



EB-2014-0002

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 Horizon Utilities Corporation for an order approving just and reasonable rates and other charges for electricity distribution to be effective January 1, 2015, and for each following year through to December 31, 2019.

BEFORE: Christine Long
Presiding Member

Emad Elsayed
Member

Cathy Spoel
Member

DECISION AND ORDER ON COST AWARDS
February 12, 2015

Background

Horizon Utilities Corporation (Horizon) filed a Custom Incentive Rate application with the Ontario Energy Board (the OEB) on April 17, 2014 under section 78 of the *Ontario Energy Board Act*, 1998, S.O. 1998, c. 15, Schedule B (the Act), seeking approval for changes to the rates that Horizon charges for electricity distribution, to be effective January 1, 2015 and each year thereafter until December 31, 2019.

On June 9, 2014, the OEB issued Procedural Order No. 1 granting the Association of Major Power Consumers of Ontario (AMPCO), Building Owners and Managers Association (BOMA), Consumers Council of Canada (CCC), Energy Probe (EP), School Energy Coalition (SEC), Sustainable Infrastructure Alliance of Ontario (SIA) and Vulnerable Energy Consumers Coalition (VECC) intervenor status and cost award eligibility.

On December 11, 2014, the OEB issued its Decision and Order in which it set out the process for intervenors to file their cost claims, for Horizon to object to the claims and for intervenors to respond to any objections raised by Horizon.

The OEB received cost claims from AMPCO, BOMA, CCC, EP, SEC, SIA and VECC.

On January 26, 2015, Horizon objected to the costs claimed by BOMA on the grounds that they are excessive relative to those of the other parties that also participated throughout the proceeding. Horizon noted that BOMA claimed a total of 192.75 hours while the average hours claimed by the other parties is 119.19 hours. Horizon submitted that BOMA's claimed hours should be reduced by 75.17 hours to be more in line with the other intervenors. This would result in a reduction of claimed fees from \$63,607.50 to \$38,801.40, a reduction of \$24,806.10.

Horizon also stated that BOMA claimed significant disbursements related to printing and photocopying charges totaling \$5,744.64. Horizon stated that at the commencement of the proceeding, it had asked each intervenor whether they wished to receive printed copies of the application materials or documentation on a memory stick. BOMA had requested two memory sticks instead of the printed materials. Horizon further stated that it provided hard copies of the Application and related materials to those intervenors requesting paper copies, at no cost to the intervenors. Horizon submitted that these costs should be entirely deducted from BOMA's cost claim.

Horizon's proposed cost allowance for BOMA was therefore \$38,801.40 for fees and zero for disbursements plus HST, totaling \$43,845.58 compared to BOMA's \$78,367.92 claim. This represents a total reduction of \$34,522.34

On January 29, 2015, BOMA replied to Horizon's objection to its cost claim and stated that the claim reduction proposal is unfair, unwarranted and punitive and would result in

BOMA's recovery being substantially less than the other major participants in the proceeding. BOMA requested that the OEB maintain its claim for both fees and disbursements. BOMA stated that Horizon's case was a complex one. BOMA also noted that Horizon compared BOMA's hours for a selected portion of the proceedings with those of the "average" intervenor and argued that a more realistic and fair way to look at hours is to look at the total hours. BOMA further noted that the average fees of the four senior intervenors (SEC, Energy Probe, VECC and BOMA) that participated in every phase of the proceeding, including the oral argument, was approximately \$49,500, or nearly \$50,000, compared to BOMA's \$63,607.50.

With respect to the disbursements, BOMA noted that they did initially ask for a hard copy of the Application but were told that it would take a few days to get them due to the need to have them printed and sent. BOMA explained that because of travel commitments, they asked for the memory stick so that they could print the material internally. BOMA noted that other intervenors filed for disbursements, one for about the same amount as BOMA and a second for about \$1,700. BOMA submitted that it is unfair to deny recovery of its printing and copying costs.

Board Findings

BOMA claimed 192.75 hours. The OEB notes that the average total number of hours for intervenors, excluding BOMA and SIA because of SIA's limited participation, is 132.48 hours. The OEB finds 132.48 hours to be appropriate for BOMA. It is reflective of the hours claimed by the other intervenors with the exception of SEC who took a more active role in the proceeding and claimed 175 hours. This would represent \$43,718.40 in fees (\$49,401.79 including HST).

With respect to BOMA's disbursements, the OEB agrees with Horizon that the cost of photocopying and printing should be completely disallowed for the reasons given by Horizon. The OEB will allow the \$53.94 for courier service (\$60.95 including HST).

The total amount of the allowable claim would, therefore, be \$49,401.79 plus \$60.95 which is \$49,462.74, a reduction of \$28,905.18.

The OEB finds that the claims of AMPCO, CCC, Energy Probe, SEC, SIA and VECC and the adjusted claim of BOMA are reasonable and each of these claims shall be reimbursed by Horizon.

THE BOARD THEREFORE ORDERS THAT:

1. Pursuant to section 30 of the OEB Act, 1998, Horizon shall immediately pay the following amounts to the intervenors for their costs:

• Association of Major Power Consumers of Ontario	\$36,863.09
• Building Owners and Managers Association	\$49,462.74
• Consumers Council of Canada	\$30,950.70
• Energy Probe Research Foundation	\$47,135.27
• School Energy Coalition	\$58,477.50
• Sustainable Infrastructure Alliance of Ontario	\$17,286.18
• Vulnerable Energy Consumers Coalition	\$51,578.64

2. Pursuant to section 30 of the OEB Act, 1998, Horizon shall pay the OEB's costs of, and incidental to, this proceeding immediately upon receipt of the OEB's invoice.

DATED at Toronto, February 12, 2015

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary