

**Ontario Energy
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BY EMAIL

February 11, 2013

Mr. Thomas Brett
Fogler, Rubinoff LLP
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Toronto ON M5K 1G8
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**Re: Renewed Regulatory Framework for Electricity
Request for Cost Award Eligibility by the Building Owners and Managers
Association of Ontario
Board File Nos.: EB-2010-0377; EB-2010-0379; EB-2011-0004; EB-2011-
0043**

Dear Mr. Brett:

Regarding your letter of January 16, 2013 requesting that the Building Owners and Managers Association of Ontario ("BOMA") be granted eligibility for cost awards in relation to the consultation activities associated with the implementation of the policies established in the *Report of the Board – A Renewed Regulatory Framework for Electricity Distributors: A Performance Based Approach*. Those consultation activities are identified in the October 18, 2012 letter accompanying the release of the *Report*.

In its [letter](#) of October 30, 2012, the Board addressed certain matters relating to cost eligibility for the renewed regulatory framework consultation activities as follows:

*The following organizations **that have been invited to participate as members of the working group(s)** were determined to be eligible for cost awards in the consultations leading up to the issuance of the Board's Report: the Association of Major Power Consumers in Ontario, the Consumers Council of Canada, the Vulnerable Energy Consumers Coalition, School Energy Coalition, **the Building Owners and Managers Association**, the Ontario Sustainable Energy Association and the Association of Power Producers of Ontario. For these participants, the Board has considered it appropriate in the circumstances to waive both (a) the requirement to submit a new request for cost award eligibility and (b) the process for objections which would otherwise have applied in accordance with the October 18th Letter. **In the case of working group participants***

that represent the interests of ratepayers, the waiver extends to cover all consultation activities identified in the October 18th Letter. *In the case of the Association of Power Producers of Ontario and the Ontario Sustainable Energy Association, which are generally considered prima facie ineligible for an award of costs, the waiver is limited to participation on the relevant working group and any consultation activities that are directly related to the same subject matter. (emphasis added)*

By virtue of the above, BOMA is eligible for cost awards in relation to all consultation activities identified in the Board's October 18, 2012 letter.

The Board also takes this opportunity to confirm the following in relation to cost awards generally:

- i. Cost awards are available only in respect of issues that are clearly within the scope of the consultation activity(ies) in question, and not in respect of issues that, while perhaps related, are already addressed by existing Board policies.
- ii. Where similar interests are shared by participants that are eligible for cost awards, the Board expects that reasonable efforts will be made to combine participation or to cooperate. As stated in the Board's *Practice Direction on Cost Awards*, the Board will consider any lack of cooperation when determining the amount of a cost award.
- iii. As also stated in the *Practice Direction on Cost Awards*, cost awards are not available in relation to time spent by employees or officers of an eligible participant.
- iv. Except as may otherwise be expressly provided by the Board at the relevant time, the hourly limits for eligible activities apply to each participant that is eligible for an award of costs, and not to each individual that may be acting on behalf of an eligible participant.

Any questions relating to this letter should be directed to Rachel Anderson at Rachel.anderson@ontarioenergyboard.ca or at 416-544-5150. The Board's toll-free number is 1-888-632-6273.

Yours truly,

Original signed by

Kirsten Walli
Board Secretary