



**EB-2008-0272**

**IN THE MATTER OF** the *Ontario Energy Board Act*, 1998,  
S.O. 1998, c.15 (Schedule B);

**AND IN THE MATTER OF** an Application by Hydro One  
Networks Inc. for an Order or Orders approving or fixing just  
and reasonable rates and other charges for the transmission  
of electricity commencing July 1, 2009.

**BEFORE:** Cynthia Chaplin  
Presiding Member

Paul Vlahos  
Member

Ken Quesnelle  
Member

### **DECISION AND ORDER ON COST AWARDS**

Hydro One Networks Inc. ("Hydro One") filed an application dated September 30, 2008, with the Ontario Energy Board (the "Board") under section 78 of the *Ontario Energy Board Act*, 1998; S.O. c.15, for an order or orders approving the revenue requirement for the test years 2009 and 2010, customer rates for the transmission of electricity to be implemented on July 1, 2009, and other matters related to the fixing of just and reasonable rates for the transmission of electricity. The Board has assigned the application file number EB-2008-0272.

The Association of Major Power Consumers in Ontario ("AMPCO"), Building Owners and Managers Association ("BOMA"), the Consumers Council of Canada ("CCC"), the

Canadian Manufacturers and Exporters (“CME”), Energy Probe Research Foundation (“Energy Probe”), the London Property Managers Association (“LPMA”), Pollution Probe, the School Energy Coalition (“SEC”), and the Vulnerable Energy Consumers Coalition (“VECC”) received intervenor status and were deemed eligible to apply for an award of costs. The Board, in its letter dated January 30, 2009, has determined that the Electricity Distributors Association (“EDA”) is eligible to apply for an award of costs under the Board’s Practice Direction on Cost Awards, but only in respect of costs related to the evidence submitted by AMPCO in the proceeding. In addition, the Board found that Mr. Lewis Balogh would be eligible for an award for limited costs.

The Board held an oral hearing on February 19, 20, 23, 24, 25, 26 and March 2, 3, 5 and 6, 2009. Following the hearing, the Board issued its Decision and Order on the application on May 28, 2009, in which it set out the process for intervenors to file their cost claims and to respond to any objections raised by Hydro One.

The Board received cost claims from AMPCO, BOMA, CME, CCC, EDA, Energy Probe, Mr. Lewis Balogh, LPMA, Pollution Probe, SEC and VECC. On September 10, 2009, the Board received a revised cost claim from SEC.

### **Board Findings**

Hydro One raised some concerns regarding the cost claim of the EDA to ensure that the claim related to the review of AMPCO’s evidence. The Board finds that the EDA’s claim is proportionate to that of others, recognizing its more limited involvement, and concludes that the claim is reasonable. The EDA cost claim is approved.

Hydro One also raised concerns regarding the cost claim by Mr. Balogh. Mr. Balogh documented about 149 hours of work, and although he claimed no costs for this time, he requested a per diem of \$300/day to recognize his absence from his business and his contribution to the proceeding. Mr. Balogh also claimed about \$2,000 in expenses, mostly related to travel and hotel. The Board’s letter of January 13, 2009 noted that as an individual intervenor Mr. Balogh would have restricted eligibility for costs. The Board finds that Mr. Balogh made a limited contribution to the proceeding. The Board will allow his travel expenses and an honorarium of \$500. The review of the claims indicated that cost claims for meals were not in accordance with the *Board’s Practice Direction on Cost Awards* and therefore the Board has reduced Mr. Balogh’s cost claim in an amount of \$342.75 related to disbursement expenses.

Hydro One also raised concerns about the magnitude of the AMPCO cost claim. The Board recognizes that AMPCO's costs include the additional costs of preparing and defending evidence. However an examination of the details of the claim reveals that irrespective of these additional costs the total amount of \$175,000 is substantially higher than what would be expected given its level of participation. AMPCO noted in response to Hydro One's submission on its claim that approximately half the costs were associated with issues other than its main rates issue concern. The amount of \$87,500, being half the amount claimed, is considerably higher than the average amount claimed by the other intervenors (\$56,000). The claims of the other intervenors also include examination of the rates issue, which is not included in this comparative portion of AMPCO's claim. In addition, AMPCO's claim includes an amount for attendance that is substantially higher than that of any other intervenor and an amount for preparation time that does not correspond with the apparent effort expended in the submission of interrogatories, cross-examination and argument.

While the Board agrees with AMPCO's assertion that "its involvement in hearings of this sort is important for its members and the process generally" the Board is also mindful that eligible intervenor costs are ultimately borne by ratepayers and therefore expects the costs to be reasonable. The Board is not satisfied that all of AMPCO's costs in this proceeding were reasonable. The Board will allow the one-half of AMPCO's cost claim associated with its main issue (\$87,500) plus an amount slightly less than the average cost claim of the other intervenors, for a total cost award of \$140,000.

The Board has made the following additional adjustments:

- CME's cost claim is reduced by \$50 for a disbursement not supported by receipts and by \$91.10 for a disbursement that is not accordance with the *Board's Practice Direction on Cost Awards*;
- EDA's cost claim is reduced by \$32.30 for a disbursement not supported by receipts; and
- SEC's cost claim is reduced by 1 hour for Mr. John De Vellis to match the information filed with the cost claim.

The Board found that BOMA, CCC, Energy Probe, LPMA, Pollution Probe and VECC are eligible for 100% of their reasonably incurred costs of participating in this

proceeding. The Board finds that AMPCO's, CME's, EDA's, SEC's and Mr. Lewis Balogh's claims, adjusted as described, are reasonable and all parties will be reimbursed by Hydro One.

**THE BOARD THEREFORE ORDERS THAT:**

1. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Hydro One Networks Inc. shall immediately pay:
  - Association of Major Power Consumers in Ontario \$140,000.00;
  - Building Owners and Managers Association \$ 13,117.50;
  - Canadian Manufacturers and Exporters \$ 68,825.42;
  - Consumers Council of Canada \$ 79,058.32;
  - Electricity Distributors Association \$ 17,494.31;
  - Energy Probe Research Foundation \$ 29,261.13;
  - Mr. Lewis Balogh \$ 2,245.64;
  - London Property Managers Association \$ 14,789.58;
  - Pollution Probe \$ 14,759.20;
  - School Energy Coalition \$ 46,115.95; and
  - Vulnerable Energy Consumers Coalition \$ 66,844.86.
  
2. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Hydro One Networks Inc. shall pay the Board's costs of and incidental to, this proceeding immediately upon receipt of the Board's invoice.

**DATED** at Toronto, September 24, 2009.

ONTARIO ENERGY BOARD

*Original signed by'*

Kirsten Walli  
Board Secretary