



EB-2013-0321

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 Ontario
Power Generation Inc. pursuant to section 78.1 of
the *Ontario Energy Board Act*, 1998 for an Order or
Orders determining payment amounts for the output
of certain of its generating facilities.

BEFORE: Marika Hare
Presiding Member

Christine Long
Member

Allison Duff
Member

DECISION AND ORDER ON COST AWARDS
February 10, 2015

Background

Ontario Power Generation Inc. (OPG) filed an application, dated September 27, 2013, with the Ontario Energy Board under section 78.1 of the *Ontario Energy Board Act*, 1998, S.O. 1998, c.15, Schedule B seeking approval for increases in payment amounts for the output of its nuclear generating facilities and the currently prescribed hydroelectric generating facilities, to be effective January 1, 2014. The application also sought approval for payment amounts for newly prescribed hydroelectric generating facilities, to be effective July 1, 2014.

The Board granted intervenor status and cost award eligibility to the Association of Major Power Consumers in Ontario (AMPCO), Canadian Manufacturers & Exporters (CME), Consumers Council of Canada (CCC), Energy Probe Research Foundation

(Energy Probe), Environmental Defence, Green Energy Coalition (GEC), Haudenosaunee Development Institute (HDI), Lake Ontario Waterkeeper (Waterkeeper), London Property Management Association (LPMA), Retail Council of Canada (RCC), School Energy Coalition (SEC), Sustainability-Journal and Vulnerable Energy Consumers Coalition (VECC).

At the oral hearing on June 12, 2014, the Board set out the process for cost claims for the period ending June 11, 2014. The Board's Decision and Order on Cost Awards up to June 11, 2014 was issued on July 24, 2014.

On November 20, 2014, the Board issued its Decision with Reasons, in which it set out the process for intervenors to file their cost claims for the period starting June 12, 2014, for OPG to object to the claims and for intervenors to respond to any objections raised by OPG.

The Board received cost claims from all intervenors eligible to claim costs for the period starting June 12, 2014.

OPG raised only one objection, requesting that VECC's claim be reduced by \$690 (including HST). OPG stated that the 33.0 hours claimed by a VECC consultant were charged at a rate of \$350 per hour, whereas the Board's *Practice Direction on Cost Awards* specifies a maximum hourly rate of \$330 for a consultant with 20+ years of experience.

Board Findings

The Board has reviewed the cost claims of AMPCO, CME, CCC, Energy Probe, Environmental Defence, GEC, Waterkeeper, LPMA, RCC, SEC, Sustainability-Journal and VECC.

The Board observes that some intervenors commented on all, or almost all issues, but at a superficial level in submissions. The Board is not disallowing costs for the hours claimed for these submissions but found the most helpful submissions were those with in-depth analysis of a particular issue.

AMPCO, Energy Probe and SEC requested that the Board reconsider the Decision and Order on Cost Awards up to June 11, 2014. While the parties made submissions on

why the Board should reconsider the cost awards granted, the Board does not find these submissions persuasive. The Board made its determinations on the basis of the parties' contributions up to June 11, 2014. The Board does not find that the parties' subsequent participation would necessitate a change to those amounts.

CME's Cost Claim

The Board finds CME's claimed hours for argument preparation to be excessive. The Board finds that CME's hours should be reduced from 209.0 to 161.6, which is the next highest amount claimed for argument preparation and accepted by the Board. With this reduction, CME's approved argument preparation time is above the average of other intervenors, which the Board finds appropriate given the extent of CME's submissions. The lowest hourly rate claimed by CME has been used to calculate the disallowance.

AMPCO's Cost Claim

The Board disallows 28.5 hours for attendance by two AMPCO representatives at the oral hearing. The Board has made it clear that only one person can claim hours for attendance at the hearing. While it may be of assistance to an intervenor in managing the file, the Board does not find that the contribution of a consultant during the hearing, in addition to counsel, aids in the Board's understanding of the issues or the examination of evidence. The lowest hourly rate claimed by AMPCO has been used to calculate the disallowance.

Energy Probe's Cost Claim

The Board disallows 20.5 hours for attendance by two Energy Probe representatives at the oral hearing for the same reasons as noted above. The lowest hourly rate claimed by Energy Probe has been used to calculate the disallowance.

VECC's Cost Claim

The Board agrees with OPG that the hourly rate for the VECC consultant should be reduced from \$350 to \$330.

The Board finds that all parties are eligible for reasonably incurred expenses of participating in this proceeding. The claims of CME, Environmental Defence, GEC, Waterkeeper, Sustainability-Journal and VECC each require a minor reduction due to the following reasons: Non-compliance with the government's Travel, Meal and Hospitality Expenses Directive, missing receipts, revision for HST, and incorrect

calculation of the summary of fees and disbursements. The Board finds that the claims of CCC, LPMA, RCC and SEC and the adjusted claims of AMPCO, CME, Energy Probe, Environmental Defence, GEC, Waterkeeper, Sustainability-Journal and VECC are reasonable and each of these claims shall be reimbursed by OPG.

THE BOARD THEREFORE ORDERS THAT:

1. Pursuant to section 30 of the Ontario *Energy Board Act, 1998*, OPG shall immediately pay the following amounts to the intervenors for their costs:
 - Association of Major Power Consumers in Ontario \$ 98,695.01
 - Canadian Manufacturers & Exporters \$141,350.99
 - Consumers Council of Canada \$ 33,561.00
 - Energy Probe Research Foundation \$ 31,055.59
 - Environmental Defence \$ 16,877.63
 - Green Energy Coalition \$ 47,464.73
 - Lake Ontario Waterkeeper \$ 5,780.00
 - London Property Management Association \$ 21,814.65
 - Retail Council of Canada \$ 2,278.48
 - School Energy Coalition \$158,201.13
 - Sustainability-Journal \$ 466.34
 - Vulnerable Energy Consumers Coalition \$ 51,452.25

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

DATED at Toronto, February 10, 2015

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary