



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

DECISION AND ORDER ON COST AWARDS

EB-2016-0137

EB-2016-0138

EB-2016-0139

SOUTH BRUCE EXPANSION APPLICATIONS

Applications to serve the Municipality of Arran-Elderslie, the Municipality of Kincardine and the Township of Huron-Kinloss with natural gas distribution services

BEFORE: Ken Quesnelle
Vice Chair and Presiding Member

Cathy Spoel
Member

September 4, 2018

INTRODUCTION AND SUMMARY

This is a decision of the Ontario Energy Board (OEB) on cost claims filed with respect to an EPCOR South Bruce Gas Inc. (EPCOR) proceeding.

EPCOR filed applications with the OEB on March 24, 2016 under sections 8 and 9 of the *Municipal Franchises Act, R.S.O. 1990, c. M.55*, seeking approval for its franchise agreements with and Certificate of Public Convenience and Necessity for the Municipality of Arran-Elderslie, Municipality of Kincardine and the Township of Huron-Kinloss.

The OEB granted the following parties intervenor status and cost award eligibility:

- Anwaatin Inc. (Anwaatin)
- Building Owners and Managers Association, Greater Toronto (BOMA)
- Consumers Council of Canada (CCC)
- GreenField Specialty Alcohols Inc. (GreenField)
- Industrial Gas Users Association (IGUA)
- London Property Management Association (LPMA)
- School Energy Coalition (SEC)
- Vulnerable Energy Consumers Coalition (VECC)

On April 12, 2018, the OEB issued its Decision and Order in which it set out the process for intervenors to file their cost claims, for EPCOR to object to the claims and for intervenors to respond to any objections raised by EPCOR.

EPCOR filed a motion on May 2, 2018, requesting that the OEB vary the cost order to either:

- a) apportion the costs among all rate regulated gas distributors in Ontario, given the generic nature of the proceeding and the process, which is expected to provide a framework and guidance for future competitions, or
- b) share the costs of the proceeding with the other proponent, given that the proceeding became a competitive process.

On July 19, 2018, the OEB issued its Decision on the Motion to review cost order and Procedural Order No. 12 in which the OEB granted the motion and found that the two potentially successful proponents should equally pay for the costs of the proceeding.

The OEB also set out the process for Union to object to the claimed costs and for intervenors to respond to any objections raised by Union.

The OEB received cost claims from Anwaatin, GreenField, SEC and VECC. BOMA, CCC, IGUA and LPMA did not file a cost claim.

In its May 4 and 10, 2018 letters, EPCOR objected to the cost claims on the following grounds:

- In Procedural Order No. 3, the OEB limited the hours of work that can be claimed for work in Phase One to 8 hours. EPCOR noted that Anwaatin, GreenField and SEC had claimed hours in Phase One that were in excess of the 8 hour limit mentioned by the OEB.
- In Procedural Order No. 9, the OEB stated that it does not anticipate awarding any costs for proposed interrogatories or submissions made by intervenors in Phase Two.

On May 4, 2018, Anwaatin responded to EPCOR's comments and stated that the number of hours claimed for work in Phase One was consistent with the OEB's procedural direction issued March 23, 2017.

On May 4, 2018, GreenField responded to EPCOR's comments and stated that the number of hours claimed for work in Phase One was consistent with the OEB's procedural direction and the time spent on various activities, including interrogatories, was reasonable, efficient, and of direct value and assistance to the OEB.

No objections to the cost claims were received from Union.

Findings

The OEB has reviewed the claims filed by Anwaatin, GreenField, SEC and VECC to ensure that they are compliant with the OEB's *Practice Direction on Cost Awards*.

The OEB accepts Anwaatin's and GreenField's submissions regarding the hours filed for Phase One as being 6 and 6.5 hours respectively.

SEC requested that the OEB exercise its discretion and award it costs for its full 15.2 hours claimed. The OEB notes that the three other intervenors making claims for Phase One submissions did so for less than the allotted 8 hours. The OEB will maintain its

previously stated approach and allow 8 hours of SEC's claim using a blended rate of \$200.71 an hour¹. The OEB awards SEC a total amount of \$6,327.87.

The OEB recognizes the value of GreenField's participation in this proceeding but agrees with EPCOR that some of its activities do appear to have taken a disproportionately lengthy period of time. The OEB disallows 10 hours at GreenField's highest submitted tariff rate. The OEB awards GreenField a total amount of \$22,512.92.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, EPCOR South Bruce Gas Inc. shall immediately pay the following amounts to the intervenors for their costs:

| | |
|---|-------------|
| • Anwaatin Inc. | \$6,122.56 |
| • GreenField Specialty Alcohols Inc. | \$11,256.46 |
| • School Energy Coalition | \$3,163.93 |
| • Vulnerable Energy Consumers Coalition | \$1,461.91 |

2. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Union Gas Limited shall immediately pay the following amounts to the intervenors for their costs:

| | |
|---|-------------|
| • Anwaatin Inc. | \$6,122.55 |
| • GreenField Specialty Alcohols Inc. | \$11,256.46 |
| • School Energy Coalition | \$3,163.94 |
| • Vulnerable Energy Consumers Coalition | \$1,461.92 |

3. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, EPCOR South Bruce Gas Inc. and Union Gas Limited shall pay the OEB's costs of, and incidental to, this proceeding immediately upon receipt of the OEB's invoice.

¹ The blended rate is based on a weighted average of rates charged by SEC counsels for Argument preparation.

DATED at Toronto September 4, 2018

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary