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May 17, 2013

BY EMAIL & COURIER

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge St, Suite 2701
Toronto ON M4P 1E4

Dear Ms. Walli:

**Board File No. EB-2012-0107
Bluewater Power Distribution Corp. – 2013 Cost of Service Application
Energy Probe – Response to Costs Objection**

Pursuant to the Decision and Rate Order, issued April 25, 2013, this is the response to the objection to the Energy Probe Research Foundation (Energy Probe) cost claim, filed by the Applicant's counsel on May 9, 2013 in the EB-2012-0107 proceeding.

With the exception of Energy Probe's cost claim, Bluewater Power stated through its counsel that it had no objections in regard to the cost claims filed by the intervenors in EB-2012-0107 proceeding.

The objection was presented as follows:

“We leave it to the Board to determine whether it is appropriate for Energy Probe to recover its costs for having two consultants simultaneously attend a settlement conference.”

The Applicant may not have been aware when instructing its counsel to file the objection, that it is always left to the Board to determine the costs which intervenors recover. It is done through a Decision and Order on Cost Awards issued by the Board whether or not any objections are filed.

Energy Probe Research Foundation 225 BRUNSWICK AVE., TORONTO, ONTARIO M5S 2M6

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The Applicant may also not have been aware that in the *majority* of cost of service rates applications by mid-sized and larger local electricity distributors in Ontario over the last two years, one or more parties to the settlement conferences have been represented by more than one representative. In each of these proceedings, there was a Decision and Order on Cost Awards issued by the Board determining the costs intervenors recovered in those proceedings.

Depending on the application, there could be a lawyer and consultant combination, a lawyer and two consultants or two consultants representing an intervening party at the settlement conference, simultaneously. As well, it is very common for the Applicant to be represented at settlement conferences by counsel and a consultant simultaneously; sometimes, albeit less commonly, even two lawyers simultaneously represent the Applicant.

Energy Probe notes that the Board's current Settlement Conference Guidelines provide the following guidance to parties, quoted from the first full paragraph on Page 2:

All parties to a proceeding and their representatives are entitled to participate in a settlement process. (emphasis added)

Thus, the occurrence being objected to, has taken place in the majority of settlement conferences for mid-sized and larger local electricity distributors in Ontario over the last two years. During that period an increased number of settlement conferences have resulted in the settlement of all Issues, as was the case in the Bluewater settlement conference.

For all the reasons submitted to the Board in this response, Energy Probe Research Foundation requests that it be awarded a full recovery of its costs incurred in its participation in this proceeding, which is only in the public interest and without pecuniary purpose. Further, Energy Probe requests that the other intervenors in this proceeding be awarded full recovery of their costs.

Respectfully submitted at Toronto, Ontario this 17th day May 2013.



David S. MacIntosh
Case Manager

cc: Janice L. McMichael-Dennis, Bluewater Power (By email)
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