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Lawyers

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November 12, 2014

Reply To: Thomas Brett
Direct Dial: 416.941.8861
E-mail: tbrett@foglers.com
Our File No. 142132

VIA RESS, EMAIL AND COURIER

Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, Ontario
M4P 1E4

Attention: Kirsten Walli
Board Secretary

Dear Ms. Walli:

Re: EB-2013-0326

Please find attached BOMA's cost claim for this proceeding.

BOMA took a lead role in this proceeding. It raised the issues of the milestones and metrics and lack of all meaningful consultation throughout the proceeding, as well as addressing the deferral account issue. It filed 65 interrogatories dealing with the OPA's proposals, in particular the CDM proposals, including the degree to which the agency had responded to earlier Board decisions.

Both BOMA's consultant and counsel have had senior level experience in CDM, at the policy, program, and business levels, and used their experience to assess the effectiveness of the OPA's CDM. This effect provided the Board and other intervenors with a unique perspective on the OPA's efforts, both in this case, and in the seminal recent decision, EB-2010-0279.

Yours sincerely,

FOGLER, RUBINOFF LLP

Thomas Brett

TB/dd

Encls.

cc: Miriam Heinz, OPA (*via email*)
Fred Cass, Aird & Berlis (*via email*)
Marion Fraser, Fraser & Company (*via email*)

Ontario Energy Board
COST CLAIM FOR HEARINGS



Affidavit and Summary of Fees and Disbursements

This form should be used by a party to a hearing before the Board to identify the fees and disbursements that form the party's cost claim. Paper and electronic copies of this form and itemized receipts must be filed with the Board and served on one or more other parties as directed by the Board in the applicable Board order. Please ensure all required (yellow-shaded) fields are filled in and the Affidavit portion is signed and sworn or affirmed.

Instructions

- Required data input is indicated by yellow-shaded fields. Formulas are embedded in the form to assist with calculations.
- All claims must be in Canadian dollars. If applicable, state exchange rate and country of initial currency.
Rate: _____ Country: _____
- A separate "Detail of Fees and Disbursements Being Claimed" (comprising a "Statement of Fees Being Claimed" and a "Statement of Disbursements Being Claimed") is required for each lawyer, analyst/consultant and articling student/paralegal. However, only one "Summary of Fees and Disbursements" covering the whole of the party's cost claim should be provided.
- The cost claim must be supported by a completed Affidavit signed by a representative of the party.
- A CV for each consultant/analyst must be attached unless provided to the Board as prescribed on the Cost Award Tariff.

Except as provided in section 7.03 of the Practice Direction on Cost Awards, itemized receipts must be provided.

File # EB- 2013-0326 Process: OPA 2014 Revenue Requirement Submission
Party: BOMA Affiant's Name: Tom Brett
HST Number: R119420859 HST Rate Ontario: 13.00%
Full Registrant Qualifying Non-Profit
Unregistered Tax Exempt
Other

Affidavit

I, Tom Brett, of the City/Town of Toronto
in the Province/State of Ontario, swear or affirm that:

1. I am a representative of the above-noted party (the "Party") and as such have knowledge of the matters attested to herein.
2. I have examined all of the documentation in support of this cost claim, including the attached "Summary of Fees and Disbursements Being Claimed", "Statement(s) of Fees Being Claimed" and "Statement(s) of Disbursements Being Claimed".
3. The attached "Summary of Fees and Disbursements Being Claimed", "Statement(s) of Fees Being Claimed" and "Statement(s) of Disbursements Being Claimed" include only costs incurred and time spent directly for the purposes of the Party's participation in the Ontario Energy Board process referred to above.
4. This cost claim does not include any costs for work done, or time spent, by a person that is an employee or officer of the Party as described in sections 6.05 and 6.09 of the Board's Practice Direction on Cost Awards.

[Signature]
Signature of Affiant

Sworn or affirmed before me at the City/Town of Toronto,
in the Province/State of Ontario, on Nov. 11/14.
(date)

[Signature]
Commissioner for taking Affidavits
David Levanje

**Ontario Energy Board
COST CLAIM FOR HEARINGS**



Affidavit and Summary of Fees and Disbursements

File # EB- 2013-0326 Process: OPA 2014 Revenue Requirement Submission

Party: BOMA

Summary of Fees and Disbursements Being Claimed

Legal/consultant/other fees	\$	42,537.00
Disbursements	\$	43.48
HST	\$	5,535.46
Total Cost Claim	\$	48,115.94

Payment Information

Make cheque payable to: Fogler, Rubinoff LLP

Send payment to this address: c/o Debbie Dey
77 King Street West, Suite 3000
PO Box 95, TD Centre North Tower
Toronto, ON M5K 1G8

Ontario Energy Board COST CLAIM FOR HEARINGS



Detail of Fees and Disbursements Being Claimed

File # EB- <u>2013-0326</u>	Process: <u>OPA 2014 Revenue Requirement Submission</u>
Party: <u>BOMA</u>	Service Provider Name: <u>Tom Brett</u>
SERVICE PROVIDER TYPE (check one)	Year Called to Bar
Legal Counsel <input checked="" type="checkbox"/>	<input type="text" value="1971"/>
Articling Student/Paralegal <input type="checkbox"/>	Completed Years Practising/Years of Relevant Experience <input type="text" value="35"/>
Consultant <input type="checkbox"/>	Hourly Rate: <input type="text" value="\$330"/>
Analyst <input type="checkbox"/>	HST Rate Charged (enter %): <input type="text" value="13.0%"/>
For Consultant/Analyst: <input type="checkbox"/> CV attached <input checked="" type="checkbox"/> CV provided within previous 24 months	

Statement of Fees Being Claimed

	Hours	Hourly Rate	Subtotal	HST	Total
Pre-hearing Conference					
Preparation		\$ 330.00	\$ -	\$ -	\$ -
Attendance		\$ 330.00	\$ -	\$ -	\$ -
Technical Conference					
Preparation		\$ 330.00	\$ -	\$ -	\$ -
Attendance		\$ 330.00	\$ -	\$ -	\$ -
Interrogatories					
Preparation	20.80	\$ 330.00	\$ 6,864.00	\$ 892.32	\$ 7,756.32
Responses		\$ 330.00	\$ -	\$ -	\$ -
Issues Conference					
Preparation	16.00	\$ 330.00	\$ 5,280.00	\$ 686.40	\$ 5,966.40
Attendance		\$ 330.00	\$ -	\$ -	\$ -
ADR - Settlement Conference					
Preparation	17.50	\$ 330.00	\$ 5,775.00	\$ 750.75	\$ 6,525.75
Attendance	16.50	\$ 330.00	\$ 5,445.00	\$ 707.85	\$ 6,152.85
Proposal Preparation	5.00	\$ 330.00	\$ 1,650.00	\$ 214.50	\$ 1,864.50
Argument					
Preparation	9.60	\$ 330.00	\$ 3,168.00	\$ 411.84	\$ 3,579.84
Oral Hearing					
Preparation	8.50	\$ 330.00	\$ 2,805.00	\$ 364.65	\$ 3,169.65
Attendance	6.00	\$ 330.00	\$ 1,980.00	\$ 257.40	\$ 2,237.40
Other Conferences					
Preparation		\$ 330.00	\$ -	\$ -	\$ -
Attendance		\$ 330.00	\$ -	\$ -	\$ -
Case Management		\$ 170.00	\$ -	\$ -	\$ -
TOTAL SERVICE PROVIDER FEES			\$ 32,967.00	\$ 4,285.71	\$ 37,252.71

Ontario Energy Board
COST CLAIM FOR HEARINGS



Detail of Fees and Disbursements Being Claimed

File # EB- 2013-0326

Process: OPA 2014 Revenue Requirement Submission

Party: BOMA

Service Provider Name: Tom Brett

Statement of Disbursements Being Claimed			
	Net Cost	HST	Total
Scanning/Photocopy			\$ -
Printing			\$ -
Courier	\$ 43.48	\$ 5.65	\$ 49.13
Telephone/Fax			\$ -
Transcripts			\$ -
Travel: Air			\$ -
Travel: Car			\$ -
Travel: Rail			\$ -
Travel (Other):			\$ -
Parking			\$ -
Taxi			\$ -
Accommodation			\$ -
Meals			\$ -
Other:			\$ -
Other:			\$ -
Other:			\$ -
TOTAL DISBURSEMENTS:	\$ 43.48	\$ 5.65	\$ 49.13

Ontario Energy Board COST CLAIM FOR HEARINGS



Detail of Fees and Disbursements Being Claimed

File # EB- <u>2013-0326</u>	Process: <u>OPA 2014 Revenue Requirement Submission</u>
Party: <u>BOMA</u>	Service Provider Name: <u>Marion Fraser</u>
SERVICE PROVIDER TYPE (check one)	Year Called to Bar
Legal Counsel <input type="checkbox"/>	<input type="text"/>
Articling Student/Paralegal <input type="checkbox"/>	Completed Years Practising/Years of Relevant Experience
Consultant <input checked="" type="checkbox"/>	<input type="text" value="33"/>
Analyst <input type="checkbox"/>	Hourly Rate: <input type="text" value="\$330"/>
For Consultant/Analyst: <input type="checkbox"/> CV attached	HST Rate Charged (enter %): <input type="text" value="13.0%"/>
<input checked="" type="checkbox"/> CV provided within previous 24 months	

Statement of Fees Being Claimed					
	Hours	Hourly Rate	Subtotal	HST	Total
Pre-hearing Conference					
Preparation		\$ 330.00	\$ -	\$ -	\$ -
Attendance		\$ 330.00	\$ -	\$ -	\$ -
Technical Conference					
Preparation		\$ 330.00	\$ -	\$ -	\$ -
Attendance		\$ 330.00	\$ -	\$ -	\$ -
Interrogatories					
Preparation	9.00	\$ 330.00	\$ 2,970.00	\$ 386.10	\$ 3,356.10
Responses		\$ 330.00	\$ -	\$ -	\$ -
Issues Conference					
Preparation	6.00	\$ 330.00	\$ 1,980.00	\$ 257.40	\$ 2,237.40
Attendance		\$ 330.00	\$ -	\$ -	\$ -
ADR - Settlement Conference					
Preparation	2.00	\$ 330.00	\$ 660.00	\$ 85.80	\$ 745.80
Attendance	5.00	\$ 330.00	\$ 1,650.00	\$ 214.50	\$ 1,864.50
Proposal Preparation		\$ 330.00	\$ -	\$ -	\$ -
Argument					
Preparation	4.00	\$ 330.00	\$ 1,320.00	\$ 171.60	\$ 1,491.60
Oral Hearing					
Preparation	3.00	\$ 330.00	\$ 990.00	\$ 128.70	\$ 1,118.70
Attendance		\$ 330.00	\$ -	\$ -	\$ -
Other Conferences					
Preparation		\$ 330.00	\$ -	\$ -	\$ -
Attendance		\$ 330.00	\$ -	\$ -	\$ -
Case Management					
		\$ 170.00	\$ -	\$ -	\$ -
TOTAL SERVICE PROVIDER FEES			\$ 9,570.00	\$ 1,244.10	\$ 10,814.10

**Ontario Energy Board
COST CLAIM FOR HEARINGS**



Detail of Fees and Disbursements Being Claimed

File # EB- 2013-0326

Process: OPA 2014 Revenue Requirement Submission

Party: BOMA

Service Provider Name: Marion Fraser

Statement of Disbursements Being Claimed			
	Net Cost	HST	Total
Scanning/Photocopy			\$ -
Printing			\$ -
Courier			\$ -
Telephone/Fax			\$ -
Transcripts			\$ -
Travel: Air			\$ -
Travel: Car			\$ -
Travel: Rail			\$ -
Travel (Other):			\$ -
Parking			\$ -
Taxi			\$ -
Accommodation			\$ -
Meals			\$ -
Other:			\$ -
Other:			\$ -
Other:			\$ -
TOTAL DISBURSEMENTS:	\$ -	\$ -	\$ -

Client: F1588
Fraser & Company

CLIENT LAWYER: Brett, Thomas
MATTER_LAWYER: Brett, Thomas
LAWYER ON BILL: Brett, Thomas
LAST BILL DATE: NONE

PAYOR NAME & ADDRESS
Fraser & Company
33 Harbour Square, Suite 502
Toronto, ON
M5J 2G2
Canada
Attn: Marion Fraser

PAYOR: F1588 MAIN
BILL: F1588 MAIN

Matter: 142132
BOMA - OPA - 2014 Revenue
Requirement Submission; Board
File No. EB-2013-0326

ACCOUNT APPROVAL

Thomas Brett

FINAL BILL: MATTER WILL BE MADE INACTIVE

UNBILLED TIME

<u>LAST ENTRY</u>	<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>AMOUNT</u>	<u>FEE CREDIT ALLOCATION</u>	<u>CODE</u>	<u>INIT</u>
06/Oct/14	Thomas Brett	99.90	32,967.00	<input type="checkbox"/> AS DOCKETED	415	TB
TOTAL UNBILLED FEES			99.90	32,967.00	<input type="checkbox"/> WRITE OFF	
PREMIUM (WRITE DOWN)						
TOTAL FEES THIS BILL						

UNBILLED DISBURSEMENTS

<u>LAST ENTRY</u>	<u>CODE</u>	<u>DISB. TYPE</u>	<u>GST</u>	<u>AMOUNT</u>	<u>UNBILLED W/O</u>	<u>ANTICIPATED</u>	<u>TOTAL THIS BILL</u>
17/Jun/14	7	Courier & Delivery	Y	43.48			
TOTAL UNBILLED DISB				43.48	<input type="checkbox"/> WRITE OFF		
TOTAL ADJUSTMENTS							
TOTAL DISB THIS BILL							

TRUST SUMMARY – A Trust was not opened on this Matter

Payor/Matter: F1588/**142132**
Fraser & Company
BOMA - OPA - 2014 Revenue
Requirement Submission; Board File No.
EB-2013-0326
Prebill No.: 779125
Session ID: 433239

LAST BILL DATE: NONE
LAST BILLED TO DATE: NONE
FILE LAWYER: Brett, Thomas
ASSIGNED LAWYER: Brett, Thomas

BILL ADDRESS
Fraser & Company
33 Harbour Square, Suite 502
Toronto, ON M5J 2G2
CANADA

PAYOR DEFAULT ADDRESS
33 Harbour Square, Suite 502
Toronto, ON
M5J 2G2
Fraser, Marion

DETAIL OF UNBILLED TIME

<u>DATE</u>	<u>TIME ID</u>	<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>RATE</u>	<u>AMOUNT</u>	<u>DESCRIPTION</u>
06/May/14	2411665	415 TB	1.50	330.00	495.00	Reviewing evidence
11/May/14	2411669	415 TB	2.50	330.00	825.00	Reviewing evidence
12/May/14	2413362	415 TB	4.50	330.00	1,485.00	Reviewing evidence
14/May/14	2413879	415 TB	7.50	330.00	2,475.00	Reviewing evidence; Preparing Submission on Issues List
20/May/14	2415759	415 TB	0.50	330.00	165.00	Reviewing updated evidence
27/May/14	2419571	415 TB	1.00	330.00	330.00	Reviewing evidence
05/Jun/14	2426241	415 TB	1.00	330.00	330.00	Preparation of IRs
11/Jun/14	2426835	415 TB	5.70	330.00	1,881.00	Preparation of IRs
13/Jun/14	2429271	415 TB	7.00	330.00	2,310.00	Reviewing evidence; Drafting IRs
15/Jun/14	2430895	415 TB	2.00	330.00	660.00	Reviewing evidence, Preparing IRs
17/Jun/14	2430898	415 TB	1.70	330.00	561.00	Preparation of IRs
19/Jun/14	2432243	415 TB	1.50	330.00	495.00	Reviewing evidence
23/Jun/14	2433101	415 TB	0.40	330.00	132.00	Clarifying IRs for the OPA
06/Jul/14	2471676	415 TB	2.00	330.00	660.00	Reviewing IRs; Preparing for Settlement Conference
07/Jul/14	2471679	415 TB	8.00	330.00	2,640.00	Reviewing IR responses; Preparing for Settlement Conference
08/Jul/14	2471681	415 TB	1.50	330.00	495.00	Preparation for Settlement Conference
08/Jul/14	2471682	415 TB	7.00	330.00	2,310.00	Attending Settlement Conference
09/Jul/14	2471685	415 TB	1.50	330.00	495.00	Preparation for Settlement Conference
09/Jul/14	2471687	415 TB	6.50	330.00	2,145.00	Attending Settlement Conference
10/Jul/14	2445914	415 TB	1.50	330.00	495.00	Reviewing status of Settlement Conference; Preparing material for motion and next session of Settlement Conference
21/Jul/14	2446431	415 TB	1.00	330.00	330.00	Reviewing background materials for the motion; Telephone discussion with Board Staff
31/Jul/14	2453781	415 TB	2.00	330.00	660.00	Preparation for Settlement Conference
31/Jul/14	2453782	415 TB	3.00	330.00	990.00	Attending Settlement Conference
01/Aug/14	2453790	415 TB	2.00	330.00	660.00	Reviewing settled issues and strategies for hearing
06/Aug/14	2455584	415 TB	0.50	330.00	165.00	Reviewing Settlement Agreement; Telephone discussion with Marion Fraser
07/Aug/14	2455593	415 TB	0.50	330.00	165.00	Reviewing Settlement Agreement with client
08/Aug/14	2461560	415 TB	4.00	330.00	1,320.00	Reviewing Agreements; Discussion with clients; Drafting amendment
20/Aug/14	2463778	415 TB	2.00	330.00	660.00	Attending Hearing and meeting with parties for next steps
17/Sep/14	2476969	415 TB	1.50	330.00	495.00	Reviewing evidence; Preparing cross-examinations
17/Sep/14	2476974	415 TB	4.00	330.00	1,320.00	Preparation of cross-examinations; Reviewing materials
18/Sep/14	2476976	415 TB	1.00	330.00	330.00	Preparation for Hearing
18/Sep/14	2476978	415 TB	4.00	330.00	1,320.00	Attending Hearing
19/Sep/14	2478528	415 TB	1.00	330.00	330.00	Preparing Argument
05/Oct/14	2491266	415 TB	2.50	330.00	825.00	Preparation of Argument
06/Oct/14	2491268	415 TB	6.10	330.00	2,013.00	Preparation of Argument
TOTAL TIME			99.90		32,967.00	

Payor/Matter: F1588/**142132**
 Fraser & Company
 BOMA - OPA - 2014 Revenue
 Requirement Submission; Board File No.
 EB-2013-0326
 Prebill No.: 779125
 Session ID: 433239

LAST BILL DATE: NONE
 LAST BILLED TO DATE: NONE
 FILE LAWYER: Brett, Thomas
 ASSIGNED LAWYER: Brett, Thomas

BILL ADDRESS
 Fraser & Company
 33 Harbour Square, Suite 502
 Toronto, ON M5J 2G2
 CANADA

PAYOR DEFAULT ADDRESS
 33 Harbour Square, Suite 502
 Toronto, ON
 M5J 2G2
 Fraser, Marion

DETAIL OF UNBILLED DISBURSEMENTS

<u>DATE</u>	<u>DISB ID</u>	<u>CODE</u>		<u>QUAN</u>	<u>AMOUNT</u>	<u>DESCRIPTION</u>
08/May/14	5671029	7	Courier & Delivery		16.35	13:05 tb Courier: Blizzard# 7173431 tom brett-508 Mortimer Ave-Mary B
16/May/14	5677204	7	Courier & Delivery		15.14	09:05 TB Courier: Blizzard# 7175824 Ontario Energy Board-2300 Yonge St-Nicole
17/Jun/14	5724791	7	Courier & Delivery		11.99	14:06 tb Courier: Blizzard# 7185263 Ontario Energy Board-2300 Yonge St-natalia anderson
			TOTAL DISB		43.48	

Filters

Client	Disb Code 7	Session
Matter 142132	Office	Tran Type
Tkpr	Dept	Prebill #
Disb ID	Prof Ctr	Bill #
Date	Period	Bill Date
		Project

Disbursement Details

Base Amt \$39.49 Tobill Amt \$43.48 Billed Amt

Date	Tkpr	TKPR Name	Client	Matter	Status	Bill Num	Cost Code	H/S	Base Amt	Billed Amt	Tobill Amt	Narrative
5/8/2014			F1588	142132	P	0	7	S	\$14.85	\$0.00	\$16.35	13:05 tb Courier: Bl
5/16/2014			F1588	142132	P	0	7	S	\$13.75	\$0.00	\$15.14	09:05 TB Courier: Bl
6/17/2014			F1588	142132	P	0	7	S	\$10.89	\$0.00	\$11.99	14:06 tb Courier: Bl

Filter

Disb ID

5671029

Disbursement Details

Client	F1588	Fraser Company
Matter	142132	BOMA - OPA - 2014 Revenue Requirement Su
Entry Empl	AP	Parusis, Tony
Auth Empl		
Disb Empl		
Billed Empl		
Disb Office	FOGR	Fogler, Rubinoff LLP
Office	FOGR	Fogler, Rubinoff LLP
Dept	LITN	Litigation
Profit Center	GEN	General Profit Centre
Project		

Std Amt	\$14.85	Currency Code	CDN
Base Amt	\$14.85	Base Qty	0.000000
Tobill Amt	\$16.35		
Billed Amt	\$16.35	Bill Qty	0.000000

Narrative

13:05 tb Courier: Blizzard# 7173431 tom brett-508 Mortimer Ave-Mary B

Filter

Disb ID

5677204

Disbursement Details

Client F1588	Fraser Company
Matter 142132	BOMA - OPA - 2014 Revenue Requirement Su
Entry Empl AP	Parusis, Tony
Auth Empl	
Disb Empl	
Billed Empl	
Disb Office FOGR	Fogler, Rubinoff LLP
Office FOGR	Fogler, Rubinoff LLP
Dept LITN	Litigation
Profit Center GEN	General Profit Centre
Project	

Std Amt	\$13.75	Currency Code	CDN
Base Amt	\$13.75	Base Qty	0.000000
Tobill Amt	\$15.14		
Billed Amt	\$15.14	Bill Qty	0.000000

Narrative

09:05 TB Courier: Blizzard# 7175824 Ontario Energy Board-2300 Yonge St-Nicole

Filter

Disb ID

5724791

Disbursement Details

Client F1588	Fraser Company
Matter 142132	BOMA - OPA - 2014 Revenue Requirement Su
Entry Empl AP	Parusis, Tony
Auth Empl	
Disb Empl	
Billed Empl	
Disb Office FOGR	Fogler, Rubinoff LLP
Office FOGR	Fogler, Rubinoff LLP
Dept LITN	Litigation
Profit Center GEN	General Profit Centre
Project	

Std Amt	\$10.89	Currency Code	CDN
Base Amt	\$10.89	Base Qty	0.000000
Tobill Amt	\$11.99		
Billed Amt	\$11.99	Bill Qty	0.000000

Narrative

14:06 tb Courier: Blizzard# 7185263 Ontario Energy Board-2300 Yonge St-natalia anderson

Appendix B

DOCKET

EB-2013-0326 OPA Fees Case			BOMA Toronto					
Board File Number	Party Name		Fraser & Company				Total	
Date	Explanation	Consultant	Preparation	Attendance TC	Attendance SC	Attendance OH	Argument	Total
May-05-14	Review of Application	MEF	4					4
5/8/2014	Comment on Issues List	MEF	2					2
June-11-14	Preparation of Interrogatories	MEF	3					3
June-12-14	Preparation of Interrogatories	MEF	3					3
June 20-14	Review of Other Intervenor Interrogatories	MEF	3					3
9/4/2014	Preparation	MEF	2					2
9/5/2014	Attendance	MEF	4			4		8
9/10/2014	Conference Call on Settlement	MEF	1			1		1
9/17/2014	Preparation	MEF	3					3
9/19/2013	Review of Transcript	MEF	2					2
	Preparation of argument	MEF	2					2
Total			29	0	5	0	0	31