



**EB-2013-0234**

**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 Toronto  
Hydro-Electric System Limited for an order pursuant to  
section 29 of the *Ontario Energy Board Act*, 1998.

**BEFORE:** Cynthia Chaplin  
Presiding Member

Cathy Spoel  
Member

Christine Long  
Member

**DECISION AND ORDER ON COST AWARDS**  
**July 7, 2014**

**Background**

On June 14, 2013, Toronto Hydro-Electric System Limited ("THESL") filed an application with the Ontario Energy Board seeking an order pursuant to section 29 of the *Ontario Energy Board Act*, 1998 (the "Act") that the Board refrain from regulating the terms, conditions and rates for the attachment of wireless telecommunications devices to THESL's utility poles.

On October 4, 2013, the Board issued its Decision on Intervenor and Cost Eligibility and Procedural Order No. 1, granting the Consumers Council of Canada ("CCC"), the

Energy Probe Research Foundation (“Energy Probe”), the School Energy Coalition (“SEC”) and the Vulnerable Energy Consumers Coalition (“VECC”) intervenor status and cost award eligibility.

An oral hearing was held on May 16, 2014 and the Board issued its Decision, in which it set out the process for intervenors to file their cost claims, for THESL to object to the claims and for intervenors to respond to any objections raised by THESL.

The Board received cost claims from each of the eligible parties for the following amounts:

- CCC \$29,469.10
- Energy Probe \$55,535.30
- SEC \$29,308.00
- and VECC \$89,023.37

THESL did not submit any objections to the claims.

### **Board Findings**

The Board has reviewed the cost claims of CCC, Energy Probe, SEC and VECC. The Board finds that the claims by CCC and SEC are reasonable. SEC claimed significantly more hours than CCC, but SEC used a junior counsel and the total claims are almost identical.

The Board finds that Energy Probe’s claim is unreasonable. The claim is almost 90% higher than either CCC or SEC. Energy Probe has claimed as many hours as SEC, but for more senior consultants at higher hourly rates. Energy Probe did not sponsor expert testimony, and its contribution to the process was comparable to SEC and CCC. The Board finds that the high claim is therefore not justified. Energy Probe’s claim will be reduced to \$29,383, inclusive of disbursements, which is approximately the average of the SEC and CCC claims.

The Board finds that VECC’s claim is reasonable. VECC sponsored expert testimony and in those circumstances the higher number of hours for the expert and counsel are justified.

**THE BOARD THEREFORE ORDERS THAT:**

1. Pursuant to section 30 of the Ontario *Energy Board Act, 1998*, THESL shall immediately pay the following amounts to the intervenors for their costs:
  - Consumers Council of Canada \$29,459.10;
  - Energy Probe Research Foundation \$29,383.00;
  - School Energy Coalition \$29,308.00; and
  - Vulnerable Energy Consumers Coalition \$89,023.37.
2. Pursuant to section 30 of the Ontario *Energy Board Act, 1998*, THESL shall pay the Board's costs of and incidental to, this proceeding immediately upon receipt of the Board's invoice. The costs may include amounts for the experts retained by Board staff in this proceeding.

**DATED** at Toronto, July 7, 2014

**ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary