

February 26, 2015

VIA EMAIL AND PUROLATOR COURIER

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O BOX 2319
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Walli:

Re:	Board File No.:	EB-2014-0055
	Our Client:	Algoma Coalition
	Applicant:	Algoma Power Inc.
	Our File No.:	12524-7

We are in receipt of Algoma Power Inc.'s (API) objections to Algoma Coalition's Cost Claim for Hearing. In accordance with the Board's Final Rate Order dated February 2, 2015, please find our response below.

Please be advised that in the course of our review of the cost claims submitted by Algoma Coalition, it came to our attention that Algoma Coalition's consultant, Mr. Rob Reid, experienced errors in his accounting system, which are in the process of being resolved. Given that a proper review of Mr. Reid's costs is therefore at present not possible, the within response to API's comments only addresses the costs of Algoma Coalition's counsel, Wishart Law Firm LLP. As discussed with Mr. Advani, the response with respect to Mr. Reid's expenses will be addressed in a separate submission to be provided in the next few days.

(i) *Disbursements*

Meals

We have carefully reviewed the meal expenses claimed by Algoma Coalition as well as the Ontario Government's *Travel, Meal and Hospitality Expenses Directive* (the "Directive") and have concluded that, in accordance with the Directive, Algoma Coalition's counsel over-claimed a total of \$267.65. For your reference, please find attached hereto an excel spreadsheet providing the breakdown of our calculations.

Transportation

In respect of API's contention that travel expenses to and from a restaurant are inappropriate, we note that the Directive is silent on this matter and that API has not submitted any material whatsoever in support of its position on this issue. Algoma Coalition therefore submits that its taxi expenses are in accordance with the Directive. An itemized list of Algoma Coalition's taxi expenses along with the corresponding receipts for Wishart Law Firm LLP are attached hereto.

Accommodation

Algoma Coalition acted responsibly when booking accommodations and was diligent in comparing hotel prices. The accommodations booked were standard rooms and although they were higher in cost than that of Energy Probe's, the difference on average is less than \$100.00 per night.

(ii) Fees

API states that Algoma Coalition had two lawyers attend the Settlement Conference. This is incorrect. Algoma Coalition believes that API's mistake in this respect resulted from a confusion as to the roles played by Algoma Coalition's lawyers in participating in the settlement discussions. Mr. Cassan attended in person along with Algoma Coalition's consultant Mr. Reid at the Settlement Conference held in Toronto on September 8 and 9, 2014. A settlement proposal was not arrived at during that Settlement Conference. Nevertheless, API and the Intervenors continued to engage in a series of settlement discussions via teleconference in hopes of drafting an acceptable proposal. These subsequent teleconferences were attended to by Mr. Harmar and Mr. Reid and were ultimately successful in reaching agreement on number of issues. As part of these discussions, Algoma Coalition took a leading role in negotiating a new approach to stakeholder engagement and ultimately was successful in crafting a process for how such engagement would occur moving forward that was agreeable to API and the Intervenors.

Regarding Mr. Cassan's fees, Algoma Coalition has recalculated these in accordance with the Directive using the maximum \$290/hour tariff rate. Using this rate, Mr. Cassan's fees total \$10,367.50, which is a difference of \$357.50 plus HST from those previously claimed. Therefore, pursuant to the Directive, Algoma Coalition over-claimed \$403.98

In respect of the level of Algoma Coalition's fees, Algoma Coalition has reviewed the cost claims of both VECC and Energy Probe and

note that it is difficult to appreciate the exact activities undertaken by their representatives.

In no way is Algoma Coalition questioning the cost claims of VECC and Energy Probe. However, having reviewed their respective claims it is unclear if they included time spent travelling to and from Toronto for various appearances before the Board in this matter. Algoma Coalition submits that a significant portion of time was spent by its counsel and consultant in travel from Sault Ste. Marie to Toronto, which is an approximate distance of 700 km. In the event that VECC and Energy Probe's cost claims did include time for travel, it is assumed that this would be significantly lower than that of Algoma Coalition, owing to the aforementioned distance from Sault Ste. Marie to Toronto. As a result, Algoma Coalition is forced to incur significant travel expenses to attend Board events that are not borne by the other Intervenor.

Of perhaps greater significance, Algoma Coalition has carefully reviewed the Directive regarding the comparison that API has drawn between Algoma Coalition's cost claim and that of VECC and Energy Probe. Algoma Coalition would note that the Directive discloses nothing to suggest that the type of cost matching suggested by Algoma Power can or should occur, and it remains Algoma Coalition's position that, subject to those specific amounts that it has herein acknowledge were over-claimed, Algoma Coalition's cost claim is wholly consistent with the Directive.

It is important to note that the Intervenor do not prepare their respective cost claims together, nor do they coordinate regarding hours spent or fees to be charged on various matters.

API has again failed to supply any material supporting their claim that Algoma Coalition should only be entitled the higher of VECC and Energy Probe's cost claims. This practice is clearly outside the Directive. Moreover, it would require a high degree of coordination between independent parties as to the amount of hours spent by each pursuing their separate mandates that is inappropriate, impractical and would interfere with the ability of the parties to independently pursue their own goals before the Board in the manner they deem most appropriate.

Algoma Coalition relies on the proposition expressed by the Ontario Superior Court of Justice in *Basdeo (Litigation Guardian of) v University Health Network* that, when assessing fees, the courts should not second-guess the time spent by counsel in preparation or conduct of a trial unless the total is grossly excessive or the matter has been "overly lawyered". Algoma Coalition has provided a particularized cost claim accompanied by receipts and thorough

time dockets outlining the work done by its counsel and consultant on this matter. A thorough review of Algoma Coalition's cost claim reveals that the quantum of its costs is not grossly excessive nor has the matter been "overly lawyered". In fact, being cognizant of its counsel's fee structure Algoma Coalition elected to have Mr. Harmar (a junior associate) work under Mr. Cassan to keep costs as low as possible in the circumstances.

(iii) *HST*

API questions whether Algoma Coalition charged HST on disbursements that already included HST. We have carefully reviewed the disbursements, specifically the receipt for dinner at Houston's which was raised by API and we concluded that there was no double counting of HST.

Algoma Coalition has reviewed the cost claims submitted by VECC and Energy Probe and would note that they utilize tax rates of approximately 3.8% and 6.5%, respectfully, as opposed to the 13% tax rate utilized by Algoma Coalition. Algoma Coalition assumes that this difference is attributable to the not-for-profit status of VECC and Energy Probe.

Yours very truly,
WISHART LAW FIRM LLP

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Attach.

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Meal Re-calculation

J. Paul R. Cassan

Meal Explanation	Current	Tax	Tip	Total Current including tax and tip	New Total Less Excess	Tax	Tip	New total less excess including tip and tax	Entitlement	Difference between New Total and Entitlement * negative amounts show we were under entitlement*	Notes
Sushi Kai - Sept 8, 2014 (Lunch)	\$ 17.98	\$ 2.34	\$ 4.06	\$ 24.38	NO EXCESS			\$ 24.38	\$ 22.50	\$ 1.88	
Keg Mansion - Sept 8, 2014 (Dinner)	\$ 159.50	\$ 20.74	\$ 36.05	\$ 216.29					\$ 40.00	\$ 176.29	
Fran's Restaurant - Sept 9, 2014 (breakfast)	\$ 26.81	\$ 3.48	\$ 4.54	\$ 34.83	NO EXCESS			\$ 34.83	\$ 17.50	\$ 17.33	
Houston Yonge - Sept 9, 2014 (Dinner)	\$ 112.50	\$ 14.63	\$ 22.88	\$ 150.01	\$ 79.00	\$ 10.27	\$ 22.88	\$ 112.15	\$ 40.00	\$ 72.15	This meal was only for 2 ppl, not 3 ppl as stated in API's objection

Overclaimed	\$	267.65
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Meal Re-calculation
Tim J. Harmar

Meal Explanation	Current	Tax	Tip	Total Current including tax and tip	New Total Less Excess	Tax	Tip	New total less excess including tip and tax	Entitlement	Difference between New Total and Entitlement * negative amounts show we were under entitlement*	Notes
Novotel (Hotel) - Oct 19, 2014 (Dinner)	\$ 15.57	\$ 2.02		\$ 17.59	NO EXCESS			\$ 17.59	\$ 20.00	\$ (2.41)	
Rexall - Oct 20, 2014 (Dinner - beverage)	\$ 5.03	\$ 0.65		\$ 5.68	NO EXCESS			\$ 5.68	\$ 20.00	\$ 2.01	Receipt is \$5.70 due to rounding
Pizzaiolo - Oct 20, 2014 (Dinner)	\$ 14.45	\$ 1.88		\$ 16.33	NO EXCESS			\$ 16.33			
SSP America - Airport - Oct 21, 2014 (Lunch)	\$ 8.79	\$ 1.14		\$ 9.93	NO EXCESS			\$ 9.93	\$ 11.25	\$ (1.32)	Receipt is \$9.95 due to rounding
Overclaimed										\$ (1.72)	

Total \$ 267.65
Overclaimed
between RR
and JPRC

Ontario Energy Board - Algoma Power Inc. EB-2014-0055
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Transportation**JPRC - TAXIS**

Date	Transportation Explanation	Cost
8-Sep-14	From Airport to Hotel	\$ 40.00
8-Sep-14	From Hotel to 2300 Yonge	\$ 18.00
8-Sep-14	From 2300 Yonge to Hotel	\$ 20.00
9-Sep-14	From Hotel to 33 Yonge (dinner)	\$ 20.00
9-Sep-14	From 33 Yonge (dinner) to Airport	\$ 20.00
	No description - From Hotel to 2300	
9-Sep-14	Yonge	\$ 10.00
	No description - From 2300 Yonge to	
9-Sep-14	Hotel	\$ 15.00
	Total Listed	\$ 143.00

Transportation**TH- TAXIS**

Date	Transportation Explanation	Cost
19-Oct-14	From Airport to Hotel	\$ 70.00
20-Oct-14	From Hotel to 2300 Yonge Street	\$ 28.00
20-Oct-14	From 2300 Yonge Street to Hotel	\$ 25.00

PAUL CASSAN'S RECEIPTS

RECEIPT

Cab No. _____ H.S.T. _____
From 33 Yonge
To Airport
Date _____ Amount 20
Signature _____

ABC AMBASSADORS TAXI

RECEIPT

Cab No. _____ G.S.T.# _____
From Airport
To Hotel
Date Sept 8 Amount 40 (GST Included)
Signature _____

RECEIPT

Cab No. _____ H.S.T. _____
From Hotel
To 33 Yonge
Date _____ Amount 20
Signature _____

RECEIPT

Cab No. _____ H.S.T. _____
From _____
To _____
Date _____ Amount 10.
Signature _____

RECEIPT

Cab No. _____ H.S.T. _____
From 2300 Yonge
To Hotel
Date _____ Amount 20
Signature _____

RECEIPT

Cab No. _____ H.S.T. _____
From Hotel
To 2300 Yonge
Date Sept 8 Amount 18
Signature _____

ROYAL TAXI® (416) 777-9222

www.royaltaxi.ca

DATE 09/09/14 AMT. \$ 15.00

FROM _____

TO _____

DRIVER'S NAME _____ GST# _____

CAB# A1188 FARE INCLUDES GST

The driver is an Independent Contractor, any GST input credit may be claimed

as "notional" or applied to the driver's GST registered number, not Royal Taxi Inc.

THANK YOU

TIM HARMAR'S RECEIPTS

RECEIPT

Cab No. 2226 H.S.T. _____

From _____

To _____

Date 20/10/14 Amount 28/-

Signature [Signature]

RECEIVED Fare includes H.S.T. 70/- dollars
100

FROM _____

TO _____

AIRLINE LIMOUSINE

DATE 19 OCT 14 AUTHORIZATION [Signature]

Thank you for choosing Airline Limousine

RECEIPT

Cab No. _____ H.S.T. _____

From _____

To _____

Date 20/10/14 Amount 25/-

Signature [Signature]