



EB 2010-0170

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

AND IN THE MATTER OF cost awards in respect of a
consultation process regarding proposed amendments to
the Distribution System Code and the Retail Settlement
Code;

AND IN THE MATTER OF a motion by Northwatch for
review of the Board's February 8, 2010 Decision and Order
on Cost Awards;

AND IN THE MATTER OF Rules 8, 42 and 44 of the
Board's *Rules of Practice and Procedure*.

BEFORE: Paul Sommerville
Presiding Member

**DECISION AND ORDER ON A MOTION TO REVIEW A
DECISION AND ORDER ON COST AWARDS**

Background

On September 21, 2009, the Board completed its consultation process on proposed amendments to the Retail Settlement Code and the Distribution System Code pertaining to the settlement and billing of embedded generation facilities (EB-2009-0303) (the "Code Amendment Consultation"). On October 8, 2009, the Board issued its Notice of Hearing on Cost Awards in relation to the Code Amendment Consultation. Northwatch, a participant eligible for cost awards in relation to the consultation, filed a cost claim in response to that Notice of Hearing for Cost Awards.

In its February 8, 2010 Decision and Order on Cost Awards (the “February Decision and Order”), the Board awarded costs to Northwatch in an amount less than claimed. The Board noted that the supporting documentation filed with Northwatch’s cost claim indicated that the services were performed by a law clerk, but that the hourly tariff rate applicable to a lawyer had been applied. Accordingly, the Board reduced Northwatch’s cost claim from \$3,073.19 to \$1,078.19 to reflect the application of the appropriate tariff rate, being the rate applicable to paralegals.

On March 2, 2010, Northwatch filed with the Board a Notice of Motion for the review of the February Decision and Order. Specifically, the Notice of Motion requested that the Board vary the February Decision and Order and award Northwatch its full costs in the amount of \$3,073.19, on the grounds that Northwatch made an inadvertent clerical error in its cost claim. According to the Notice of Motion, the work to which the cost claim relates was performed by a lawyer, and Northwatch’s cost award should be recalculated on that basis.

The Notice of Motion also requested that the Board waive the 20 calendar day deadline set out in Rule 42.03 of the Board’s *Rules of Practice and Procedure* (“Rules of Practice”) for the filing of motions to review. The grounds for that relief were that, after learning of its clerical error, Northwatch attempted to contact the Board staff Case Manager for the Code Amendment Consultation to advise of the error but was unable to do so within that 20-day period as the Case Manager was unavailable at the relevant time.

On April 28, 2010, the Board issued its Notice of Hearing and Procedural Order No. 1 (the “Notice and PO”) in relation to the Notice of Motion filed by Northwatch. In the Notice and PO, the Board:

- i. determined that it would waive the 20-day deadline set out in Rule 42.03 of the Rules of Practice;
- ii. adopted as parties in this proceeding all licensed electricity distributors, being the persons from whom costs awarded in the Code Amendment Consultation are to be recovered, as well as all participants in the Code Amendment Consultation; and

- iii. made provision for the filing of written submissions in respect of Northwatch's Notice of Motion

No submissions were received by the Board within the time specified for that purpose in the Notice and PO.

Board Findings

The Board has reviewed the materials filed by Northwatch in relation to its Notice of Motion, and has determined that Northwatch should be awarded costs in the amount of \$3,073.19 as originally claimed. The Board accepts that Northwatch made a clerical error in relation to its initial cost claim. The Board also accepts that the cost claim relates to work performed by a lawyer having 11-19 years of experience and should be calculated on that basis.

The Board has recalculated the amount payable by each licensed electricity distributor to Northwatch on account of its cost claim, based on a revised award of costs in the amount of \$3,073.19. For convenience, so that all of the cost awards in relation to the Code Amendment Consultation are reflected in one document, the Board has updated the table set out in Appendix A to the February Decision and Order to reflect the revised amounts now payable to Northwatch. The revised table is set out in Appendix A to this Decision and Order.

THE BOARD THEREFORE ORDERS THAT:

1. Northwatch's award of costs in relation to its participation in the Code Amendment Consultation shall be in the amount of \$3,073.19.
2. The amount to be paid by each individual licensed distributor in relation to the costs awarded to Northwatch are as set out in Appendix A to this Decision and Order. These amounts shall apply in lieu of the corresponding amounts set out in Appendix A to the Board's February 8, 2010 Decision and Order on Cost Awards.
3. The individual licensed distributors listed in Appendix A to this Decision and Order shall pay the costs awarded to Northwatch as set out in Appendix A to this Decision and Order.

4. Payment of the cost awards referred to in paragraph 3 shall be made to the Ontario Energy Board in accordance with the invoice issued to the individual distributor and shall be due at the same time as cost assessments under section 26 of the *Ontario Energy Board Act, 1998* are due.

Dated at Toronto, May 31, 2010.

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

Appendix A

**To the Board's Decision and Order on a Motion to Review a Decision and Order
on Cost Awards**

Dated May 31, 2010

EB-2010-0170

| Electricity Distribution System Owner/Operator | CME | CCC | NCO | Northwatch | LPMA | SEC | Total Intervenor Costs Billed Apr 1,2010 | Revised Northwatch | Northwatch Amount to be Billed July 1,2010 | Total Intervenor Costs Inclusive of Northwatch Revision |
|--|--------|-------|--------|------------|--------|--------|--|-----------------------|--|---|
| | | | | | | | | | | |
| ATIKOKAN HYDRO INC. | 0.82 | 0.70 | 1.19 | 0.36 | 0.95 | 1.01 | 5.03 | 1.04 | 0.68 | 5.71 |
| ATTAWAPISKAT POWER CORP. | 0.80 | 0.69 | 1.16 | 0.36 | 0.92 | 0.98 | 4.91 | 1.01 | 0.65 | 5.56 |
| BARRIE HYDRO DISTRIBUTION INC. | 26.31 | 22.50 | 38.07 | 11.67 | 30.32 | 32.32 | 161.19 | 33.26 | 21.59 | 182.78 |
| BLUEWATER POWER DISTRIBUTION CORP. | 14.80 | 12.66 | 21.41 | 6.56 | 17.05 | 18.18 | 90.66 | 18.71 | 12.15 | 102.81 |
| BRANT COUNTY POWER INC. | 5.53 | 4.73 | 8.00 | 2.45 | 6.37 | 6.79 | 33.87 | 6.99 | 4.54 | 38.41 |
| BRANTFORD POWER INC. | 14.30 | 12.23 | 20.69 | 6.34 | 16.48 | 17.57 | 87.61 | 18.08 | 11.74 | 99.35 |
| BURLINGTON HYDRO INC. | 25.87 | 22.12 | 37.42 | 11.47 | 29.80 | 31.77 | 158.45 | 32.70 | 21.23 | 179.68 |
| CAMBRIDGE AND NORTH DUMFRIES HYDRO INC. | 19.94 | 17.05 | 28.84 | 8.84 | 22.98 | 24.49 | 122.14 | 25.21 | 16.37 | 138.51 |
| CANADIAN NIAGARA POWER INC. | 13.74 | 11.75 | 19.87 | 6.09 | 15.83 | 16.87 | 84.15 | 17.37 | 11.28 | 95.43 |
| CENTRE WELLINGTON HYDRO LTD. | 2.31 | 1.98 | 3.35 | 1.03 | 2.67 | 2.84 | 14.18 | 2.92 | 1.89 | 16.07 |
| CHAPLEAU PUBLIC UTILITIES CORP. | 0.54 | 0.46 | 0.78 | 0.24 | 0.62 | 0.66 | 3.30 | 0.68 | 0.44 | 3.74 |
| CHATHAM-KENT HYDRO INC. | 12.85 | 10.99 | 18.59 | 5.70 | 14.81 | 15.79 | 78.73 | 16.25 | 10.55 | 89.28 |
| CLINTON POWER CORP. | 0.49 | 0.42 | 0.71 | 0.22 | 0.57 | 0.61 | 3.02 | 0.62 | 0.40 | 3.42 |
| COLLUS POWER CORP. | 4.40 | 3.77 | 6.37 | 1.95 | 5.07 | 5.41 | 26.97 | 5.57 | 3.62 | 30.59 |
| COOPERATIVE HYDRO EMBRUN INC. | 0.56 | 0.48 | 0.81 | 0.25 | 0.65 | 0.69 | 3.44 | 0.71 | 0.46 | 3.90 |
| DUTTON HYDRO LTD. | 0.11 | 0.10 | 0.17 | 0.05 | 0.13 | 0.14 | 0.70 | 0.14 | 0.09 | 0.79 |
| E.L.K. ENERGY INC. | 3.54 | 3.03 | 5.12 | 1.57 | 4.08 | 4.35 | 21.69 | 4.48 | 2.91 | 24.60 |
| ENERSOURCE HYDRO MISSISSAUGA INC. | 108.68 | 92.94 | 157.22 | 48.20 | 125.23 | 133.50 | 665.77 | 137.39 | 89.19 | 754.96 |
| ENWIN POWERLINES LTD. | 41.23 | 35.26 | 59.64 | 18.28 | 47.50 | 50.64 | 252.55 | 52.12 | 33.84 | 286.39 |
| ERIE THAMES POWERLINES CORP. | 7.00 | 5.99 | 10.13 | 3.10 | 8.07 | 8.60 | 42.89 | 8.85 | 5.75 | 48.64 |
| ESPANOLA REGIONAL HYDRO DISTRIBUTION CORP. | 1.15 | 0.99 | 1.67 | 0.51 | 1.33 | 1.42 | 7.07 | 1.46 | 0.95 | 8.02 |
| ESSEX POWERLINES CORP. | 9.19 | 7.86 | 13.29 | 4.07 | 10.59 | 11.29 | 56.29 | 11.61 | 7.54 | 63.83 |
| FESTIVAL HYDRO INC. | 8.75 | 7.49 | 12.66 | 3.88 | 10.09 | 10.75 | 53.62 | 11.07 | 7.19 | 60.81 |
| FORT ALBANY POWER CORP. | 0.51 | 0.44 | 0.74 | 0.23 | 0.59 | 0.63 | 3.14 | 0.65 | 0.42 | 3.56 |
| FORT FRANCES POWER CORP. | 1.31 | 1.12 | 1.89 | 0.58 | 1.51 | 1.61 | 8.02 | 1.65 | 1.07 | 9.09 |
| GREAT LAKES POWER LTD. | 12.18 | 10.41 | 17.62 | 5.40 | 14.03 | 14.96 | 74.60 | 15.39 | 9.99 | 84.59 |
| GREATER SUDBURY HYDRO INC. | 19.84 | 16.97 | 28.70 | 8.80 | 22.86 | 24.37 | 121.54 | 25.08 | 16.28 | 137.82 |
| GRIMSBY POWER INC. | 3.12 | 2.67 | 4.52 | 1.38 | 3.60 | 3.83 | 19.12 | 3.95 | 2.57 | 21.69 |
| GUELPH HYDRO ELECTRIC SYSTEMS INC. | 22.14 | 18.93 | 32.02 | 9.82 | 25.51 | 27.19 | 135.61 | 27.98 | 18.16 | 153.77 |
| HALDIMAND COUNTY HYDRO INC. | 11.22 | 9.60 | 16.23 | 4.98 | 12.93 | 13.78 | 68.74 | 14.19 | 9.21 | 77.95 |
| HALTON HILLS HYDRO INC. | 7.91 | 6.77 | 11.45 | 3.51 | 9.12 | 9.72 | 48.48 | 10.01 | 6.50 | 54.98 |
| HORIZON UTILITIES CORPORATION | 79.90 | 68.33 | 115.59 | 35.44 | 92.07 | 98.15 | 489.48 | 101.01 | 65.57 | 555.05 |
| HYDRO HAWKESBURY INC. | 1.15 | 0.98 | 1.66 | 0.51 | 1.32 | 1.41 | 7.03 | 1.45 | 0.94 | 7.97 |

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|---|--------|--------|----------|--------|--------|----------|----------|----------|--------|----------|
| HEARST POWER DISTRIBUTION COMPANY LTD. | 0.84 | 0.72 | 1.22 | 0.37 | 0.97 | 1.04 | 5.16 | 1.07 | 0.70 | 5.86 |
| HYDRO 2000 INC. | 0.23 | 0.20 | 0.33 | 0.10 | 0.26 | 0.28 | 1.40 | 0.29 | 0.19 | 1.59 |
| HYDRO ONE BRAMPTON NETWORKS INC. | 57.73 | 49.37 | 83.52 | 25.60 | 66.52 | 70.91 | 353.65 | 72.98 | 47.38 | 401.03 |
| HYDRO ONE NETWORKS INC. | 841.44 | 719.54 | 1,217.23 | 373.24 | 969.54 | 1,033.59 | 5,154.58 | 1,063.68 | 690.44 | 5,845.02 |
| HYDRO OTTAWA LTD. | 116.97 | 100.03 | 169.22 | 51.88 | 134.78 | 143.68 | 716.56 | 147.87 | 95.99 | 812.55 |
| INNISFIL HYDRO DISTRIBUTION SYSTEMS LTD. | 6.18 | 5.28 | 8.93 | 2.74 | 7.12 | 7.59 | 37.84 | 7.81 | 5.07 | 42.91 |
| KASHECHEWAN POWER CORP. | 0.47 | 0.41 | 0.69 | 0.21 | 0.55 | 0.58 | 2.91 | 0.60 | 0.39 | 3.30 |
| KENORA HYDRO ELECTRIC CORPORATION LTD. | 1.85 | 1.58 | 2.68 | 0.82 | 2.13 | 2.28 | 11.34 | 2.34 | 1.52 | 12.86 |
| KINGSTON ELECTRICITY DISTRIBUTION LTD. | 9.58 | 8.19 | 13.86 | 4.25 | 11.04 | 11.77 | 58.69 | 12.11 | 7.86 | 66.55 |
| KITCHENER-WILMOT HYDRO INC. | 31.24 | 26.72 | 45.20 | 13.86 | 36.00 | 38.38 | 191.40 | 39.50 | 25.64 | 217.04 |
| LAKEFRONT UTILITIES INC. | 3.10 | 2.65 | 4.48 | 1.37 | 3.57 | 3.81 | 18.98 | 3.92 | 2.55 | 21.53 |
| LAKELAND POWER DISTRIBUTION LTD. | 3.68 | 3.15 | 5.33 | 1.63 | 4.24 | 4.52 | 22.55 | 4.65 | 3.02 | 25.57 |
| LONDON HYDRO INC. | 49.16 | 42.04 | 71.12 | 21.80 | 56.64 | 60.39 | 301.15 | 62.14 | 40.34 | 341.49 |
| MIDDLESEX POWER DISTRIBUTION CORP. | 2.68 | 2.29 | 3.88 | 1.19 | 3.09 | 3.29 | 16.42 | 3.39 | 2.20 | 18.62 |
| MIDLAND POWER UTILITY CORP. | 2.67 | 2.29 | 3.87 | 1.19 | 3.08 | 3.28 | 16.38 | 3.38 | 2.19 | 18.57 |
| MILTON HYDRO DISTRIBUTION INC. | 9.76 | 8.35 | 14.12 | 4.33 | 11.24 | 11.99 | 59.79 | 12.34 | 8.01 | 67.80 |
| NEWBURY POWER INC. | 0.07 | 0.06 | 0.10 | 0.03 | 0.08 | 0.08 | 0.42 | 0.08 | 0.05 | 0.47 |
| NEWMARKET - TAY POWER DISTRIBUTION LTD. | 14.50 | 12.40 | 20.98 | 6.43 | 16.71 | 17.81 | 88.83 | 18.33 | 11.90 | 100.73 |
| NIAGARA PENINSULA ENERGY INC. | 24.47 | 20.93 | 35.40 | 10.85 | 28.20 | 30.06 | 149.91 | 30.93 | 20.08 | 169.99 |
| NIAGARA-ON-THE-LAKE HYDRO INC. | 4.38 | 3.75 | 6.34 | 1.94 | 5.05 | 5.38 | 26.84 | 5.54 | 3.60 | 30.44 |
| NORFOLK POWER DISTRIBUTION INC. | 8.54 | 7.30 | 12.35 | 3.79 | 9.84 | 10.49 | 52.31 | 10.80 | 7.01 | 59.32 |
| NORTH BAY HYDRO DISTRIBUTION LTD. | 9.41 | 8.04 | 13.61 | 4.17 | 10.84 | 11.55 | 57.62 | 11.89 | 7.72 | 65.34 |
| NORTHERN ONTARIO WIRES INC. | 2.08 | 1.78 | 3.02 | 0.92 | 2.40 | 2.56 | 12.76 | 2.64 | 1.72 | 14.48 |
| OAKVILLE HYDRO ELECTRICITY DISTRIBUTION INC. | 27.01 | 23.10 | 39.07 | 11.98 | 31.12 | 33.17 | 165.45 | 34.14 | 22.16 | 187.61 |
| ORANGEVILLE HYDRO LTD. | 4.11 | 3.52 | 5.95 | 1.82 | 4.74 | 5.05 | 25.19 | 5.20 | 3.38 | 28.57 |
| ORILLIA POWER DISTRIBUTION CORP. | 5.90 | 5.05 | 8.54 | 2.62 | 6.80 | 7.25 | 36.16 | 7.46 | 4.84 | 41.00 |
| OSHAWA PUC NETWORKS INC. | 16.90 | 14.45 | 24.44 | 7.49 | 19.47 | 20.76 | 103.51 | 21.36 | 13.87 | 117.38 |
| OTTAWA RIVER POWER CORP. | 3.29 | 2.82 | 4.76 | 1.46 | 3.79 | 4.04 | 20.16 | 4.16 | 2.70 | 22.86 |
| PARRY SOUND POWER CORP. | 1.70 | 1.45 | 2.46 | 0.75 | 1.96 | 2.09 | 10.41 | 2.15 | 1.40 | 11.81 |
| PETERBOROUGH DISTRIBUTION INC. | 11.64 | 9.95 | 16.83 | 5.16 | 13.41 | 14.29 | 71.28 | 14.71 | 9.55 | 80.83 |
| POWERSTREAM INC. | 108.74 | 93.00 | 157.31 | 48.23 | 125.30 | 133.58 | 666.16 | 137.47 | 89.24 | 755.40 |
| PUC DISTRIBUTION INC. | 11.33 | 9.69 | 16.38 | 5.02 | 13.05 | 13.91 | 69.38 | 14.32 | 9.30 | 78.68 |
| RENFREW HYDRO INC. | 1.49 | 1.27 | 2.15 | 0.66 | 1.71 | 1.83 | 9.11 | 1.88 | 1.22 | 10.33 |
| RIDEAU ST. LAWRENCE DISTRIBUTION INC. | 1.45 | 1.24 | 2.09 | 0.64 | 1.67 | 1.78 | 8.87 | 1.83 | 1.19 | 10.06 |
| ST. THOMAS ENERGY INC. | 5.76 | 4.92 | 8.33 | 2.55 | 6.63 | 7.07 | 35.26 | 7.28 | 4.73 | 39.99 |
| SIOUX LOOKOUT HYDRO INC. | 1.37 | 1.17 | 1.98 | 0.61 | 1.58 | 1.68 | 8.39 | 1.73 | 1.12 | 9.51 |
| THUNDER BAY HYDRO ELECTRICITY DISTRIBUTION INC. | 15.27 | 13.06 | 22.09 | 6.77 | 17.59 | 18.76 | 93.54 | 19.30 | 12.53 | 106.07 |
| TILLSONBURG HYDRO INC. | 2.38 | 2.04 | 3.45 | 1.06 | 2.75 | 2.93 | 14.61 | 3.01 | 1.95 | 16.56 |
| TORONTO HYDRO-ELECTRIC SYSTEM LTD. | 421.10 | 360.12 | 609.18 | 186.76 | 485.22 | 517.27 | 2,579.65 | 532.34 | 345.58 | 2,925.23 |
| VERIDIAN CONNECTIONS INC. | 40.35 | 34.51 | 58.38 | 17.90 | 46.50 | 49.57 | 247.21 | 51.01 | 33.11 | 280.32 |

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|-------------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|--------------|-------------|-------------|--------------|
| WASAGA DISTRIBUTION INC. | 3.09 | 2.64 | 4.47 | 1.37 | 3.56 | 3.80 | 18.93 | 3.91 | 2.54 | 21.47 |
| WATERLOO NORTH HYDRO INC. | 23.49 | 20.09 | 33.98 | 10.42 | 27.06 | 28.85 | 143.89 | 29.69 | 19.27 | 163.16 |
| WELLAND HYDRO-ELECTRIC SYSTEM CORP. | 6.90 | 5.90 | 9.99 | 3.06 | 7.96 | 8.48 | 42.29 | 8.73 | 5.67 | 47.96 |
| WELLINGTON NORTH POWER INC. | 1.14 | 0.98 | 1.65 | 0.51 | 1.32 | 1.40 | 7.00 | 1.44 | 0.93 | 7.93 |
| WEST COAST HURON ENERGY INC. | 1.49 | 1.28 | 2.16 | 0.66 | 1.72 | 1.84 | 9.15 | 1.89 | 1.23 | 10.38 |
| WEST PERTH POWER INC. | 0.70 | 0.60 | 1.01 | 0.31 | 0.81 | 0.86 | 4.29 | 0.88 | 0.57 | 4.86 |
| WESTARIO POWER INC. | 7.40 | 6.32 | 10.70 | 3.28 | 8.52 | 9.08 | 45.30 | 9.35 | 6.07 | 51.37 |
| WHITBY HYDRO ELECTRIC CORP. | 17.66 | 15.10 | 25.54 | 7.83 | 20.34 | 21.69 | 108.16 | 22.32 | 14.49 | 122.65 |
| WOODSTOCK HYDRO SERVICES INC. | 6.13 | 5.25 | 8.87 | 2.72 | 7.07 | 7.54 | 37.58 | 7.75 | 5.03 | 42.61 |
| | | | | | | | | | | |
| Total, Electricity Distributors | \$ 2,431.01 | \$ 2,079.00 | \$ 3,516.82 | \$ 1,078.19 | \$ 2,801.19 | \$ 2,986.20 | \$ 14,892.41 | \$ 3,073.19 | \$ 1,995.00 | \$ 16,887.41 |