



February 1, 2012

via RESS e-filing – signed original to follow by courier

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
PO Box 2319
2300 Yonge Street, 27th floor
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Submissions on Intervenor Cost Claims on the Preliminary Issue
THESL 2012-2014 COS Application
OEB File No. EB-2011-0144**

In its January 5, 2012 Decision with Reasons and Order on the Preliminary Issue in this proceeding, the Board made provision, among other things, for intervenors to file their respective cost claims and for THESL to file its objections to those claims. The following are THESL's submissions in this regard.

The Board's Criteria for the Assessment of Cost Claims in this Proceeding

The Board established in Procedural Order No. 1 in this proceeding, criteria to be used in the assessment of claims that may be made for cost awards by intervenors determined as eligible for cost awards in this proceeding. For example, on the subject of disbursements, the Board stated, in part,

The Board is of the view that given the widespread availability and use of electronic documents, it is no longer reasonable for intervenors to make claims for the recovery of costs of copying or printing case documents, other than materials that are filed for use during the hearing.¹

¹ Page 3, Procedural Order No. 1, EB-2011-0144

THESL observes that notwithstanding the Board's position on the subject of disbursements in this proceeding, BOMA and CCC have claimed costs for photocopies and binding that THESL is unable to link to any materials filed for use during the hearing. Accordingly, THESL submits that the related costs are improperly claimed and requests that the Board deny them.

Also in Procedural Order No.1 in this proceeding, the Board stated its expectation that, . . . where cost claims for oral hearing days are concerned, intervenors will generally only claim costs for one representative present in the hearing room, either counsel or an analyst/consultant, but not both. The Board would generally allow costs for more than one representative only to facilitate effective cross-examination of certain specialized evidence.²

Despite the Board's clear expectations, Schools has chosen to seek reimbursement of costs for the attendance of two Schools representatives at events in this proceeding held at the Board's offices on each of November 11, 14, 17 and 24. THESL submits that only costs claimed for one Schools representative present in the hearing room should be allowed, but not both, and requests that the Board deny costs claimed in excess of that provided for.

Other Matters

A review of the number of hours claimed by each intervenor has once more established Schools as an outlier in this category. In fact, the number of hours claimed by Schools for Preparation alone is more than twice that claimed by any intervenor. Similarly, the number of hours claimed by Schools overall is almost double those claimed by the intervenor with the next highest involvement (CCC).

In its Decision with Reasons and Order on the Preliminary Issue in this proceeding, the Board cautioned that,

In assessing requests for cost awards, the Board will be mindful of the criteria outlined in Procedural Order No. 1 which were designed to ensure that costs are only awarded where the party seeking costs provides assistance to the Board in examining relevant issues **and that only reasonable costs are awarded**. Parties

² Page 2, Procedural Order No. 1, EB-2011-0144

intending to make cost award claims in this proceeding should review these criteria before filing their claims.³ (emphasis added)

THESL submits that the number of hours claimed by Schools is unreasonable and requests that the Board so find and reflect in its Decision on Cost Awards in this proceeding.

Yours truly,

[original signed by]

Glen A. Winn
Manager, Regulatory Applications & Compliance

:GAW/car

cc: J. Mark Rodger, Counsel for THESL, by electronic mail only
Intervenors of Record for EB-2011-0144, by electronic mail only

³ Page 24, Decision with Reasons and Order on the Preliminary Issue, EB-2011-0144