



EB-2013-0010
EB-2013-0029

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

AND IN THE MATTER OF an Application made collectively by entities that have renewable energy supply procurement contracts with the Ontario Power Authority in respect of wind generation facilities for an Order revoking amendments to the market rules and referring the amendments back to the Independent Electricity System Operator for further consideration.

BEFORE: Cynthia Chaplin
Presiding Member and Vice-Chair

Paula Conboy
Member

Cathy Spoel
Member

DECISION AND ORDER ON COST AWARDS

April 29, 2013

Background

On January 24, 2013, a number of entities that have renewable energy supply procurement contracts with the Ontario Power Authority (the "OPA") in respect of wind generation facilities (the "Applicants") collectively filed with the Ontario Energy Board an application under section 33(4) of the *Electricity Act, 1998* (the "Electricity Act") seeking the review of certain amendments to the market rules made by the Independent

Electricity System Operator (the “IESO”) (the “Application”). The market rule amendments in question (the “Renewable Integration Amendments”) deal with the dispatching of, and the establishment of floor prices for, variable generation facilities, defined as all wind and solar photovoltaic resources with an installed capacity of 5MW or greater,¹ or all wind and solar photovoltaic resources that are directly connected to the IESO-controlled grid. The Board assigned File Number EB-2013-0010/0029 to the application.

On March 4, 2013, the Board issued its Decision on Cost Eligibility and Procedural Order No. 6, granting the Building Owners and Managers Association of Greater Toronto (“BOMA”), Canadian Manufacturers & Exporters (“CME”), Energy Probe Research Foundation (“Energy Probe”) and School Energy Coalition (“SEC”) intervenor status and cost award eligibility. The Board also set out the process for intervenors to file their cost claims and to respond to any objections raised by the IESO.

The Board received cost claims from BOMA, CME, Energy Probe and SEC.

On March 27, 2013, the IESO filed comments stating that it has no objections to Energy Probe’s cost claim. The IESO objected to CME’s cost claim due to CME’s extremely late intervention, its failure to identify an issue of direct and material interest and the excessive number of hours claimed for preparation for the technical conference (which did not proceed), including 3.5 hours on the day the parties were notified of the termination of the proceeding. The IESO asked that the CME be denied costs of this proceeding.

On April 2, 2013, the IESO filed comments stating that it has no objections to BOMA’s cost claim.

Board Findings

The Board has reviewed all the cost claims.

¹ Wind and solar photovoltaic resources that are embedded (i.e., not directly connected to the IESO-controlled grid) are captured by the Renewable Integration Amendments only if they are registered market participants.

BOMA

BOMA claimed 33.2 hours (including 27.2 hours of preparation, 3 hours of attendance settlement conference and 3 hours of attendance motion hearing). The Board notes that BOMA did not make a submission on the motion by the deadline, and therefore attendance at the motion hearing was not necessary. The Board will therefore reduce BOMA's cost claim by 5.5 hours to remove the time claimed for preparation and attendance at the motion hearing.

Energy Probe

Energy Probe claimed 37 hours (including 33.5 hours of preparation, 1.5 hours of attendance settlement conference and 2 hours case management). The Board notes that Energy Probe made no submission on the motion by the deadline, and therefore attendance at the motion hearing was not necessary. The Board will therefore reduce Energy Probe's cost claim by 2.75 hours to remove the time claimed for preparation and attendance at the motion hearing.

CME

CME claimed 9.2 hours of preparation. The IESO has objected to this claim. The Board will allow the claim. The Board accepts that CME had a reasonable interest in this case (as the representative of ratepayers) and the claim is modest.

SEC

SEC claimed 93.3 hours (including 85.5 hours preparation, 4.3 hours attendance settlement conference and 3.5 hours attendance motion hearing). The Board will reduce the claim by 46 hours (4 hours of Mr. Shepherd's time and 42 hours of Mr. Rubenstein's time).

There are two reasons for this reduction. First, SEC has declared a dual interest as a representative of schools as ratepayers and as a representative of schools as generators. SEC has identified this interest as a reason for the more detailed role it took, and by implication, as reason for the higher costs. This interest was not declared in SEC's request for intervenor status. Generators are an excluded category under the Board's practice direction on cost awards. The Board therefore finds that the costs associated with this interest as a generator are not eligible. Given the interests were described as "dual", the Board concludes that the costs associated with SEC's interest as a generator would be approximately half. The Board will make this reduction from

Mr. Rubenstein's time only. Second, the Board finds there is excessive duplication of time between the junior and senior counsel. SEC explains that Mr. Shepherd "took an active supervisory role" due to the importance of the issues. It is reasonable to claim some time for supervision, but the claim in this case is excessive. The Board will reduce the time claimed by Mr. Shepherd from 9.3 hours to 5.3 hours (a reduction of 4 hours).

The Board finds that all parties are eligible for 100% of their reasonably incurred costs of participating in this proceeding. The Board finds that the claim of CME is reasonable as are the adjusted claims of BOMA, Energy Probe and SEC and each of these cost claims shall be reimbursed by the IESO.

THE BOARD THEREFORE ORDERS THAT:

1. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, the IESO shall immediately pay:
 - Building Owners and Managers Association Toronto \$10,397.07;
 - Canadian Manufacturers & Exporters \$2,976.42;
 - Energy Probe Research Foundation \$11,235.11; and
 - School Energy Coalition \$8,889.00.

2. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, the IESO shall pay the Board's costs of and incidental to, this proceeding immediately upon receipt of the Board's invoice.

DATED at Toronto, April 29, 2013.

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary