



EB-2014-0012

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 Union Gas
Limited, pursuant to section 36(1) of the *Ontario Energy
Board Act, 1998*, for an order or orders approving rates
and other charges for an interruptible natural gas
liquefaction service.

BEFORE: Christine Long
Presiding Member

Marika Hare
Member

Cathy Spoel
Member

DECISION AND ORDER ON COST AWARDS

June 2, 2015

Background

Union Gas Limited (Union) filed an application with the Ontario Energy Board (OEB) pursuant to section 36 of the *Ontario Energy Board Act, 1998*, S.O. c.15, Schedule B, for an order or orders approving a new interruptible natural gas liquefaction service. Union proposed to provide this new service at its Liquefied Natural Gas (LNG) facility at Hagar, Ontario.

The OEB determined that the following persons would be eligible for an award of costs:

- Building Owners and Managers Association Toronto (BOMA)
- Canadian Manufacturers and Exporters (CME)
- Industrial Gas Users Association (IGUA)
- Energy Probe Research Foundation (Energy Probe)
- Northeastern Midstream LP
- School Energy Coalition (SEC)

On April 9, 2015, the OEB issued its Decision with Reasons, in which it set out the process for intervenors to file their cost claims, for Union to object to the claims and for intervenors to respond to any objections raised by Union.

The OEB received cost claims from BOMA, CME, IGUA, Energy Probe, Northeastern Midstream LP and SEC. Union did not object to any of the cost claims.

OEB Findings

The OEB has reviewed the cost claims of BOMA, CME, IGUA, Energy Probe, Northeastern Midstream LP and SEC.

The OEB finds that SEC and IGUA are approved to recover 100% of their reasonably incurred costs of participating in this proceeding.

In making its determination on costs, the OEB has compared the relative contribution of each of the parties. In reviewing the cost claims, the OEB has determined that the amount of preparation claimed by some of the parties is excessive. The OEB acknowledges that the issue of forbearance is not an issue that is routinely heard at the Board. The OEB has taken this fact into account in setting an upper limit on the amount which it will allow as preparation time. The OEB has determined that it will cap preparation time for junior counsel at 50 hours and senior counsel at 40 hours. Junior counsel have claimed for preparation time at a lower rate and as such will be compensated for more hours. The OEB finds that this amount of preparation time is commensurate with the participation of the parties in the proceeding.

Accordingly the OEB makes the following findings;

Energy Probe

The OEB notes that Energy Probe has claimed 52 hours preparation for three consultants: Mr. Roger Higgin, Ms. Shelley Grice and Mr. David MacIntosh. The OEB is of the view that 40 hours is reasonable and has reduced Energy Probe's preparation time accordingly. As there were three consultants involved, the OEB has used a prorated rate of \$296.63 per hour to reflect the reduction.

BOMA

The OEB notes that BOMA claimed 63.5 hours preparation time. The OEB will reduce the preparation time to 40 hours.

CME

The OEB has compared the claim of CME to that of SEC. In both cases a junior lawyer had main carriage of the file and was assisted by senior counsel. In the case of SEC, senior counsel billed 3 hours in his role as advisor. The OEB has determined that 3 hours of senior counsel time is reasonable. The OEB has therefore determined that senior counsel in the advisor role for CME should also be allowed 3 hours. The OEB finds that the claim for preparation time for CME's junior counsel will be reduced from 75 hours to 50 hours. The claim of CME also requires a minor reduction to comply with the government's *Travel, Meal and Hospitality Expenses Directive*.

Northeast Midstream LP

With respect to Northeast Midstream LP's cost claim, the OEB will allow the total amount claimed by Mr. Steve Gaske, the expert witness from Concentric Energy Advisors, Inc. of \$25,470.93, which includes disbursements of \$1,463.43. The OEB will not allow the claims of the other three individuals who have billed time on behalf of Concentric. These ancillary amounts should be encompassed within the amount the OEB has allowed to be claimed by the expert, Mr. Gaske. The OEB will not require Union to cover additional costs of Concentric.

The OEB has considered the claims of Northeast Midstream LP for Mr. Wolnik, Mr. Malcolmson and Mr. Lederman as a group when determining costs. Mr. Wolnik was not qualified as an expert and did not prepare a report. His role was to assist counsel. The OEB will reduce the preparation hours of Mr. Wolnik to 40 hours which is in keeping

with other consultants' awarded costs. The preparation time of Mr. Malcolmson was 8.8 hours and Mr. Lederman 51.9 hours. The OEB will allow these claims. More preparation time is reasonable for Northeast Midstream LP as they were the applicant in this case and they filed expert evidence. Northeast Midstream LP included photocopying charges (\$1,038.75) which is significantly higher than other intervenors' claims. The OEB will reduce this photocopying charge by 50%.

The OEB finds that the adjusted claims of BOMA, CME, Energy Probe and Northeast Midstream LP are reasonable and each of these claims shall be reimbursed by Union.

THE OEB THEREFORE ORDERS THAT:

1. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Union shall immediately pay the following amounts to the intervenors for their costs:

• Building Owners and Managers Association Toronto	\$17,384.06
• Canadian Manufacturers and Exporters	\$20,293.61
• Energy Probe Research Foundation	\$19,298.13
• Industrial Gas Users Association	\$1,592.24
• Northeastern Midstream LP	\$63,488.77
• School Energy Coalition	\$12,068.40

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

DATED at Toronto, June 2, 2015

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary