



Ontario Energy Board
Commission de l'énergie de l'Ontario

DECISION AND ORDER ON COST AWARDS EB-2014-0273

UNION GAS LIMITED

**Application for an order or orders approving
the final balances and for clearance of certain
Demand Side Management Variance Accounts**

Before: Emad Elsayed
Member

July 13, 2015

Background

Union Gas Limited (Union) filed an application with the Ontario Energy Board (OEB) dated December 9, 2014 under section 36 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, (Schedule B), seeking approval to clear the balances in certain 2013 Demand Side Management deferral and variance accounts.

On February 11, 2015, the OEB issued Procedural Order No. 1, granting the Association of Power Producers of Ontario (APPrO), the Building Owners and Managers Association, Greater Toronto (BOMA), the Canadian Manufacturers & Exporters (CME), the London Property Management Association (LPMA) and the Ontario Greenhouse Vegetable Growers (OGVG) intervenor status and cost award eligibility.

On June 4, 2015, the OEB issued its Decision and Order, 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 APPrO, BOMA, CME, LPMA and OGVG.

Union filed a letter with the OEB indicating that it had no specific concerns with the cost claims submitted with the exception of the cost claim by APPrO. Union's concern with APPrO's cost claim relates to the overall magnitude of the hours claimed for participation in relation to the other intervenors. Union noted that APPrO's total hours claimed equaled the total hours claimed by the other four intervenors combined. In its letter responding to Union's objection, APPrO indicated that its role in this proceeding was distinct from, and more involved than, that of other intervenors.

OEB FINDINGS

The OEB has reviewed the cost claims of APPrO, BOMA, CME, LPMA and OGVG.

The OEB finds that the claims for BOMA, CME, LPMA and OGVG are approved as submitted.

APPrO's claim as submitted requires a minor reduction of \$9.60 to correct the Preparation-Interrogatories time for one legal counsel from 2.20 to 2.15 hours, which adjusts the original amount claimed from \$9,761.54 to \$9,751.94. Further, the cost claim for APPrO is reduced from the adjusted amount of \$9,751.94 to \$5,000.00 including disbursements. The reasons for this reduction are described below.

In its response to Union's objection to the magnitude of its cost claim compared to the other intervenors, APPrO provided two main reasons; namely that APPrO was one of only two intervenors that entered into confidentiality undertakings to probe the evidence for the benefit of all and assist the Board in discharging its statutory duty; and that APPrO was also the lead intervenor in all confidential interrogatories.

The OEB notes that the only confidentiality issue in this proceeding related to information that could result in identifying customers that took part in the audit (e.g. names, addresses, or other customer specific information).

Regarding the first reason provided by APPrO, the OEB does not believe that entering into confidentiality undertakings in itself is a sufficient reason for the cost claim to be significantly higher than other intervenors. While it is true that APPrO and LPMA are the only two intervenors that entered into confidentiality undertakings, it was actually only LPMA that made a submission on the confidentiality issue. APPrO did not.

Regarding the second reason, the OEB finds that while APPrO's interrogatories may have been largely of a confidential nature, other intervenors (LPMA and OGVG) submitted interrogatories involving other issues. The OEB finds that the number of hours claimed by APPrO for interrogatory preparation is disproportionately high (more than four times LPMA and OGVG hours combined). Furthermore, the OEB notes that following these interrogatories, only LPMA and OGVG made final submissions in this proceeding. APPrO did not.

Based on the above, the OEB does not find any compelling reason for APPrO's cost claim to be significantly higher than the other intervenors. The OEB therefore orders that APPrO's cost claim be reduced from the adjusted amount of \$9,751.94 to the highest cost claim of the other intervenors, which is approximately \$5,000.00.

With the exception noted above, the OEB finds that all parties are eligible for 100% of their reasonably incurred costs of participating in this proceeding. The OEB finds that the claims of BOMA, CME, LPMA, OGVG and the adjusted claim of APPrO are reasonable and each of these claims shall be reimbursed by Union.

IT IS ORDERED 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:
 - Association of Power Producers of Ontario \$5,000.00
 - Building Owners and Managers Association, Greater Toronto \$4,674.80
 - Canadian Manufacturers & Exporters \$1,938.52
 - London Property Management Association \$1,789.92
 - Ontario Greenhouse Vegetable Growers \$4,288.35
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, July 13, 2015

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary