

IN THE MATTER of the *Ontario Energy Board Act 1998*, Schedule B to the *Energy Competition Act*, 1998, S.O. 1998, c.15;

AND IN THE MATTER OF an Application by Oakville Hydro Electricity Distribution Inc. for an Order or Orders approving just and reasonable rates and other service charges for the distribution of electricity, effective on January 1, 2017.

NOTICE OF INTERVENTION

OF THE

HVAC COALITION

1. The HVAC Coalition hereby applies for intervenor status in this proceeding, and requests that the Board allow recovery of its reasonably incurred costs of its participation.

General Interest of the Intervenor

2. The HVAC Coalition is a coalition established to represent the interests of Ontario heating and air conditioning contractors, suppliers, and manufacturers in matters relating to energy regulation, policy, and management. It counts amongst its members a majority of the heating and air conditioning contractors operating within the Applicant's franchise area.
3. The intervenor's members have a significant interest in the activities of regulated electricity distributors and their affiliates in the province, because any action by an electricity distributor to use its monopoly power to affect the competitive markets can affect not only the economic viability of the members' businesses, but the nature and price of the services available to the members' customers. Past actions of gas and electric utilities and their affiliates have created significant barriers to the competitive flow of goods and services within the HVAC equipment and servicing sectors, in some cases causing bankruptcies or other serious impacts on local small and medium sized enterprises around the province. Where in the past the gas utilities utilized their regulated activities to subsidize competitive activities, to the detriment of the ratepayers, we are now seeing an increasing tendency by electricity distributors to seek higher profits through unregulated activities whose cost advantages, if any, are the result of ratepayer subsidies.

Issues to be Addressed

4. The final cost allocation study required by the Board in EB-2013-0159 (the "Cost Allocation Study") was to be filed in EB-2015-0094, but the document that was filed by the Applicant was, in HVAC Coalition's view, non-compliant with the Board's order. The result was that the 2016 rates for the Applicant were, with HVAC Coalition's express assent, declared interim by the Board. They remain interim at this time, and the Cost Allocation Study has not yet been reviewed by the Board. The EB-2015-0094 remains open, with all matters not yet resolved.
5. HVAC Coalition's intended participation in EB-2016-0097 will focus on the following issues:

- (a) The Cost Allocation Study, and the impacts, if any, of the information and results contained in that study on the costs properly allocated to ratepayers and the distribution rates proposed in the Application; and
- (b) Generally to represent the interests of local heating and air conditioning contractors in this process.

The Intervenor's Intended Participation

- 6. The HVAC Coalition intends to participate in any pre-hearing procedures, including interrogatories or technical conferences, and settlement conferences. HVAC Coalition also intends to participate in any oral hearing of this matter, and in written or oral submissions, as well as any other parts of the process that the Board should order.
- 7. Depending on the final version of the Cost Allocation Study, the HVAC Coalition may seek to file evidence relating to:
 - (a) The possibility that the actions of the Applicant and its affiliates in the franchise area include a ratepayer subsidy or are otherwise anti-competitive; and/or
 - (b) The appropriate level of costs of the regulated utility that should be borne by the unregulated affiliates, and not through regulated rates, which evidence may include a review of the Cost Allocation Study.

Nature of Hearing Requested

- 8. Until the Cost Allocation Study has been reviewed by the Board, and interrogatories have been answered in relation to that study, we believe it is premature to assess whether a written or an oral hearing is more appropriate in this proceeding.

Counsel/Representative

- 9. The HVAC Coalition requests that a copy of all documents filed with the Board by each party to this proceeding be served on the Applicant, and on the Applicant's counsel, as follows:

- (a) HVAC Coalition:

HVAC COALITION
2350 Matheson Blvd. East,
Suite 101
Mississauga, Ontario
L4W 5G9

Attn: Martin Luymes, Co-ordinator
Phone: 905 602-4700 Ext. 235
Fax: 905 602-1197
Email: mluymes@hrai.ca

(b) HVAC Coalition's counsel:

JAY SHEPHERD PROFESSIONAL CORPORATION

2200 Yonge Street, Suite 1302
Toronto, Ontario, M4S 2C6

Attn: Jay Shepherd
Phone: 416-483-3300
Cell: 416-804-2767
Fax: 416-483-3305
Email: jay.shepherd@canadianenergylawyers.com

Costs

10. In recent years, the HVAC Coalition has only rarely sought or been awarded costs relating to its participation in proceedings before the Board. Those situations in which costs have been allowed have been ones in which the primary focus has been on the impact on ratepayers, and HVAC Coalition can provide a perspective to the Board that would otherwise not be available. HVAC Coalition generally does not intervene where those conditions are not met.
11. This Applicant, unlike some other electricity distributors, has an expanding business through an affiliate, competing with local Oakville businesses that are members of the HVAC Coalition. The affiliate is separately branded, but some in the local community may still see the utility and the affiliate as one and the same. It currently appears that the resources of the utility may be being used in whole or in part as the foundation of the affiliate's business. The Cost Allocation Study was ordered in EB-2013-0159 in part to address that possibility.
12. In this proceeding, and notwithstanding the wording of the Board's Practice Direction on Cost Awards, HVAC Coalition therefore may ask the Board to exercise its discretion to order that HVAC Coalition be awarded recovery of its reasonably incurred costs of participation, as the Board did in EB-2013-0159.

Respectfully submitted on behalf of the HVAC Coalition this 23rd day of August, 2016.

Jay Shepherd
Counsel for the HVAC Coalition