



EB-2008-0233

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 Innisfil Hydro
Distribution Systems Limited for an order approving or
fixing just and reasonable rates and other charges for the
distribution of electricity to be effective May 1, 2009.

BEFORE: Cathy Spoel
Presiding Member

Pamela Nowina
Member and Vice-Chair

DECISION AND ORDER ON COST AWARDS

Background

Innisfil Hydro Distribution Systems Limited ("Innisfil") filed an application with the Ontario Energy Board on August 15, 2008, under section 78 of the *Ontario Energy Board Act*, 1998, seeking approval for changes to the rates that it charges for electricity distribution to be effective May 1, 2009. The Board has assigned the application File Number EB-2008-0233.

The Association of Major Power Consumers Ontario (AMPCO), Energy Probe Research Foundation ("Energy Probe"), the School Energy Coalition ("SEC"), and the Vulnerable Energy Consumers Coalition ("VECC") were granted intervenor status and were found to be eligible to apply for an award of costs.

The Board issued its Decision and Order on the application on April 6, 2009, in which it set out the process for intervenors to file their cost claims and to respond to any objections raised by Innisfil.

AMPCO did not file a cost claim. The Board received cost claims from Energy Probe, SEC and VECC.

On May 13, 2009, the Board received objections to the cost claims from Innisfil. Innisfil did not have any specific comments with regards to the cost claim as filed by Energy Probe. However, it noted that VECC's cost award request was two days late and SEC's cost award request was 9 days late and therefore commented that these cost claims may not be eligible.

In its reply comment, VECC noted that the deadline was May 2, 2009, which fell on a Saturday. SEC stated in its reply that it incorrectly noted May 10, 2009, as the due date for submissions.

Innisfil expressed concerns with the intervenor process within its application. It noted its difficulty budgeting for intervenor costs because the 2008 cost award decisions were made well after the 2009 application deadline of August 15, 2008. Innisfil also raised concerns with respect to what it indicated was a duplication of effort by intervenors and with respect to the amount of time spent by intervenors on its application. Innisfil compared its costs with last year's cost awards and argued that small LDCs pay higher per customer intervenor costs as compared to large LDCs. Innisfil proposed a cap scheme of a maximum limit of \$1 per customer for intervenor costs.

The intervenors noted that each application is unique in its complexity. VECC stated that the number of intervenors that apply for standing in a utility proceeding has less to do with the size of the utility and more to do with the customer composition in the utility's territory. VECC also noted that the participation of intervenors contributes both to the amount of the revenue requirement reduction, as well as the public confidence in the result achieved by the regulatory process. Finally, VECC noted that Innisfil included \$30,000 for intervenor costs in its application related to the 2009 rate proceeding, and the Board specifically approved that amount in rates amortized over 4 years.

Regarding Innisfil's suggestion of a cap scheme, VECC stated that it is wary of specifically and mechanically restricting the activities for which intervenors are able to

claim costs in relation to a utility's application. SEC echoed VECC's concerns and submitted that a cap scheme would be unfair and unworkable as Innisfil's proposal ignores the fact that there is a certain minimum amount of time involved in reviewing a cost of service application that is not directly linked to the size of the utility.

The Board reviewed Innisfil's submissions and its proposal as well as the intervenors' submissions. Regarding the proposed \$1 per customer cap on cost claims, the Board determined that it is not appropriate for the Board to address the generic policy issues related to intervenor cost claims in the context of an individual rates case. The Board has determined that the intervenor cost claims, as filed, have been prepared in conformance with the Board's Practice Direction on Cost Awards. The Board finds that Energy 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 claims are reasonable and will be reimbursed by Innisfil.

THE BOARD THEREFORE ORDERS THAT:

1. Pursuant to section 30 of the Ontario *Energy Board Act, 1998*, Innisfil shall immediately pay:
 - Energy Probe \$12,182.38;
 - SEC \$ 8,319.05; and
 - VECC \$11,669.63.
2. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Innisfil shall pay the Board's costs of and incidental to this proceeding immediately upon receipt of the Board's invoice.

DATED at Toronto, June 11, 2009

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary