



By electronic filing and e-mail

November 19, 2009

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
27th floor
Toronto, ON M4P 1E4

Dear Ms Walli,

Proceeding to determine and implement a distribution rate for embedded generators having a nameplate capacity of 10 kW or less

Board File No.: EB-2009-0326

Our File No.: 339583-000003

As solicitors for Canadian Manufacturers & Exporters ("CME"), we are writing to seek cost award eligibility in this proceeding.

This request is late because we just became aware of this particular proceeding this week.

CME is one of the deemed intervenors listed in Schedule A to the Board's Notice of Proceeding and Procedural Order No. 1 that issued on September 21, 2009. However, the Notice of Proceeding and Procedural Order No. 1 was directed to Mr. Howcroft at CME rather than to Mr. Clipsham, Mr. DeRose and me, who are listed as the contact persons for CME in other proceedings before the Board. Members of this firm did not become aware of this particular proceeding until we were preparing for the Settlement Conference in the 2010-2011 Distribution Rate Application of Hydro One Networks Inc. ("Hydro One") that was held yesterday, November 18, 2009.

Our late request for cost award eligibility is based upon the following grounds:

- (i) CME is a not-for-profit organization funded by membership fees and revenues from the services it renders to Federal and Provincial Governments and Agencies to foster the development of national and international markets for its members and to break down trade barriers.
- (ii) About 85% of CME's 1,200 Ontario-based member companies are small to medium sized business enterprises with 500 employees or less. The views of these businesses should be considered in this proceeding.

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- (iii) CME's ability to actively participate in this proceeding is dependent upon a determination that it is eligible for a Cost Award. In many prior proceedings, the Board has determined that CME is eligible for a Cost Award.

We are now aware of the Board's November 11, 2009 letter indicating that five (5) parties have filed evidence in this particular proceeding and that the deadline date for submitting interrogatories with respect to that evidence expired on November 12, 2009. We accept that CME is bound by this deadline. CME, nevertheless, wishes to participate in this proceeding, to assure that the interests of Ontario small and medium sized manufacturers are considered. As already noted, CME will be unable to participate in the proceeding without being accorded cost award eligibility. We respectfully submit that no one will be prejudiced if the Board granted CME's request for cost award eligibility.

We understand that final written submissions from intervenors are due on December 10, 2009, and, in these circumstances, we respectfully request that we be advised, as soon as possible, whether this late request for cost award eligibility will be granted.

We are sending a copy of this cost award eligibility request to all other parties to this proceeding so that they can advise the Board whether they have any objection to the relief we seek.

Please contact me if the Board requires any further information pertaining to this request.

Yours very truly,



Peter C.P. Thompson, Q.C.

PCT\slc

c. Intervenor in EB-2009-0326
Paul Clipsham (CME)
Vince DeRose (BLG)

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