



EB-2008-0230

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 Greater
Sudbury Hydro Inc. for an order approving just and
reasonable rates and other charges for electricity distribution
to be effective May 1, 2009.

BEFORE: Cathy Spoel
Presiding Member

Pamela Nowina
Member and Vice-Chair

DECISION AND ORDER ON COST AWARDS

Greater Sudbury Hydro Inc. ("Greater Sudbury") filed an application with the Ontario Energy Board on December 22, 2008 under section 78 of the Ontario Energy Board Act, 1998, seeking approval for changes to the rates that Greater Sudbury charges for electricity distribution, to be effective May 1, 2009. The Application was assigned Board File No. EB-2008-0230.

The Consumers Council of Canada ("CCC"); 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 December 1, 2009, in which it set out the process for intervenors to file their cost claims and to respond to any objections raised by Greater Sudbury.

The Board received cost claims from CCC, SEC and VECC.

Position of Parties

By letter dated January 22, 2010, Greater Sudbury raised concerns with the cost claims of CCC and SEC. Greater Sudbury noted that CCC submitted the least number of interrogatories and the shortest final argument while SEC did not submit a second round of interrogatories.

Based on the available data, Greater Sudbury argued that it was unable to rationalize why the cost claim of SEC was more than two and a half times that of CCC and almost two times of VECC. At the same time, CCC's cost claim was significantly higher than the others looked at from the point of view of the average cost per interrogatory.

Greater Sudbury submitted that CCC and SEC should provide additional information in their reply to understand the apparent discrepancy in their total cost claim versus that of VECC. In the absence of any further clarification or justification for their cost submission, Greater Sudbury submitted that the cost claims of SEC should be reduced to a level that is more in line with costs submitted by VECC.

On January 27, 2010, CCC replied to Greater Sudbury's objection of its cost claim and stated:

"The problem with the use of these "workload measurements" is that they do not reflect the reality of the work involved in a responsible intervention. In addition, they penalize efficiency and cooperation among intervenors."

CCC reiterated that irrespective of the number of interrogatories it asked, it still had to review the entire pre-filed evidence. Based on its review of the evidence, Board staff interrogatories and discussing the issues with other intervenors, CCC determined that it did not need to deliver a substantial number of written interrogatories. CCC noted that it could have asked more interrogatories but it would have been duplicative. CCC submitted that it should not be penalized for cooperating with other intervenors and bringing greater efficiency to the process.

SEC in its reply dated January 27, 2010, stressed that Greater Sudbury's approach to analyzing cost claims was inappropriate and was detrimental to the efficient functioning

of the Board in rate applications. SEC further argued that one of the most important process-related expectations of the Board is that intervenors work together on applications, so that costs are kept down and duplication is avoided.

SEC submitted that the main task of an applicant should be to assess whether the total intervenor time spent was appropriate in light of the nature and contents of the application, and the issues and dollars involved. SEC indicated that the regulatory process had saved ratepayers about \$4.4 million and in its opinion the cost claims of intervenors amounting to \$115,000 was money well spent to have intervenors protecting ratepayer interests.

SEC emphasized the numerous problems in Greater Sudbury's application and the long process which consisted of two rounds of interrogatories, technical and settlement conference, an oral hearing and issues with the Rate Order. SEC submitted that as an application and a process, Greater Sudbury's Application required more investment from intervenors than many other rate cases.

Board Findings

The Board understands the concerns of the Applicant but notes the substantial amount of time spent on this Application, by intervenors and by the Board. The Application involved two rounds of interrogatories, a technical and settlement conference, an oral hearing and written submissions. The intervenors were involved in all these steps, but some took a more active role than others at various stages of the proceeding, to the extent that CCC did not appear at the oral hearing, but made very useful submissions none-the-less. SEC was involved in the Application from the beginning and took a lead role in many of the issues and also at the oral hearing. SEC's was the only intervenor which commented on the Draft Rate Order. Their comments were helpful to the Board.

The Board encourages cooperation amongst the intervenors on common issues so as to avoid duplication and manage costs. The Board is satisfied with the level of cooperation amongst the intervenors in this Application and the contribution of each of the parties. The Board is satisfied that the cost claims of each party are reasonably reflective of their overall contribution to the process.

The Board has reviewed CCC's, SEC's and VECC's cost claims and finds all parties to be entitled to 100% of their reasonably incurred costs of participating in this proceeding.

THE BOARD THEREFORE ORDERS THAT:

1. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Greater Sudbury Hydro Inc. shall immediately pay:
 - Consumers Council of Canada \$24,828.06;
 - School Energy Coalition \$60,413.68; and
 - Vulnerable Energy Consumers Coalition \$32,305.44.
2. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Greater Sudbury Hydro Inc. shall pay the Board's costs of and incidental to, this proceeding immediately upon receipt of the Board's invoice.

DATED at Toronto, February 23, 2010.

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary