



**Ontario Energy Board**  
**Commission de l'énergie de l'Ontario**

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**SUPPLEMENTARY DECISION ON COST  
ELIGIBILITY**

**EB-2016-0003**

**ONTARIO ENERGY BOARD**

**Cost award eligibility for interested parties in a consultation on  
cost allocation and regional planning under the Ontario Energy  
Board's Transmission System Code and Distribution System Code  
in relation to load customers**

**BEFORE:**            **Cathy Spoel**  
                         Presiding Member

**Christine Long**  
Vice-Chair

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**November 3, 2017**

In a [letter](#) dated January 7, 2016, the Ontario Energy Board (OEB) announced that it was initiating a consultation aimed at ensuring that the cost responsibility provisions for load customers in the Distribution System Code (DSC) and Transmission System Code (TSC) are aligned and facilitate the implementation of regional infrastructure plans.

That letter also identified that cost awards would be available to eligible persons under section 30 of the *Ontario Energy Board Act, 1998* in relation to their participation in the consultation, and that any costs awarded will be recovered from all licensed rate regulated electricity distributors and transmitters.

On June 13, 2016, the OEB issued a [Decision on Cost Eligibility](#) (June 2016 Decision) in relation to participant requests for cost eligibility that were filed with the OEB. In that Decision, the OEB confirmed how costs awarded will be apportioned between distributors and transmitters, and determined that the following participants were eligible for an award of costs: *Association of Major Power Consumers in Ontario (AMPCO), Building Owners and Managers Association (BOMA), Canadian Manufacturers & Exporters (CME), Consumers Council of Canada (CCC), London Property Management Association (LPMA), School Energy Coalition (SEC), Vulnerable Energy Consumers Coalition (VECC), Nishnawbe Aski Nation, Northwestern Ontario Associated Chambers of Commerce (NOACC) and Northwatch.*

On September 21, 2017, the OEB issued a [Notice of Proposal to Amend a Code](#) in relation to this Regional Planning and Cost Allocation initiative. In that Notice of Proposal, the OEB indicated that any participant could request cost awards that had not already been determined eligible for cost awards in the June 2016 Decision.

Additional requests for cost award eligibility were received from the following four participants:

- [Association of Power Producers of Ontario \(APPrO\)](#)
- [Canadian Solar Industries Association \(CanSIA\)](#)
- [Energy Storage Canada \(ESC\)](#)
- [Ontario Waterpower Association \(OWA\)](#)

No objections were received to any of the above requests for cost eligibility.

Under section 3.05 of the OEB's [Practice Direction on Cost Awards](#) (the Practice Direction), generators are normally ineligible for cost awards, "either individually or in a group". However, under section 3.07, the OEB may find in a particular case that "special circumstances" warrant making an exception. Three of the associations represent

generators: APPrO, CanSIA and the OWA. They are therefore *prima facie* ineligible for costs. Although they each argue that there are “special circumstances”, the OEB is not persuaded that such special circumstances exist. The proposed Code amendments in this consultation focus almost exclusively on load customers, rather than on generators. The OEB is not satisfied that these generator associations would represent interests that are necessary to support with ratepayer funds given the subject matter of the consultation and the parties that have already been approved for cost eligibility.

The fourth association, ESC, represents energy storage companies. Although energy storage companies are not expressly ineligible for cost awards under section 3.05 of the Practice Direction, the OEB considers entities involved in energy storage to be similar in nature to a generator. The OEB licence for both is essentially the same, as they both supply electricity to a load customer or the Independent Electricity System Operator (IESO). Moreover, ESC’s membership includes some generators, who are expressly ineligible, as well as some regulated distributors — the same entities that the costs awarded in this consultation will be recovered from. The OEB sees no special circumstances to warrant costs for the ESC in this matter, and is not satisfied that ESC would represent interests that are necessary to support with ratepayer funds in this consultation.

For these reasons, the OEB has decided not to grant cost eligibility to the four associations.

**DATED** at Toronto November 3, 2017

**ONTARIO ENERGY BOARD**

Original Signed By

*Kirsten Walli*

Board Secretary