



EB-2010-0184

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

AND IN THE MATTER OF a motion by the Consumers
Council of Canada in relation to section 26.1 of the *Ontario
Energy Board Act*, 1998 and Ontario Regulation 66/10.

BEFORE: Cathy Spoel
Presiding Member

Paula Conboy
Member

DECISION AND ORDER ON COST AWARDS

Background

On May 11, 2010, the Board issued a Notice of Hearing and Procedural Order No. 1 which set out a number of preliminary questions arising from the Motion.

On May 27, 2010, the Ontario Energy Board (the "Board") received an Amended Notice of Motion from the Consumers Council of Canada and Aubrey LeBlanc ("CCC") regarding the constitutionality of assessments issued by the Board pursuant to section 26.1 of the *Ontario Energy Board Act*, 1998.

Toronto Hydro Electric System Limited, Enbridge Gas Distribution Inc. and Union Gas Limited were granted intervenor status in this proceeding. The following parties requested and were granted intervenor status and eligibility for cost awards:

- Association of Power Producers of Ontario (“APPrO”);
- Consumers Council of Canada (“CCC”);
- Canadian Manufacturers & Exporters (“CME”);
- Industrial Gas Users Association (“IGUA”); and
- Vulnerable Energy Consumers Coalition (“VECC”).

On July 13, 2010, the Board held an oral hearing to address the questions set out in the Notice of Hearing and Procedural Order No. 1. On August 5, 2010, the Board issued its Decision with Reasons with respect to certain preliminary issues. The Board held that it had jurisdiction to hear the Motion and would proceed to do so.

On December 23, 2010, the Board issued a Decision and Order on Cost Awards with respect to intervenors’ cost claims for the period up to August 5, 2010.

On July 20, 2011, the Board issued a Decision and Order on Cost Awards with respect to intervenors’ cost claims for the period of August 6, 2010 to April 21, 2011.

On October 6, 2011, the Board held an oral hearing and heard argument from the parties that had filed written submissions in relation to CCC’s Motion.

On December 8, 2011, the Board issued its Decision and Order on the Motion, in which it set out the process for eligible intervenors to file their cost claims for the period of April 22, 2011 to October 6, 2011.

CCC, IGUA, CME and VECC filed cost claims by the December 30, 2011 deadline as specified in the Decision and Order. On January 9, 2012, APPrO filed its cost claim.

Board Findings

The Board has reviewed the claims filed by the above noted intervenors.

The Board accepts APPrO’s cost claim notwithstanding the late filing.

The Board finds that APPrO, CCC, IGUA and VECC are eligible for 100% of their reasonably incurred costs of participating in this proceeding.

The Board finds that CME's cost claim include disbursements for meal and travel that, in part, do not comply with the OEB's *Practice Direction on Cost Awards*. The Board has therefore made two adjustments to CME's cost claim which resulted in reducing CME's total claim from \$24,205.88 to \$24,102.75.

The Board will therefore pay:

- Association of Power Producers of Ontario \$1,133.82;
- Consumers Council of Canada \$59,453.41;
- Canadian Manufacturers & Exporters \$24,102.75;
- Industrial Gas Users Association \$1,925.31; and
- Vulnerable Energy Consumers Coalition \$12,092.38.

DATED at Toronto, January 30, 2012.

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary