses that the PACA Guidelines and the BCUC’s Regulatory Efficiency Initiative provide direction to interveners not to be repetitive and to only include in their submissions issues that they consider germane to them. RCIA states that it submitted 58 multi-part information requests that explored legislation, pathways and scenarios, DSM, low carbon gasses and particularly hydrogen, rate impacts and resiliency and that its final argument focused on key areas of importance to RCIA and those it represents. Therefore, RCIA poses that its submission was meaningful, efficient, and was aligned with BCUC direction.¹¹

RCIA also addresses the BCUC’s assessment of costs based on RCIA’s overall contribution to the Panel’s understanding of issues in the proceeding, submitting that the weight given to a participant’s submissions is not among the criteria that the BCUC is directed to consider under Section 4.3 of the PACA Guidelines. While RCIA acknowledges that it must meet the test set out in Section 4.3(a) of the PACA Guidelines that states, “Has the participant contributed to a better understanding by the Commission of the issues in the proceeding?”, RCIA

⁵ Participant Cost Awards were established by BCUC Order G-72-23 and applicable to proceedings starting June 30, 2022. The 2022 LTGRP was initiated before that date, therefore PACA billing rates were applicable to this proceeding.

⁶ Exhibit B-1, p. 9.

⁷ Ibid.

⁸ Ibid., p. 3.

⁹ Ibid., p. 2.

¹⁰ Ibid., pp. 4-5.

¹¹ Ibid., pp. 5-6.

submits that the purpose of the rule is to prevent frivolous or vexatious submissions that do not provide meaningfully relevant analysis; and not intended to disallow a participant cost award on the basis that the BCUC does not find the intervenor's submission persuasive.¹²

Finally, RCIA discusses the BCUC's finding that RCIA's costs appeared to be unreasonably high. RCIA disagrees, noting the LTGRP application was complex and needed adjudication at a time of significant policy uncertainty and the future of the natural gas service in doubt, all of which required a more demanding review process for interveners. RCIA also provides a comparison of RCIA's PACA application for the FEI 2022 LTGRP and BC Sustainable Energy Association (BCSEA) PACA application in the FEI 2017 LTGRP proceeding to demonstrate that RCIA's PACA application is not misaligned with PACA awards in previous proceedings.

3.0 Panel Determination

The Panel summarily dismisses the Reconsideration Application, pursuant to Rule 28.01, on the basis that it fails to establish, on its face, any reasonable ground for reconsideration of RCIA's PACA award in Order F-29-24. In the Panel's view, the Reconsideration Application fails to establish any errors of fact or law, and further fails to establish any other eligible ground for reconsideration as provided in Rule 26.05 of the Rules. Rather, the Reconsideration Application seeks to challenge the BCUC's exercise of discretion when it determined RCIA's PACA award. The Panel addresses the purported errors of fact and law, and other grounds for reconsideration, put forward by RCIA below.

RCIA submits that it addressed each of the requirements of section 44.1 of the UCA in its final submission, and that the BCUC made an error of fact by stating otherwise. The Panel disagrees. The Panel notes that RCIA's final submission was silent on key considerations such as demand forecasting under section 44.1(2) and BC's energy objectives under section 44.1(8). In addition, RCIA did not indicate that BC energy objectives had been addressed in any earlier BCUC proceedings by RCIA nor did any such submissions form part of the record in this proceeding.

Further, RCIA submits that the BCUC made an error of law in reducing RCIA's cost award on the basis that RCIA's final submission did not address all key issues in the proceeding. Again, the Panel disagrees. The reduction in RCIA's PACA award resulted from the BCUC appropriately exercising its discretion in determining that the time spent by RCIA on its final submission and the costs incurred were not commensurate with the value that RCIA's submission provided to the LTGRP review process. The limited discussion of the key issues at play in the proceeding contained in RCIA's final submission is disproportionate to the extensive time RCIA reports having spent on its preparation. For example, and as already explained above, RCIA's final argument did not include a thorough discussion of the criteria contained under section 44.1(8) of the UCA. The PACA Decision identifies other clear examples of key issues that could have been better addressed in RCIA's final submission and that were of relevance in the LTGRP proceeding.

The Panel disagrees with RCIA's position that the weight given to a participant's submission is not among the criteria that the BCUC is directed to consider under Section 4.3 of the PACA Guidelines. As RCIA acknowledges, Section 4.3(a) of the PACA Guidelines provides that the BCUC considers a participant's contribution to a better understanding by the BCUC of the issues in the proceeding. The BCUC stated in its PACA Decision that "RCIA contributed only moderate value." It is not simply a question of whether the BCUC agreed with the positions, as RCIA seems to suggest, rather it is more about the quality of those submissions and relevance to the key issues in the proceeding.

¹² Ibid., pp. 7-8.

The Panel also disagrees with RCIA's argument that the PACA Decision is misaligned with previous PACA award precedent, which the BCUC should follow. The BCUC is not bound by precedent and instead assesses participant cost awards considering the criteria established and based solely upon the facts pertaining to that specific proceeding. Therefore, RCIA's comparison to BCSEA's PACA award in the 2017 LTRP proceeding has little bearing in these circumstances.

Given the above, the Panel does not agree with RCIA that the 25 percent adjustment to RCIA's PACA award was arbitrary. In instances where the BCUC is considering making an adjustment to a PACA award, having considered the criteria in section 4.3 of the PACA Guidelines,¹³ the precise level of any adjustments is discretionary in nature, and the PACA Guidelines do not, for instance, prescribe a precise formula to be applied to determine the amount of a reduction. The Panel notes that the BCUC's decision to adjust RCIA's overall PACA award by 25 percent was based on an evaluation of RCIA's participation and contributions to the proceeding as a whole, balanced against the overall funding days and costs sought. As Section 4.3(c) of the PACA Guidelines states, the BCUC must consider whether the costs incurred by the participant are fair and reasonable, and in this instance the costs claimed were deemed unreasonable in relation to the contributions made. Therefore, the Panel finds that the BCUC's discretionary adjustment to RCIA's PACA award in Order F-29-24 was appropriate, and concludes that RCIA has failed to establish, on the face of the Reconsideration Application, any reasonable basis for reconsideration.

DATED at the City of Vancouver, in the Province of British Columbia, this 25th day of October 2024.

Original signed by:

T. A. Loski
Panel Chair/Commissioner

¹³ Of particular relevance in Decision and Order F-29-24 are: 4.3(a) Has the participant contributed to a better understanding by the BCUC of the issues in the proceeding?; and 4.3(c) Are the costs incurred by the participant fair and reasonable?