



## Jay Shepherd

Professional Corporation  
2200 Yonge Street  
Suite 1302 M4S 2C6  
Toronto, ON M4P 1E4

**BY EMAIL and RESS**

May 31, 2016  
Our File: CO-2015-0102

Ontario Energy Board  
2300 Yonge Street  
27th Floor  
Toronto, Ontario  
M4P 1E4

**Attn: Kirsten Walli, Board Secretary**

Dear Ms. Walli:

**Re: EB-2015-0334 – Babirad Motion to Review – Cost Claim**

We are counsel to Jim Babirad. We enclose the cost claim of Jim Babirad.

The undersigned has carriage of this matter with limited assistance by senior counsel. Since Jim Babirad was not represented by counsel or a consultant in the underlying proceeding, time was required during the process to review, for the first time, the significant record for the purpose of presenting the issues clearly and as focused as possible to the Board.

We have attempted to match activities undertaken in this proceeding with the categories set out in the Board's cost claim form as best as we can. Time has been allocated to the ADR category for good faith settlement discussions that, while ultimately unsuccessful, took place between parties between the filing of the Notice of Motion and the Board's issuance of the initial Procedural Order.

All of which is respectfully submitted.

**Jay Shepherd P.C.**

*Original signed by*

Mark Rubenstein

cc: P. Babirad (by email)  
Enbridge Gas Distribution Inc. (by email)

T. (416) 483-3300 F. (416) 483-3305

[mark.rubenstein@canadianenergylawyers.com](mailto:mark.rubenstein@canadianenergylawyers.com)  
[www.canadianenergylawyers.com](http://www.canadianenergylawyers.com)

# Ontario Energy Board COST CLAIM FOR HEARINGS



## Affidavit and Summary of Fees and Disbursements

This form should be used by a party to a hearing before the Board to identify the fees and disbursements that form the party's cost claim. Paper and electronic copies of this form and itemized receipts must be filed with the Board and served on one or more other parties as directed by the Board in the applicable Board order. Please ensure all required (yellow-shaded) fields are filled in and the Affidavit portion is signed and sworn or affirmed.

### Instructions

- Required data input is indicated by yellow-shaded fields. Formulas are embedded in the form to assist with calculations.
- All claims must be in Canadian dollars. If applicable, state exchange rate and country of initial currency.

Rate: \_\_\_\_\_

Country: \_\_\_\_\_

- A separate "Detail of Fees and Disbursements Being Claimed" (comprising a "Statement of Fees Being Claimed" and a "Statement of Disbursements Being Claimed") is required for each lawyer, analyst/consultant and articling student/paralegal.

However, only one "Summary of Fees and Disbursements" covering the whole of the party's cost claim should be provided.

- The cost claim must be supported by a completed Affidavit signed by a representative of the party.
- A CV for each consultant/analyst must be attached unless provided to the Board as prescribed on the Cost Award Tariff.

**Except as provided in section 7.03 of the Practice Direction on Cost Awards, itemized receipts must be provided.**

File # EB-	2015-0334	Process:	Babirad Motion to Review
Party:	Jim Babirad	Affiant's Name:	Mark Rubenstein
HST Number:	83673-5464-RT0001	HST Rate Ontario:	13.00%
Full Registrant	<input checked="" type="checkbox"/>	Qualifying Non-Profit	<input type="checkbox"/>
Unregistered	<input type="checkbox"/>	Tax Exempt	<input type="checkbox"/>
Other	<input type="checkbox"/>		

### Affidavit

I, Mark Rubenstein, of the City/Town of Toronto  
in the Province/State of Ontario, swear or affirm that:

1. I am a representative of the above-noted party (the "Party") and as such have knowledge of the matters attested to herein.
2. I have examined all of the documentation in support of this cost claim, including the attached "Summary of Fees and Disbursements Being Claimed", "Statement(s) of Fees Being Claimed" and "Statement(s) of Disbursements Being Claimed".
3. The attached "Summary of Fees and Disbursements Being Claimed", "Statement(s) of Fees Being Claimed" and "Statement(s) of Disbursements Being Claimed" include only costs incurred and time spent directly for the purposes of the Party's participation in the Ontario Energy Board process referred to above.
4. This cost claim does not include any costs for work done, or time spent, by a person that is an employee or officer of the Party as described in sections 6.05 and 6.09 of the Board's Practice Direction on Cost Awards.

### Signature of Affiant

Sworn or affirmed before me at the City/Town of Toronto,  
in the Province/State of Ontario, on May 31, 2016.  
(date)

Commissioner for taking Affidavits

**Ontario Energy Board**  
**COST CLAIM FOR HEARINGS**



**Affidavit and Summary of Fees and Disbursements**

File # EB- 2015-0334

Process: Babirad Motion to Review

Party: Jim Babirad

**Summary of Fees and Disbursements Being Claimed**

Legal/consultant/other fees	\$	6,430.00
Disbursements	\$	-
HST	\$	835.90
<b>Total Cost Claim</b>	<b>\$</b>	<b>7,265.90</b>

**Payment Information**

Make cheque payable to: Jay Shepherd Professional Corporation, in trust

Send payment to this address: Jay Shepherd Professional Corporation  
2200 Yonge Street  
Suite 1302  
Toronto, ON M4S2C6

# Ontario Energy Board

## COST CLAIM FOR HEARINGS



### Detail of Fees and Disbursements Being Claimed

<b>File # EB-</b> <u>2015-0334</u>	<b>Process:</b> <u>Babirad Motion to Review</u>
<b>Party:</b> <u>Jim Babirad</u>	<b>Service Provider Name:</b> <u>Mark Rubenstein</u>

  

<b>SERVICE PROVIDER TYPE</b> (check one)	<b>Year Called to Bar</b>	<b>Completed Years Practising/Years of Relevant Experience</b>
Legal Counsel <input checked="" type="checkbox"/>	2011	4
Articling Student/Paralegal <input type="checkbox"/>		
Consultant <input type="checkbox"/>		
Analyst <input type="checkbox"/>		

  

For Consultant/Analyst: <input type="checkbox"/> CV attached	<b>HST Rate Charged (enter %):</b> <u>13.0%</u>
<input type="checkbox"/> CV provided within previous 24 months	

Statement of Fees Being Claimed					
	Hours	Hourly Rate	Subtotal	HST	Total
<b>Pre-hearing Conference</b>					
Preparation	6.60	\$ 170.00	\$ 1,122.00	\$ 145.86	\$ 1,267.86
Attendance		\$ 170.00	\$ -	\$ -	\$ -
<b>Technical Conference</b>					
Preparation		\$ 170.00	\$ -	\$ -	\$ -
Attendance		\$ 170.00	\$ -	\$ -	\$ -
<b>Interrogatories</b>					
Preparation		\$ 170.00	\$ -	\$ -	\$ -
Responses		\$ 170.00	\$ -	\$ -	\$ -
<b>Issues Conference</b>					
Preparation		\$ 170.00	\$ -	\$ -	\$ -
Attendance		\$ 170.00	\$ -	\$ -	\$ -
<b>ADR - Settlement Conference</b>					
Preparation		\$ 170.00	\$ -	\$ -	\$ -
Attendance	4.90	\$ 170.00	\$ 833.00	\$ 108.29	\$ 941.29
Proposal Preparation		\$ 170.00	\$ -	\$ -	\$ -
<b>Argument</b>					
Preparation	23.80	\$ 170.00	\$ 4,046.00	\$ 525.98	\$ 4,571.98
<b>Oral Hearing</b>					
Preparation		\$ 170.00	\$ -	\$ -	\$ -
Attendance		\$ 170.00	\$ -	\$ -	\$ -
<b>Other Conferences</b>					
Preparation		\$ 170.00	\$ -	\$ -	\$ -
Attendance		\$ 170.00	\$ -	\$ -	\$ -
<b>Case Management</b>		\$ 170.00	\$ -	\$ -	\$ -
<b>TOTAL SERVICE PROVIDER FEES</b>			\$ 6,001.00	\$ 780.13	\$ 6,781.13

# Ontario Energy Board

## COST CLAIM FOR HEARINGS



### Detail of Fees and Disbursements Being Claimed

File # EB- 2015-0334

Process: Babirad Motion to Review

Party: Jim Babirad

Service Provider Name: Mark Rubenstein

Statement of Disbursements Being Claimed			
	Net Cost	HST	Total
Scanning/Photocopy			\$ -
Printing			\$ -
Courier			\$ -
Telephone/Fax			\$ -
Transcripts			\$ -
Travel: Air			\$ -
Travel: Car			\$ -
Travel: Rail			\$ -
Travel (Other):			\$ -
Parking			\$ -
Taxi			\$ -
Accommodation			\$ -
Meals			\$ -
Other:			\$ -
Other:			\$ -
Other:			\$ -
<b>TOTAL DISBURSEMENTS:</b>	\$ -	\$ -	\$ -

# Ontario Energy Board

## COST CLAIM FOR HEARINGS



### Detail of Fees and Disbursements Being Claimed

<b>File # EB-</b> <u>2015-0334</u>	<b>Process:</b> <u>Babirad Motion to Review</u>
<b>Party:</b> <u>Jim Babirad</u>	<b>Service Provider Name:</b> <u>Jay Shepherd</u>

  

<b>SERVICE PROVIDER TYPE</b> (check one)	<b>Year Called to Bar</b>	<b>Completed Years Practising/Years of Relevant Experience</b>
Legal Counsel <input checked="" type="checkbox"/>	1980	35
Articling Student/Paralegal <input type="checkbox"/>		
Consultant <input type="checkbox"/>		
Analyst <input type="checkbox"/>		

  

For Consultant/Analyst: <input type="checkbox"/> CV attached	<b>HST Rate Charged (enter %):</b> <u>13.0%</u>
<input type="checkbox"/> CV provided within previous 24 months	

Statement of Fees Being Claimed					
	Hours	Hourly Rate	Subtotal	HST	Total
<b>Pre-hearing Conference</b>					
Preparation	0.30	\$ 330.00	\$ 99.00	\$ 12.87	\$ 111.87
Attendance		\$ 330.00	\$ -	\$ -	\$ -
<b>Technical Conference</b>					
Preparation		\$ 330.00	\$ -	\$ -	\$ -
Attendance		\$ 330.00	\$ -	\$ -	\$ -
<b>Interrogatories</b>					
Preparation		\$ 330.00	\$ -	\$ -	\$ -
Responses		\$ 330.00	\$ -	\$ -	\$ -
<b>Issues Conference</b>					
Preparation		\$ 330.00	\$ -	\$ -	\$ -
Attendance		\$ 330.00	\$ -	\$ -	\$ -
<b>ADR - Settlement Conference</b>					
Preparation		\$ 330.00	\$ -	\$ -	\$ -
Attendance		\$ 330.00	\$ -	\$ -	\$ -
Proposal Preparation		\$ 330.00	\$ -	\$ -	\$ -
<b>Argument</b>					
Preparation	1.00	\$ 330.00	\$ 330.00	\$ 42.90	\$ 372.90
<b>Oral Hearing</b>					
Preparation		\$ 330.00	\$ -	\$ -	\$ -
Attendance		\$ 330.00	\$ -	\$ -	\$ -
<b>Other Conferences</b>					
Preparation		\$ 330.00	\$ -	\$ -	\$ -
Attendance		\$ 330.00	\$ -	\$ -	\$ -
<b>Case Management</b>		\$ 170.00	\$ -	\$ -	\$ -
<b>TOTAL SERVICE PROVIDER FEES</b>			\$ 429.00	\$ 55.77	\$ 484.77

**Ontario Energy Board**  
**COST CLAIM FOR HEARINGS**



**Detail of Fees and Disbursements Being Claimed**

File # EB- 2015-0334

Process: Babirad Motion to Review

Party: Jim Babirad

Service Provider Name: Jay Shepherd

Statement of Disbursements Being Claimed			
	Net Cost	HST	Total
Scanning/Photocopy			\$ -
Printing			\$ -
Courier			\$ -
Telephone/Fax			\$ -
Transcripts			\$ -
Travel: Air			\$ -
Travel: Car			\$ -
Travel: Rail			\$ -
Travel (Other):			\$ -
Parking			\$ -
Taxi			\$ -
Accommodation			\$ -
Meals			\$ -
Other:			\$ -
Other:			\$ -
Other:			\$ -
<b>TOTAL DISBURSEMENTS:</b>	\$ -	\$ -	\$ -

Date	Explanation	Lwyr	Hours
20151115	Review Materials/ emails/draft retainer material	MR	1.5
20151116	Review materials/emails/phone call with Paul Babirad	MR	0.8
20151117	Emails/ phone calls with E. Chin (EGD)/ phone calls with P.Babirad/review materials/draft Notice of Motion to Review	MR	3.4
20151117	Edit Notice of Appeal	JCS	0.3
20151118	Emails/finalize and file Notice of Motion	MR	0.5
20151119	Review acknowledgment letter/ email	MR	0.1
20151120	Phone call with Fred Cass	MR	0.2
20151121	Email	MR	0.2
20151122	Email	MR	0.1
20151123	Review EGD corr/emails	MR	0.2
20151124	Phone call with Paul Babirad	MR	0.3
20151126	Emails	MR	0.1
20151130	draft offer and spreadsheet/emails/p.call w P. Babirad x 2	MR	1.2
20151209	emails	MR	0.2
20151210	p. call w Paul Babirad/draft response to EGD	MR	1.0
20151222	emails	MR	0.2
20160104	emails/p. call w P. Babiard	MR	0.3
20160105	Emails	MR	0.1
20160106	p. call w Fred Cass/emails	MR	0.3
20160107	emails/p.call w M. Helt	MR	0.1
20160108	p. call w P. Babiard	MR	0.1
20160113	emails	MR	0.1
20160114	rec message from F. Cass/leave message for F. Cass/emails	MR	0.1
20160121	emails re: report on conversaton with F.Cass	MR	0.1
20160203	review PO/p. call w M. Helt re: clarification of PO/emails	MR	0.3
20160209	p.call w. P. Babirad	MR	0.1
20160212	research/review record/outline arg	MR	2.5
20160213	draft argument	MR	3.0
20160215	draft and edit argument	MR	2.5
20160216	edit argument	MR	0.3
20160217	disc w JCS to review comments/make edits and finalize to send to client/emails	MR	1.0
20160218	finalize documents and file/emails	MR	0.8
20160303	review decision/emails	MR	0.3
20160316	p. call with Board Counsel Helt	MR	0.1
20160329	email/prelim look at EGD materials and staff submissions	MR	0.4
20160330	emails	MR	0.2
20160331	emails/review Paul Babirad thoughts	MR	0.2
20160401	p. call with Paul re: reply instructions	MR	0.5
20160403	review email	MR	0.1
20160404	emails/review submissions and outline response/legal research re: laches/provide revised compensation spreadsheet to Paul Babirad	MR	2.4



20160405	draft argument/emails	MR	4.0
20160406	draft argument	MR	1.3
20160410	Review and comment to MR on Reply Argument	JCS	1.0
20160410	finalize and edit draft submissions	MR	0.5
20160411	emails/p. call with Paul Babirad/review and edit submissions	MR	0.7
20160412	emails/revise submissions/prepare BofA/edit, finalize and file reply submissions	MR	2.2
20160413	conv w SP re: filing BoA hard copy	MR	0.1
20160505	review decision/emails	MR	0.3
20160506	emails	MR	0.1
20160512	emails	MR	0.2
			36.6