

Ontario Energy
Board

Commission de l'énergie
de l'Ontario



EB-2011-0242
EB-2011-0283

IN THE MATTER OF the the *Ontario Energy Board Act 1998*, S.O. 1998, c.15, (Schedule B); and in particular section 36(2) thereof,

AND IN THE MATTER OF an application by Enbridge Gas Distribution Inc. for an Order or Orders approving and setting prices for Enbridge Gas Distribution Inc.'s purchase of biomethane;

AND IN THE MATTER OF an application by Union Gas Limited for an Order or Orders approving and setting prices for Union Gas Limited's purchase of biomethane.

BEFORE: Cynthia Chaplin
Vice Chair

Marika Hare
Member

DECISION AND ORDER ON COST AWARDS September 10, 2012

Background

Enbridge Gas Distribution Inc. ("Enbridge") and Union Gas Limited ("Union Gas") each filed an application with the Ontario Energy Board under section 36 of the *Ontario Energy Board Act, 1998*, ("the Act") dated September 30, 2011, seeking an order or orders approving or fixing rates for the sale of natural gas by Enbridge and Union Gas that include the cost consequences of the purchase of biomethane. Enbridge and Union Gas each proposed to acquire biomethane as part of their respective supply

portfolios for customers who purchase natural gas from the companies. The Board determined that it would combine the applications into a single proceeding. The Board assigned file number EB-2011-0242 to the Enbridge application and file number EB-2011-0283 to the Union Gas application.

The Board determined that the following parties were eligible to apply for an award of costs under the Board's *Practice Direction on Cost Awards*:

- Biogas Association (formerly known as Agrienergy Producers Association of Ontario) ("Biogas")
- Building Owners and Managers Association of Toronto ("BOMA")
- Consumers Council of Canada ("CCC")
- Green Energy Coalition ("GEC")
- School Energy Coalition ("SEC")
- Pollution Probe
- Vulnerable Energy Consumers Coalition ("VECC")
- Canadian Manufacturers and Exporters ("CME")
- London Property Management Association ("LPMA")
- Federation of Rental Housing Providers of Ontario ("FRPO")
- Agrienergy Producers Association of Ontario ("APAO")
- Energy Probe Research Foundation ("Energy Probe")

On July 12, 2012, the Board issued its Interim Decision and Order, in which it set out the process for intervenors to file their cost claims and to respond to any objections raised by Enbridge and Union Gas.

The Board received cost claims from BOMA and Biogas, CME, CCC, Energy Probe, FRPO, GEC, LPMA, Pollution Probe, SEC and VECC.

On August 9, 2012, Enbridge filed comments stating that it has reviewed all the cost claims and found the cost submissions to be within tolerances of the guidelines.

On August 9, 2012, Union filed comments stating that it has reviewed all the cost claims and had no specific concerns. However, Union noted that there was a wide variation in the levels of the cost claims submitted.

Enbridge and Union Gas had agreed to evenly split the cost award payments on a 50/50 basis.

Board Findings

The Board has reviewed the cost claims of BOMA and Biogas, CME, CCC, Energy Probe, FRPO, GEC, LPMA, Pollution Probe, SEC and VECC to ensure that they are compliant with the Board's *Practice Direction on Cost Awards*.

CME

The Board finds that CME's cost claim included disbursements that do not comply with the Board's *Practice Direction on Cost Awards*. The Board has therefore made an adjustment to reduce the disbursements by \$55.82. The Board has determined that CME's travel cost claim is not in accordance with the *Practice Direction on Cost Awards* as it does not incorporate use of the least cost travel alternative in that a business class train ticket was purchased instead of economy class. The Board has accordingly reduced CME's claim by \$118.65. The Board finds that CME will be awarded \$58,547.80.

GEC

The Board has determined that GEC's travel cost claim is not in accordance with the *Practice Direction on Cost Awards* as it does not incorporate use of the least cost travel alternative in that a business class train ticket was purchased instead of economy class. The Board has accordingly reduced GEC's claim by \$189.84 and finds that GEC is awarded \$21,917.78.

BOMA and Biogas

BOMA and Biogas were represented by the same legal counsel in the proceeding. BOMA and Biogas' cost claims include a total of 265.60 hours (including 168.40 hours of preparation, 70.20 hours of attendance oral hearing, 3 hours Argument and 24 hours case management). The Board notes that the next highest cost claim is CCC at 225 hours, CME at 167 hours and SEC at 147 hours. The Board notes that these three intervenors were the most active intervenors in the proceeding, other than

BOMA/Biogas. The same counsel for BOMA and Biogas claimed costs for 121.90 hours for preparation and 34.20 hours for attendance. Given the scope of the proceeding, and the extent of BOMA and Biogas' contribution to the proceeding, the Board finds that BOMA's and Biogas' combined hours are excessive. The Board will reduce BOMA and Biogas' cost claims to 180 hours in total. This level is consistent with the average number of the hours claimed by CCC, CME and SEC, the other most active intervenors. The Board finds that the contribution of Biogas and BOMA to the proceeding and to the Board's understanding of the issues was not sufficiently high to warrant any additional award of costs over this average amount. In addition, the Board notes that the disbursement receipts for courier charges (\$90.65) do not match with the amount claimed and no receipts for telephone bills (\$60.59) were provided. The Board has made a further reduction of \$78.36 to BOMA and Biogas' cost claim. The Board finds that BOMA should be granted a total cost award of \$25,829.09 and Biogas \$30,894.95.

The Board finds that CCC, Energy Probe, FRPO, LPMA, Pollution Probe, SEC and VECC are eligible for 100% of their reasonably incurred costs of participating in this proceeding. The Board finds that each party's claim, adjusted as described above, is reasonable and should be reimbursed by Enbridge and Union Gas.

THE BOARD THEREFORE ORDERS THAT:

1. Pursuant to section 30 of the Ontario *Energy Board Act, 1998*, Enbridge and Union Gas shall each pay 50% of the costs awarded:

• Biogas Association	\$30,894.95;
• Building Owners and Managers Association of Toronto	\$25,829.09;
• Canadian Manufacturers and Exporters	\$58,547.80;
• Consumers Council of Canada	\$83,989.66;
• Energy Probe Research Foundation	\$18,845.81;
• Federation of Rental Housing Providers of Ontario	\$26,277.55;
• Green Energy Coalition	\$21,917.78;
• London Property Management Association	\$25,534.92;
• Pollution Probe	\$16,569.60;

- School Energy Coalition \$29,300.00; and
- Vulnerable Energy Consumers Coalition \$15,832.14.

2. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Enbridge and Union Gas shall pay the Board's costs of and incidental to, this proceeding immediately upon receipt of the Board's invoice.

DATED at Toronto, September 10, 2012.

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary