



EB-2014-0083

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 Hydro
One Brampton Networks Inc. for an order approving
just and reasonable rates and other charges for
electricity distribution to be effective January 1, 2015.

BEFORE: Cathy Spoel
Presiding Member

Christine Long
Member

DECISION AND ORDER ON COST AWARDS
June 4, 2015

Background

Hydro One Brampton Networks Inc. (Hydro One Brampton) filed an application with the Ontario Energy Board (OEB) on April 23, 2014 under section 78 of the *Ontario Energy Board Act, 1998*, seeking approval for changes to the rates that Hydro One Brampton charges for electricity distribution, effective January 1, 2015.

On July 10, 2014, the OEB issued its Procedural Order No.1 granting the Building Owners and Managers Association of Greater Toronto (BOMA), Energy Probe Research Foundation (Energy Probe), School Energy Coalition (SEC) and the Vulnerable Energy Consumers Coalition (VECC) intervenor status and cost award eligibility.

The OEB issued its Final Rate Order on the application on January 15, 2015, in which it set out the process for intervenors to file their cost claims and to respond to any objections raised by Hydro One Brampton.

The OEB received cost claims from BOMA, Energy Probe, SEC and VECC. In response to the Board's concerns regarding the materiality of issues addressed in the hearing, VECC submitted that it had acted responsibly and in the spirit of the OEB's directions in the proceeding. Energy Probe supported the position of VECC.

On January 28, 2015, Hydro One Brampton submitted a letter of objection regarding the cost claims submitted by the intervenors.

Hydro One Brampton noted that the OEB has advised the parties on a number of occasions not to engage in detailed exploration of immaterial issues. However, Hydro One Brampton submitted that it had devoted a large amount of time and resources on issues pursued by intervenors that did not have a material impact on the company's operations, nor on its rates.

Hydro One Brampton submitted that BOMA's hours claimed for participation in the proceeding were excessive and out of line with the other cost claims received, resulting in overall hours between 36% and 48% higher than those of other intervenors. Hydro One Brampton stated that BOMA did not contribute to the process to the same degree as other intervenors and pursued issues that went beyond the scope of the current proceeding and BOMA's constituency's interests.

Hydro One Brampton also objected to BOMA's disbursements, which included a pre-tax claim for printing/photocopying of \$3,137, which is significantly higher than other intervenors' claims.

Hydro One Brampton also noted in its letter that VECC and Energy Probe had claimed attendance hours for two consultants for the technical conference and the oral hearing, respectively, despite the OEB's stated intention to award costs for attendance by a single representative without a compelling reason.

Finally, Hydro One Brampton questioned the use of different HST rates by VECC and Energy Probe, who share a similar non-profit classification.

In its response to Hydro One Brampton's objections, BOMA indicated that it had submitted a reasonable claim given the complexities of the case, participating actively in the interrogatory phase of the proceeding as well as the settlement conference and written argument phases. It stated that, while it had not attended the oral hearing, it had applied the preparation hours to the development of a substantial argument.

BOMA noted that the five interrogatories cited by Hydro One Brampton as beyond the scope of the proceeding and outside BOMA's constituency's interest represented only a small portion of the total amount of interrogatories it submitted, which covered all aspects of the case. The interrogatories in question dealt with the utility's implementation of government policy on distributed generation, which is within the scope of the proceeding and a subject of interest to BOMA's clients.

BOMA stated that it had made an extra copy of the application and agreed not to claim such costs in the future.

OEB Findings

In reviewing the conduct of the hearing and the costs claims filed by the intervenors, the OEB has two main concerns.

The first is that issues were pursued at the hearing that were not material, and that were clearly known by the intervenors by the conclusion of the settlement process not to be material. This resulted not only in additional time spent by the intervenors' representatives, but also by Hydro One Brampton in responding to these issues and the OEB in having to hear them and make decisions. The OEB finds that this is not effective participation and will reduce each of the intervenor's claims to reflect this.

The OEB's second concern is that BOMA's cost claim is excessive. BOMA has claimed 100 hours for pre-hearing processes, while all the other intervenors are in the 60 – 63 hour range. BOMA also claimed a similar number of hours to the other intervenors for hearing preparation, attendance and argument, but did not attend the hearing, so spent more time than the other parties on preparation and argument. The OEB is not aware of any particular contribution made by BOMA above and beyond that of the other intervenors that would justify a substantially higher expenditure of time.

The OEB will also disallow BOMA's cost for printing an additional set of hearing materials which were available on line and by request from the applicant.

While it is not entirely clear in all cases how parties' time was allocated, the OEB's view is that approximately 60-63 hours is reasonable for prehearing and 10 hours is reasonable for hearing time. In each case except SEC, the reductions will be at the highest rate charged (\$330/hour). In SEC's case, as there were 2 counsel involved in different aspects of the hearing phase, the OEB has prorated the rates to \$210.55 for the purposes of the reduction.

BOMA's claim for fees is therefore reduced by 46.20 hours or \$15,246, Energy Probe's claim is reduced by 17.45 hours or \$5,758.50, SEC's claim is reduced by 11.70 hours or \$2,463.43, and VECC's claim is reduced by 7.10 hours or \$2,343, plus appropriate adjustments for HST. BOMA's disbursements are also reduced by \$1,772.15 for printing and photocopying.

VECC's claim has also been reduced to comply with the government's *Travel, Meal and Hospitality Expenses Directive* and to correct an error in a parking calculation.

THE OEB THEREFORE ORDERS THAT:

1. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Hydro One Brampton shall immediately pay the following amounts to the intervenors for their costs:
 - Building Owners and Managers Association \$29,234.50
 - Energy Probe Research Foundation \$25,175.20
 - School Energy Coalition \$20,257.02
 - Vulnerable Energy Consumers Coalition \$25,768.28

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

DATED at Toronto, June 4, 2015

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary