

1. Definitions

1.1 In this By-law

- (a) “Board” means the Board of Directors of the Beverage Container Management Board;
- (b) “Costs” means all costs incurred by an Interested Party as a direct result of participation in a Handling Commission Review except those costs relating to proceedings before the Arbitration Panel;
- (c) “Costs Committee” means the three person Committee appointed by the Board to make decisions on behalf of the Board in accordance with this By-law, which Committee shall consist of one Board member from each of the three membership sectors (beverage manufacturing industry, depot industry, and general membership);
- (d) “Handling Commission Review” means a review of Handling Commission amounts directed by the Board pursuant to section 7.1 of the Handling Commission By-Law;
- (e) “Interested Parties” means those parties directly affected by a Handling Commission Review and includes any or all of the Manufacturers and their respective associations and any or all of the Depots and their respective associations, the Collection System Agent, any Collection Service Provider and such other parties as may be specifically determined to be Interested Parties by the Board or an Arbitration Panel; and
- (f) “Scale of Costs” means Appendix A to Rule 022 of the Alberta Utilities Commission, as amended.

1.2 Any decisions of the Costs Committee related to this By-law are in the sole discretion of the Costs Committee.

2. Eligibility for Costs

2.1 Interested Parties who participate in a Handling Commission Review may be entitled to have some or all of their costs recovered.

2.2 The Costs Committee may award costs to an Interested Party who does not have the means to raise sufficient financial resources to enable the Interested Party to present its interests adequately during the Handling Commission Review.

2.3 An Interested Party may apply to the Costs Committee for an advance ruling on its eligibility for recovery of Costs. Any such application should address:

- (a) Why the Interested Party does not have the means to raise sufficient financial resources to enable the Interested Party to present its interest adequately during Facilitated Negotiations;
- (b) The names of all entities the Interested Party is representing along with evidence that those entities consent to being represented by the Interested Party;

(c) The expected nature of the Interested Party's participation and a budget outlining the reasonable fees and disbursements anticipated to be incurred.

2.4 An advance ruling by the Costs Committee as to an Interested Party's eligibility for Costs is not a determination that Costs will be awarded and is not an approval of the fees and disbursements set out in the budget submitted to the Costs Committee.

3. Application for Costs

3.1 An Interested Party may apply to the Costs Committee for an award of costs. Any such application should include the following information:

(a) The identities of any entities the Interested Party represented together with confirmation from those entities that the Interested Party represented their interests;

(b) What tasks were undertaken;

(c) Reasons why the Interested Party's perspective on the issues in the Handling Commission Review was different from the perspectives of the other Interested Parties;

(d) What efforts were made to avoid duplication of efforts between Interested Parties;

(e) A summary of the total costs claimed together with the following documents:

3.1.1 a detailed account of professional fees and disbursements claimed which includes the nature of the work performed and the date the work was performed;

3.1.2 a description of the qualifications of each professional whose fees and disbursements are being claimed, including years of experience;

3.1.3 statements of account for professional fees and disbursements;

3.1.4 receipts for expenses incurred.

(f) A statement signed by the Interested Party confirming that all professional fees and disbursements claimed are reasonable, relate solely to the Interested Party's participation in the Handling Commission Review and are in accordance with the Scale of Costs.

3.2 The onus is on the Interested Party to provide sufficient information for the Costs Committee to assess its application for costs. The Interested Party may be required to answer written questions from the Costs Committee related to their application for costs.

3.3 All applications for Costs will be a matter of public record and will be posted on the Handling Commission Review Record website to allow for comment by other Interested Parties.

3.4 Applications for costs must be filed no later than one month from the date of completion of the last Board Hearing in the Handling Commission Review Process, or if there is no Board Hearing, from the date of the Board Meeting at which the Handling Commissions are approved or the

Board decides to appoint an Arbitration Panel. Comments from other Interested Parties, if any, must be filed within one week of the application for Costs being posted as part of the record of the Handling Commission Review.

4. Advance Funding Requests

- 4.1 In conjunction with an advance ruling on eligibility pursuant to rule 2.3, an Interested Party may also apply to the Costs Committee for an advance of funds.
- 4.2 An application for advance funding must include to the extent possible, the information identified in rules 3.1(a), (c), (d) and (e).
- 4.3 An Interested Party who receives advance funding must apply to the Costs Committee for a final Costs decision no later than one month from the date of completion of the last Board Hearing in the Handling Commission Review Process, or if there is no Board Hearing, from the date of the Board Meeting at which the Handling Commissions are approved or the Board decides to appoint an Arbitration Panel.
- 4.4 Any advancement of funds under this section is subject to a final Costs decision made by the Costs Committee. If, at the conclusion of the proceeding, the Costs Committee varies or denies any of the expenses claimed, the Interested Party will be required to repay any net amount of the advanced funding.

5. Scale of Costs

- 5.1 Except as provided in Rule 5.2 the Costs Committee shall determine the amount of an award of Costs in accordance with the Scale of Costs.
- 5.2 If an Interested Party makes a persuasive argument that the Scale of Costs is inadequate given the complexity of the case, the Costs Committee may make an exception to the Scale of Costs to address such unique circumstances.
- 5.3 No Interested Party shall be awarded Costs for any fee or disbursement which is not specifically referenced in the Scale of Costs.

6. Cost Awards

- 6.1 In considering costs the Costs Committee will determine the eligibility of the claimant and if the claimant is eligible the Costs Committee will consider, among other factors, whether the Interested Party did any of the following:
 - (a) Through Information Requests, Responses to Information Requests, written statements, questions, evidence, argument or other steps made a substantial contribution to a better understanding of the issues related to the Handling Commission Review;
 - (b) Represented more than one entity with a substantial interest in the Handling Commission Review;

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- (c) Consolidated issues with other Interested Parties in order to reduce duplication of questions and evidence;
 - (d) Refrained from any conduct which unduly lengthened the Review Process;
 - (e) Incurred costs which were reasonable and directly related to the issues relevant to the Handling Commission Review; or
 - (f) Any other factor which the Costs Committee considers appropriate.

7. Filing of Applications and Inclusion in Record

- 7.1 Any applications to the Costs Committee and comments from Interested Parties are to be filed with the Beverage Container Management Board in accordance with the Handling Commission Review Rules of Practice and Procedure and shall form part of the record in the Handling Commission Review.