



EB-2010-0377
EB-2010-0378
EB-2010-0379
EB-2011-0043

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

AND IN THE MATTER OF cost award eligibility for
interested parties in a coordinated consultation process
for the development of a renewed regulatory framework
for electricity distributors and transmitters.

BEFORE: Marika Hare
Presiding Member

Ken Quesnelle
Member

SUPPLEMENTAL DECISION ON COST ELIGIBILITY #5
May 3, 2012

The Board has underway a coordinated consultation process to develop a renewed regulatory framework for electricity distributors and transmitters (“RRFE”).

The consultation encompasses five inter-related policy initiatives which support RRFE development:

- Distribution Network Investment Planning (EB-2010-0377);
- Regulatory Framework for Regional Planning for Electricity Infrastructure (EB-2011-0043);

Renewed Regulatory Framework for Electricity Distributors and Transmitters

- Establishment, Implementation and Promotion of a Smart Grid in Ontario (EB-2011-0004);
- Approaches to Mitigation for Electricity Transmitters and Distributors (EB-2010-0378); and,
- Defining and Measuring the Performance of Electricity Transmitters and Distributors (EB-2010-0379).

In earlier communications, the Board indicated that the costs to be awarded will be recovered from licensed rate-regulated electricity distributors and/or licensed rate-regulated electricity transmitters, as applicable depending on the initiative.

Cost Award Eligibility Request by the Canadian District Energy Association

On March 2, 2012, the Canadian District Energy Association (“CDEA”) requested eligibility for an award of costs in relation to EB-2011-0043. The Board grants cost award eligibility to CDEA in relation to this initiative, on the same grounds and for the same reasons as set out in the Board’s April 10, 2012 decision (“April 10 Decision”) which granted an earlier CDEA request for cost award eligibility in relation to two other RRFE initiatives.¹

Cost Award Eligibility Request by the Association of Power Producers of Ontario

On March 1, 2012, the Association of Power Producers of Ontario (“APPrO”) requested, among other things, “cost eligibility for a technical expert to act on behalf of a coordinated group of cost eligible generator stakeholders for the RRFE proceedings on network investment planning and related financial issues as applicable.” In its April 10 Decision, the Board made no finding on this request, stating that information had not been provided in relation to the “name and the credentials of the expert demonstrating

¹ Supplemental Decision on Cost Eligibility #4.

relevant subject-matter expertise and special knowledge or experience relevant to the initiative(s) in question.”

In a letter from APPrO dated April 18, 2012 (“the APPrO letter”) APPrO provided information in support of proposed experts from two consultancies, one of which would be selected to prepare a “report on the methods for assessing the system benefits of distribution and transmission network investments, related performance measures, and cost impacts/allocation, in light of the objectives of the Green Energy Act”; namely, Mr. Todd Williams, Director, Navigant Consulting Inc.; and Stephen Fine, Vice President and Kenneth Collison, Vice President, ICF Consulting International. The letter further indicated that the report “will relate to the following 4 proceedings: Distribution Network Investment Planning (EB-2010-0377); Regulatory Framework for Regional Planning for Electricity Infrastructure (EB-2011-0043); Approaches to Mitigation for Electricity Transmitters and Distributors (EB-2010-0378); and Defining and Measuring the Performance of Electricity Transmitters and Distributors (EB-2010-0379).”

The Board finds that APPrO is eligible for an award of costs for its expert.

Request for Cost Claim Pre-Approval by the Association of Power Producers of Ontario

The APPrO letter indicates its wish to “...ensure that the proposed retention and charges of common counsel and the intended common expert for coordinated and individualized activities are approved and/or consistent with the Board's interpretation of, and the principles outlined in, s.5.01 of the Board's Practice Direction on Cost Eligibility (the "Practice Direction")”. Specifically, APPrO requests “advance notional approval” of its proposed approach for arrangements to pro-rata certain costs among members of a group of eligible parties, as set out in the APPrO letter.

Renewed Regulatory Framework for Electricity Distributors and Transmitters

Although pro-rationing of costs amongst intervenors of similar interests is not an unusual arrangement, the arrangement that has been proposed is a significant departure from what is anticipated by the Board's Practice Direction. For this reason, the Board will not pre-approve the proposed approach; rather any approach taken will be reviewed by the Board in the normal course during the Board's assessment of cost claims.

ISSUED at Toronto, May 3, 2012

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary