



EB-2008-0408

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

AND IN THE MATTER OF cost award eligibility for
interested parties in a consultation process to examine
issues relating to the transition to International Financial
Reporting Standards.

Supplementary Decision on Cost Eligibility

On December 23, 2008, the Ontario Energy Board initiated a consultation process to examine issues relating to the transition to International Financial Reporting Standards ("IFRS"). In its letter of that date inviting participation in the consultation, the Board indicated that cost awards would be available to eligible participants under section 30 of the *Ontario Energy Board Act, 1998* for their participation. In its decision dated January 28, 2009, the Board found the following participants to be eligible for a cost award in the consultation (collectively, the "Eligible Participants"):

- Association of Major Power Consumers in Ontario
- Building Owners and Managers Association of the Greater Toronto Area
- Canadian Manufacturers & Exporters
- Consumers Council of Canada
- Energy Probe Research Foundation
- Industrial Gas Users Association
- London Property Management Association

- School Energy Coalition
- Vulnerable Energy Consumers Coalition

In its letter initiating the consultation, the Board noted that it intended to retain the services of a consultant and invited participants requesting cost eligibility to indicate whether costs for a separate expert report should be considered for this consultation.

The Board received a letter dated February 5, 2009 from the School Energy Coalition, on behalf of the nine Eligible Participants. The letter proposes that the nine eligible participants, who generally represent subsets of electricity ratepayers, jointly retain an expert to advise them on the rate implications of IFRS, and in particular the interaction between accounting rules and regulatory policy. It is estimated by the group that 150 hours of expert assistance will be necessary to:

- provide the Eligible Participants with a technical understanding of the rate implications of the IFRS conversion (phase 1); and
- review the report prepared by the Board staff consultant and identify any gaps, additional options and regulatory implications arising from that report (phase 2).

The letter goes on to state:

“We expect that the expert will be available to provide assistance and answer questions for the ratepayer groups during the stakeholder conference, but would likely not attend the conference throughout.

It is not expected that either of these two phases would include a written report or any deliverable to be filed with the Board. It is anticipated that the ratepayer groups, together with the expert, will assess at the end of the second phase whether the expert can provide something to the Board that is consistent with the joint retainer (i.e. would not involve specific recommendations contrary to the interests of the groups retaining the expert), and would be helpful to the process, such as a written report or a presentation at the stakeholder conference. At the current time, we have not identified a report or other deliverable that would meet those criteria, so no third phase is included in this proposal. As the process unfolds, that has to be reviewed. We understand that normally costs are not available for an expert unless there is a report filed, but we are aware that in the

past the Board has made exceptions to that rule in circumstances very similar to these.”

From this quote it is clear that the proposal is that the expert provide technical information, advice and analysis to the Eligible Participants to the extent of the 150 hour proposed retainer, and that any work preparing a deliverable for filing with the Board would be in excess of that initial retainer.

The Board recognizes that the IFRS consultation involves highly technical matters that are outside the usual scope of regulatory policy and ratemaking. The Board agrees that in the special circumstances of this consultation, some portion of the approved hours may be used to provide a technical foundation for the Eligible Participants.

However, the Board will require some direct input from their consultant as part of the 150 hour retainer. The Board will not specifically require that a report or presentation be prepared, but the consultant should reserve a minimum of 10 hours of the proposed 150 hours for attendance and participation at the stakeholder conference. The Board expects that the consultant will be available to answer questions and provide comment on the matters discussed at the conference. The purpose of this consultation is not merely to ensure that all stakeholders have a good understanding of IFRS and are able to participate effectively, but also to provide the Board with the best information on the issues from a variety of perspectives. Any difficulties that the consultant’s appearance at the stakeholder conference may pose for any of the individual participants retaining him can be dealt with as the approaches of the Eligible Participants to the issues in the consultation crystallize.

The letter from the School Energy Coalition requests that an interim payment on account to the expert be considered. The Board will make provision for an interim payment of a cost award provided that a cost claim for the costs of the jointly-sponsored expert is filed by April 17, 2009, to include work performed by that expert up to that date. The claim should be restricted to the costs of the expert and be filed in accordance with the Board’s “Practice Direction on Cost Awards”.

The Board appreciates the co-operation among the nine Eligible Participants, and their efforts to provide information of value to the Board through an efficient consultation process.

DATED at Toronto, February 13, 2009.

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary