

Eric K. Gillespie
Direct Tel: 416.703.6362
Email: egillespie@gillespielaw.ca

August 12, 2015

Delivered via Courier and Email

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
P.O. Box 2319, Suite 2700
Toronto, ON M4P 1E4
Fax: (416) 440-7656
Email: boardsec@ontarioenergyboard.ca

Dear Ms. Walli:

**Re: EB-2013-0442 - wpd Sumac Ridge Incorporated - Application for an Order under section (41)9 of
the *Electricity Act, 1998***

We are counsel for Dr. E. Salmon, an Intervenor in this matter. We write in response to the Applicant's Objection to the Cost Claim of our clients, dated July 30, 2015.

Dr. Salmon respectfully requests that the Ontario Energy Board (the "Board") disregard the objections made by the Applicant on the issue of her Cost Claim and the request for a reduction in the costs payable. While the Board's decision was ultimately in favour of the Application, the issues facing the Board with respect to this particular Application were issues that were novel, especially the road allowance question on which the Board requested further submissions, and were worthy of the Board's determination. As such, these issues were ones that were validly raised by Dr. Salmon in an effort to fully engage with the Board and the Applicant within the context of the Application.

In its Response, the Applicant states that a number of the Interrogatories filed by the Dr. Salmon were outside the jurisdiction of the Board. Dr. Salmon submits that this characterisation was never ruled on by the Board and is solely the opinion of the Applicant. In Dr. Salmon's respectful submission, it would be unfair for the Board to rely on this opinion in deciding the issue of costs when it was never directly ruled on by the Board. Had the Applicant answered the questions posed to it, rather than dismissing them out of hand as being, in its sole opinion, outside the jurisdiction of the Board, the Board may have been provided with further relevant information on which to base its decision.

Dr. Salmon submits that the costs claimed by her represent those costs incurred by her Counsel on her behalf. These costs do not include any disbursements. Nor do these costs represent any of the time spent by Dr. Salmon personally, prior to the retaining of Counsel, for which she cannot be compensated. Further, the rates for Counsel specified by the Board do not necessarily reflect the actual rate paid by Dr. Salmon. The complexity of the issues surrounding the Application and the fact that aspects of it required further detailed submissions at the request of the Board all served to increase the time necessarily spent by Dr. Salmon to participate fully in the process before the Board. To reduce the costs awarded, as requested by the Applicant, would amount to a punishment that would not be reasonable in the circumstances.

Dr. Salmon's participation in this Hearing was framed by the Board's jurisdiction as noted in Procedural Order No. 1. It was neither frivolous nor vexatious and at all times sought to advance the understanding of the Board and those persons impacted by the Application of the issues involved. As a result, Dr. Salmon submits that her costs are reasonable and requests that the Board grant her the full costs claimed in her respective Cost Submissions.

Dr. Salmon further respectfully requests that the Board accept these Reply Submissions which, due to the inadvertence of Counsel, are being filed after the date set out by the Board in its Decision and Order of July 16, 2015. The lawyer who has been primarily responsible for the carriage of this matter, Mr. Andrews, was away from the office when the Objection was sent by the Applicant. However we have endeavoured to provide these Reply Submissions as soon as possible on his return. We apologise for any inconvenience this may have caused the Board.

Thank you for your attention to this matter.

Yours very truly,

ERIC K. GILLESPIE
PROFESSIONAL CORPORATION



Eric K. Gillespie
EKG/ga