



EB-2015-0051

Algoma Power Inc.

**Application for electricity distribution rates and other
charges effective January 1, 2016.**

BEFORE: Allison Duff
Presiding Member

Victoria Christie
Member

**DECISION AND PROCEDURAL ORDER NO. 3
November 9, 2015**

Introduction and Summary

Algoma Power Inc. (Algoma Power) applied under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B) and under the OEB's filing requirements for incentive regulation rate applications seeking approval for changes to its electricity distribution rates to be effective January 1, 2016.

Procedural Order No. 1 was issued October 7, 2015. Therein, among other things, the Registrar denied a request by the Algoma Coalition (Coalition) for cost eligibility in this proceeding.

On October 27, 2015, the Coalition appealed the Registrar's decision denying it eligibility for costs.

The OEB heard the appeal and issued Decision and Procedural Order No. 2, wherein the Coalition was allowed to provide additional information regarding its request for cost eligibility in this proceeding.

The OEB approves the Coalition's request for cost eligibility based on the additional information provided. The OEB is satisfied that the Coalition indirectly represents ratepayers and requires cost awards to provide submissions, representing interests that would otherwise not be heard.

Decision on the Issue

The Coalition filed its submission on November 6, 2015, in accordance with the directions set out in Procedural Order No. 2. The Coalition addressed the OEB's two questions:

- i. how the Coalition receives direction in order to represent the interests of Algoma Power's R1 class and, in particular, shall address section 3.03 (a) of the *Practice Direction on Cost Awards*;
- ii. the extent to which the Coalition is funded by the municipalities in Algoma Power's service territory.

The Coalition advises that it is spearheaded by the CAO/Clerk-Treasurer of the Municipality of Wawa yet it communicates with, and receives direction from, members at town hall meetings. The Coalition's members are characterized as "small Northern Ontario municipalities whose ratepayers interests are collectively represented by the Coalition". The Coalition submits that the "interest of these ratepayers is distinct from those of ratepayers in larger Southern Ontario communities and are otherwise unrepresented before the Board". Moreover, the Coalition submits that denying it eligibility for costs "deprives these ratepayers of having a voice in Board proceedings and creates a barrier to access to justice".

The Coalition submits that its funding is entirely through cost awards as "its members, being small Northern Municipalities, have extremely limited financial resources". The Coalition also submits that a number of the members contribute to their work through in-kind contributions such as meeting coordination and communications. The Coalition submits that it provides a positive contribution to Board proceedings and to deny it eligibility for costs is to "take away the voice of small Northern Ontario municipalities".

The *Practice Direction on Cost Awards* is clear that a municipality (individually or in a group) or a corporation owned by any level of government including a municipality, is *prima facie* ineligible for an award of costs. However, the Coalition has provided sufficient evidence that it is indirectly representing ratepayers in municipalities that would not be otherwise heard to warrant cost eligibility in this proceeding.

The OEB considers it necessary to make provision for the following matters related to this proceeding, and may issue further procedural orders from time to time.

IT IS THEREFORE ORDERED THAT:

1. The Coalition shall be eligible for an award of costs in this proceeding in relation to its limited intervention on the issue of Algoma Power's rate design proposal for customers in the R1 class.
2. The Coalition will be limited to the provision of a written submission on Algoma Power's rate design proposal for customers in the R1 class.
3. The due date for submissions on the application has been extended from November 6, 2015, as originally set by Procedural Order No. 1, until Monday November 16, 2015.
4. The due date for reply submissions on the application has been extended from November 19, 2015 until Thursday November 26, 2015.

All filings to the OEB must quote the file number, EB-2015-0051 and be made electronically in searchable/unrestricted PDF format through the OEB's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>. Two paper copies must also be filed at the OEB's address provided below. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <http://www.ontarioenergyboard.ca/OEB/Industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:00 p.m. on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Stephen Vetsis at

Stephen.Vetsis@ontarioenergyboard.ca and OEB Counsel, Richard Lanni at Richard.Lanni@ontarioenergyboard.ca.

ADDRESS

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DATED at Toronto, **November 9, 2015**

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary