



August 11, 2017

Sent via eFile

BCUC INQUIRY RESPECTING SITE C	A-4
---------------------------------------	------------

Mr. Fred James
Chief Regulatory Officer
Regulatory & Rates Group
British Columbia Hydro and Power Authority
16th Floor – 333 Dunsmuir Street
Vancouver, BC V6B 5R3
bhydroregulatorygroup@bchydro.com

Re: British Columbia Hydro and Power Authority – British Columbia Utilities Commission Inquiry Respecting Site C – Project No. 1598922 – Establishment of Site C Inquiry Participant Assistance/Cost Award Guidelines

Dear Mr. James:

The British Columbia Utilities Commission (Commission) hereby establishes its process for Participant Assistance/Cost Award (PACA) funding to support participants' contributions to the inquiry into the British Columbia Hydro and Power Authority's Site C project (Site C Inquiry).

The Panel for the Site C Inquiry has determined that the Site C Inquiry PACA Guidelines attached to this letter will apply. The final determination on any cost award will be made by the Panel upon application after the publication of the Commission's Final Report on November 1, 2017, and awards made based on their individual merits.

The Site C Inquiry PACA Guidelines are a modification of the Commission's existing PACA Guidelines established by Order G-97-17 dated June 15, 2017. These modified Site C Inquiry PACA Guidelines are for the purposes of the Site C Inquiry only. The modifications are as follows:

- Interim funding will not be available for the Site C Inquiry;
- No calculation for "funding days" in accordance with Sections 4.1 and 4.2 of the existing PACA Guidelines will be provided;
- The Commission will not be accepting budget estimates (Section 12.1); and
- Final applications for cost awards (Section 12.2) will be accepted up to December 1, 2017 (i.e. 30 calendar days after the publication of the Final Report on November 1, 2017).

Sincerely,

Original Signed By:

Patrick Wruck
Commission Secretary
PS/nd
Enclosure



bcuc
British Columbia
Utilities Commission

Site C Inquiry Participant Assistance/Cost Award Guidelines

August 11, 2017

TABLE OF CONTENTS

Page No.

1.0 DEFINITIONS.....3

2.0 COST AWARD AVAILABILITY3

3.0 PARTICIPANT ELIGIBILITY FOR A COST AWARD3

4.0 CRITERIA FOR A COST AWARD4

5.0 INTERIM FUNDING4

6.0 PROFESSIONAL FEES4

7.0 FOREGONE EARNINGS5

8.0 CHILD CARE.....6

9.0 DISBURSEMENTS.....6

10.0 TAX COSTS6

11.0 OTHER COSTS6

12.0 MAKING AN APPLICATION FOR PARTICIPANT ASSISTANCE/COST AWARDS6

ATTACHMENT A: Rate Schedule I effective August 31, 2016

ATTACHMENT B: Rate Schedule II effective April 1, 2017

PURPOSE AND SCOPE OF THESE GUIDELINES

The British Columbia Utilities Commission (Commission) provides Participant Assistance/Cost Award (PACA) funding to participants in proceedings pursuant to section 118 of the *Utilities Commission Act*.

The purpose of these guidelines is to set out the Commission procedure for considering applications for PACA funding and to provide guidance to participants on how to apply for PACA funding in the Commission inquiry into the British Columbia Hydro and Power Authority's Site C project (Site C Inquiry).

GUIDELINES

1.0 Definitions

- (a) "affected group" means a group or organization who may be potentially affected by the Site C Inquiry;
- (b) "individual participant" means a participant, who may be potentially affected by the Site C Inquiry, representing their own interests and not the interests of a group or organization;
- (c) "participant" means an individual or an affected group that actively participates in the Site C Inquiry for which a cost award is sought;
- (d) "ratepayer group" means a group or organization representing the direct interests of rate-paying customers of the applicant regulated entity.

2.0 Cost award availability

- 2.1 The Commission may award costs for participation in a proceeding under section 118 of the *Utilities Commission Act*.
- 2.2 The Commission will not be establishing a funding cap for the Site C Inquiry.
- 2.3 The Commission may award costs for work completed after the Site C Inquiry is initiated and until the Commission issues the Final Report.
- 2.4 Interim funding will not be available pursuant to Section 5.0.

3.0 Participant eligibility for a cost award

- 3.1 In determining whether a participant is eligible for a cost award in the Site C Inquiry, the Commission will consider whether the participant:
 - (a) is directly or sufficiently affected by the Commission's findings; or
 - (b) has experience, information, or expertise relevant to a matter before the Commission that would contribute to the Commission's findings.

- 3.2 Generally a participant meets the eligibility criterion under Section 3.1 where the participant has the characteristics of the following examples:
- (a) represents the direct interests of ratepayer groups or affected groups in relation to matters that are regulated by the Commission;
 - (b) represents an interest or policy perspective relevant to the Commission’s mandate and to the Site C Inquiry for which cost award eligibility is sought; or
 - (c) has an interest in property that is or may potentially be affected by the Site C Inquiry.

4.0 Criteria for a cost award

- 4.1 Calculations for funding days will not be provided for the Site C Inquiry.
- 4.2 In determining the amount of a participant’s cost award, the Commission will consider the following:
- (a) Has the participant contributed to a better understanding by the Commission of the issues in the Site C Inquiry?
 - (b) To what degree will the participant be affected by the outcome of the Site C Inquiry?
 - (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 Site C Inquiry, such as ensuring participation was not unduly repetitive?
 - (f) Any other matters which the Commission determines appropriate in the circumstances.

5.0 Interim funding

- 5.1 Interim funding will not be available for the Site C Inquiry.

6.0 Professional fees

- 6.1 The Commission expects participants to use professional services in a cost-effective manner and to make efforts to avoid duplication of services among legal counsel, consultants, specialists, expert witnesses and case managers. The Commission may adjust cost awards where any duplication appears to have occurred.
- 6.2 Maximum daily fees in Attachment A are based on an 8 hour day. Awards may be prorated for partial days. Where the actual billing rate for an 8 hour day is less than the maximum daily fee, the lesser amount will be used for the award.

- 6.3 Maximum daily fees in Attachment A do not include provisions for goods and services tax (GST) and provincial sales tax (PST), which will also be allowed, pursuant to Section 10.1.
- 6.4 Legal counsel are expected to perform legal services and may be paid in accordance with the fees listed in Attachment A including the maximum daily fees, or the fees commensurate with the level of experience the Commission deems necessary for a specific task. Participants are expected to use legal services in a cost-effective manner, giving regard to the years of experience required to perform tasks.
- 6.5 Consultants are expected to provide services related to their technical expertise and may be paid in accordance with the fees listed in Attachment A including the maximum daily fees, or the fees commensurate with the level of experience the Commission deems necessary for specific tasks.
- 6.6 Specialists are expected to provide services related to their specialized technical expertise and may be paid in accordance with the maximum daily fee in Attachment A.
- 6.7 Expert witnesses are expected to provide services related to their specialized technical expertise and provide fair, objective and non-partisan opinion evidence. Expert witnesses may be paid in accordance with the maximum daily fee in Attachment A.
- 6.8 The Commission may award fees for a specialist or expert witness that exceed the maximum daily fee if the Commission determines that the specialist or expert witness services are not available at the maximum daily fee because of the specialized technical expertise required to competently address the issues in the Site C Inquiry.
- 6.9 A participant may seek prior approval for rates that exceed the maximum daily fee or for costs for a specialist or expert witness. Upon such request for prior approval, the Commission may determine whether or not the specialist or expert witness qualifies for fees exceeding the maximum daily fee or whether the participant is approved for the costs for the specialist or expert witness.
- 6.10 Case manager services include, but are not limited to, coordinating the effective use of services from legal counsel, consultants, specialists and/or expert witnesses and performing tasks that enable a coalition of participants with similar positions in the Site C Inquiry. The Commission supports the use of case managers where this reduces the use of other professional services and may award costs in accordance with the maximum daily fee in Attachment A.
- 6.11 Generally the Commission will limit awards for individual participants to foregone earnings, childcare and disbursements. However, the Commission may award individual participants professional fees if it deems those fees are warranted for the individual to participate effectively.

7.0 Foregone earnings

- 7.1 Participants may apply for a cost award for foregone earnings in accordance with the rate schedule in Attachment A. Participants claiming foregone earnings must provide proof of actual

foregone earnings, except where to do so would be unreasonably difficult, in which case, some indication of the usual daily earnings must be provided.

8.0 Child care

- 8.1 Child care expenses, when such expenses are incurred for the purpose of participating, may be allowed in accordance with the rate schedule in Attachment A.

9.0 Disbursements

- 9.1 Disbursements directly related to the participant's participation in the Site C Inquiry may be allowed.
- 9.2 Payment may be up to the British Columbia Government Employees' Union (BCGEU) rates applicable to the Commission for travel, accommodation and meals, etc. The BCGEU rates are shown in the rate schedule in Attachment B with the effective date shown. Accommodation disbursements may exceed the applicable BCGEU rates and be awarded at the rate, negotiated by the Commission with the hotel where the proceeding takes place.
- 9.3 An individual participant may be reimbursed for disbursements to travel to an oral/in-person proceeding.

10.0 Tax costs

- 10.1 GST and PST costs, which cannot be recovered through an Input Tax Credit will be allowed. Participants seeking an award must confirm in their application for an award that the applied-for taxes cannot be recovered by the participant through an Input Tax Credit.

11.0 Other costs

- 11.1 The Commission may award any other costs that the Commission deems as reasonable and justified.

12.0 Making an application for Participant Assistance/Cost Awards

- 12.1 The Commission will not be accepting budget estimates for the Site C Inquiry.
- 12.2 Making the final application for a cost award
 - 12.2.1 To make a final application for a cost award, a participant must file a completed Participant Assistance/Cost Award Application form by email to commission.secretary@bcuc.com, or via mail, courier, or personal delivery to the Commission Secretary, Suite 410, 900 Howe Street, Vancouver, BC, V6Z 2N3. The Commission may request supporting receipts and invoices.
 - 12.2.2 A final application for a cost award must be made within 30 calendar days following the last date in the Site C Inquiry's final regulatory timetable or at such other time as the Commission directs. For clarity, the last date of the Site C Inquiry is the publication of

the Final Report on November 1, 2017; final applications for cost award will be accepted up to December 1, 2017.

- 12.2.3 The Commission will review the final application for a cost award. Prior to the Commission making its determination on a cost award, the Commission may require further supporting documents from the participant seeking costs, such as additional information about the participant or sworn affidavits supporting particulars of costs.
- 12.2.4 The Commission will provide the party being asked to pay, and any other party identified by the Commission, with copies of the final application for a cost award. Parties being asked to pay will be provided the opportunity to comment on cost award applications within 10 business days. Parties being asked to pay must submit their comments to the Commission and copy the participant making a cost award application.
- 12.2.5 The participant making a final application for a cost award will be given the opportunity to reply to comments provided pursuant to Section 12.2.4 within 5 business days. Participants must submit their comments to the Commission and copy the party being asked to pay.
- 12.2.6 For a comment process initiated before the issuance of the Commission's final order, decision or report, the party being asked to pay may submit supplementary comments arising from the final order, decision or report. Any supplementary comments must be submitted within 5 business days of the Commission's final order, decision or report and a copy provided to the participant making a cost award application. The participant making a final application for a cost award may reply to the supplementary comments within 5 business days and copy the party being asked to pay.
- 12.2.7 The Commission will determine the participant's eligibility and the amount of the final cost award taking into account the criteria established in Sections 3.0, 4.0 and 6.0 through 10.0.
- 12.2.8 The Commission aims to issue final cost awards by order no later than 60 calendar days after the Site C Inquiry's Final Report has been issued.
- 12.2.9 An affected participant or regulated entity may seek a reconsideration of its award but must file its application within 30 business days of the Commission's decision on the award.

**ATTACHMENT A: Rate Schedule I
effective August 31, 2016**

1. Professional fees

a. Legal counsel

Years Since Call	Maximum Daily Fee
Articling student	\$850
0–4	\$1900
5–7	\$2250
8–12	\$2550
12+	\$2800

b. Consultants and specialist/expert witnesses

Years of Related Experience	Maximum Daily Fee
Consultant 0–4	\$950
Consultant 5–7	\$1300
Consultant 7+	\$1850
Specialist/Expert Witness	\$2150

c. Case managers: maximum \$600 per day.

2. Foregone earnings: maximum \$250 per proceeding day per person.

3. Child care: maximum \$75 per proceeding day per person.

ATTACHMENT B: Rate Schedule II
effective April 1, 2017¹

<u>MEAL EXPENSES^{1, 2}</u>		<u>TRAVEL RATES^{1, 3}</u>	
Breakfast only	\$22.00	Vehicle Mileage:	\$.53/km ^{1, 3}
Lunch only	\$22.00	Airfare:	Full Fare Economy ³
Dinner only	\$28.50		
Breakfast & Lunch	\$30.00		
Breakfast & Dinner	\$36.50		
Lunch & Dinner	\$36.50		
Breakfast, Lunch & Dinner	\$49.00		

ACCOMMODATION RATES⁴

(Single Room Rate Only)

For a full list of hotels and rates please see:

<http://www.pss.gov.bc.ca/csa/categories/accommodation/search/>

Private accommodation: \$30.75/night

To determine what the current Government rate is in the area in which the hearing is being conducted, please visit the above noted site, and review the Accommodation rate for the Hotel the Commission has booked for the hearing.

In order for the participants to receive the Provincial Government Rate, please contact the Financial Administrator at the BC Utilities Commission and request an approval letter.

NOTES:

1. **Meal expenses/travel rates for in town participants:** In-town participants who attend a hearing may apply for meal expenses and travel rates. Meal expenses, such as lunch, and travel rates are intended for individual participants who do not apply for professional fees.
2. **Meal expenses for out of town participants:** Participants who have applied to attend a hearing not in their immediate area may apply for meal expenses.
3. **Travel rates for out of town participants:** Participants who have applied for funding to attend a hearing not in their immediate area may apply for travel rates.
4. **Accommodation rates** for out of town participants apply to the area in which the hearing is being conducted.

For government rates please see: <http://www.pss.gov.bc.ca/csa/categories/accommodation/search/>

- For hotels with blacked-out periods, the seasonal rate charged in the month prior to the month in which costs are incurred, shall apply.
- Rates charged by Hotels not on the Government Accommodation Listing will be subject to review and adjustment by the Commission.

¹ Rates updated June 15, 2017.