



EB-2012-0107

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

AND IN THE MATTER OF an application by Bluewater Power Distribution Corporation for an order approving just and reasonable rates and other charges for electricity distribution to be effective May 1, 2013.

BEFORE: Marika Hare
Presiding Member

Ellen Fry
Member

**DECISION AND ORDER ON COST AWARDS
May 31, 2013**

BACKGROUND

Bluewater Power Distribution Corporation (“Bluewater Power”) filed an application (the “Application”) with the Ontario Energy Board (the “Board”) on October 22, 2012 under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B), seeking approval for changes to the rates that Bluewater Power charges for electricity distribution, to be effective May 1, 2013.

On December 11, 2012, the Board issued its Procedural Order No. 1, granting the Association of Major Power Consumers in Ontario (“AMPCO”), Energy Probe Research Foundation (“Energy Probe”), School Energy Coalition (“SEC”) and Vulnerable Energy Consumers Coalition (“VECC”) intervenor status and cost award eligibility.

On April 25, 2013, the Board issued its Decision and Rate Order, in which it set out the process for intervenors to file their cost claims and to respond to any objections raised by Bluewater Power.

Cost claims were submitted by all the intervenors.

In accordance with the Board's Decision and Rate Order, Bluewater Power filed a letter requesting the Board to determine whether it was appropriate for Energy Probe to recover costs for having two consultants simultaneously attend a settlement conference. There were no other objections.

In reply to this objection, Energy Probe filed a letter on May 17, 2013, noting that the following guidance is provided in the Board's *Settlement Conference Guidelines*:

All parties to a proceeding and *their representatives* are entitled to participate in a settlement process. [emphasis added by Energy Probe]

Energy Probe observed that, "in the *majority* of cost of service rate applications by mid-sized and large local electricity distributors in Ontario over the last two years, one or more parties to the settlement conference have been represented by more than one representative." [emphasis added by Energy Probe] The representatives could be any combination including lawyers and/or consultants. Energy Probe also observed that it is common for applicants to be represented at settlement conferences by counsel and a consultant, and in some cases by two lawyers. As the occurrence being objected to has taken place in a number of settlement conferences, Energy Probe submitted that it be awarded full recovery of its costs.

BOARD FINDINGS

The Board accepts the cost claims filed by VECC, AMPCO and SEC as reasonable, and the cost claim of Energy Probe as reasonable subject to the adjustment outlined below.

The Board has considered the objection filed by Bluewater Power. Based on the cost claim filed, Mr. Aiken, consultant to Energy Probe, attended 10.8 hours of settlement conference in this proceeding. Mr. MacIntosh, also consultant to Energy Probe,

attended 3.5 hours of settlement conference. The Board assumes that the respective roles of Mr. Aiken and Mr. MacIntosh are different, and that more than one representative from an intervenor group can attend the settlement conference, if desired. Nevertheless, the Board agrees with Bluewater Power that the applicant should only be responsible for paying the costs of one representative. It is clear that in this case Mr. Aiken was the primary Energy Probe consultant attending the settlement conference. The Board will therefore approve 10.8 total hours of attendance at the settlement conference for Energy Probe. The Board also denies cost recovery for Mr. MacIntosh's parking charges.

THE BOARD THEREFORE ORDERS THAT:

1. Pursuant to section 30 of the Ontario Energy Board Act, 1998, Bluewater Power shall immediately pay:
 - Association of Major Power Consumers in Ontario \$15,617.09;
 - Energy Probe Research Foundation \$17,909.24;
 - School Energy Coalition \$14,256.00; and
 - Vulnerable Energy Consumers Coalition \$19,876.70.

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

DATED at Toronto, May 31, 2013

ONTARIO ENERGY BOARD

Kirsten Walli
Board Secretary