

February 13, 2012

**Robert B. Warren**  
T: 416-947-5075  
rwarren@weirfoulds.com

Kirsten Walli  
Board Secretary  
Ontario Energy Board  
Suite 2701  
2300 Yonge Street  
Toronto ON M4P 1E4

Dear Ms Walli:

**Re: EB-2011-0054**

This is the response of the Consumers Council of Canada ("CCC") to Hydro Ottawa's letter of February 9, 2012, commenting on the CCC's cost claim.

Hydro Ottawa does not challenge the CCC's cost claim specifically. It does not assert that that cost claim is, in any material respect, unreasonable. Instead, Hydro Ottawa compares the cost claims of all of the intervenors to claims made in Hydro Ottawa's last cost of service proceeding, EB-2007-0713 (the "2007 case"). It argues that, on a percentage basis, the total of the cost claims all intervenors in this case, compared to the total of the cost claims in the 2007 case, are unreasonable. In particular, it uses a metric of the percentage increase for each year of the intervening IRM regime to argue that the total cost claims in this case are too high. It asks for a global adjustment in the cost claims of all of the intervenors.

The metrics which Hydro Ottawa uses, and in particular, the metric of the percentage increase for each year of the IRM regime, are utterly meaningless. In addition, they are both misleading and unfair. If a comparison with the 2007 case with the present case is relevant, then Hydro Ottawa, in fairness, should make a true comparison between the two cases.

In the 2007 case, there were approximately 1100 pages of pre-filed evidence. There was no technical conference, and a shorter settlement process. All but two issues were settled. Of the remaining two, only one went to hearing and did not involve the CCC. The other issue was addressed in written argument only.

The hours claimed, by the CCC's counsel and consultant, in the 2007 case, reflected the truncated nature of the case. Counsel's time was 19.3 hours, which reflected principally the absence of the hearing, and the preparation required for it. In the last case, the Consultant's time was 34 hours. That reflected the fact that there was no technical conference, a shorter settlement process, no hearing involving the CCC, and one issue only to argue.

In the present case, there was approximately twice the volume of pre-filed evidence. That alone required, at a minimum, twice the amount of time in preparation. There was a technical conference, a longer settlement process, and more issues went to hearing. All of that resulted in more time required for argument.

In the present case, Counsel's time was 36.6 hours, roughly twice what was claimed in the last case. However, in the last case there was no contested hearing, with the result that Counsel was not required to review the pre-filed evidence in preparation for, and attendance on, the hearing. In the present case, the Consultant's hours was 119.5 hours, reflecting the fact that, again, there was twice the amount of evidence to review, there was a technical conference, a longer settlement process, more issues going to hearing, and a longer argument.

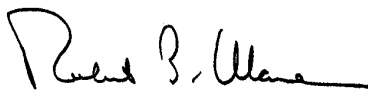
Hydro Ottawa, in its letter of February 9, 2012, acknowledges what it calls "the length and complexity of the 2012 case". It does not offer a detailed comparison of the two cases. A detailed comparison of the two cases justifies an increase in time, and therefore, the cost claim, of the CCC's Consultant and Counsel.

If Hydro Ottawa seeks to reduce the cost claim of the CCC, then it should be on the basis that the cost claim is unreasonable. We submit that, by any metric, the cost claim is reasonable. For example, there is essentially no duplication in time between the CCC's Consultant and Counsel. The Consultant was responsible for the largest share of the review of the pre-filed evidence, attendance at the technical conference, attendance in the settlement process, and the preparation of much of the argument. Counsel's involvement was limited to a review of the pre-filed evidence necessary to prepare for cross-examination, and attendance at the hearing for the purposes of cross-examination. To use one of the metrics suggested by Hydro Ottawa, the CCC made an effort, successfully, "to be more efficient/productive throughout the rate case process".

The analysis in Hydro Ottawa's February 9, 2012 letter has the false legitimacy created by numerical comparisons. Those comparisons are meaningless and, therefore, misleading. By any true metric, CCC's cost claim is reasonable and should be upheld.

Yours very truly,

**WeirFoulds LLP**



Robert B. Warren

RBW/dh

cc: Hydro Ottawa

cc: Julie Girvan

4361630.1