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December 12, 2016

PIAC FILE # 6552 A

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
Suite 2700
2300 Yonge Street
Toronto, ON
M4P 1E4

VIA E-Mail
5 pages

Dear Ms. Walli:

Re: EB-2016-0004 –Natural Gas Expansion Generic Proceeding – Union Gas Limited
Cost Claim of Vulnerable Energy Consumers Coalition (VECC)

We are writing to respond to the correspondence of Union Gas Limited (Union) of December 9, 2016 providing comments on the cost claims submitted following the EB-2016-0004 Natural Gas Expansion Generic Proceeding. We would note that Union identified VECC as a party with "preparation hours in excess of the average hours claimed by other parties". While Union does note that VECC filed evidence in the proceeding, it might be helpful to provide a breakdown of the VECC costs claim to discuss the preparation hours claimed.

Evidence

As was noted when this claim was submitted, VECC presented evidence that gave a detailed review of regulatory efforts to extend telecommunications networks to unserved regions that were uneconomic to serve. It was accompanied by an historical review of the background and content of the OEB's approach to natural gas service expansion, and an exposition of the relevance of the telecom experience to the expansion issue before the Board. There was also included a survey of relevant jurisdictional decisions associated with Board powers to potentially effect telecom-type solutions. VECC submits the evidence was of value in bringing context and demonstrating, in particular, the complexity of the issue of attempting to provide subsidies.

In addition to their report of some 40 pages, the authors answered interrogatories, and attended at the hearing for cross examination on their evidence. Considering that each author is among the top regulatory experts in his respective field, their combined fee of less than $34,000 must be considered high value. This would also be confirmed by even a cursory survey of current expert fees for evidence offered in Board proceedings.

1204-ONE Nicholas Street, Ottawa, ON K1N 7B7 Tel: 613-562-4002 Fax: 613-562-0007 piac@piac.ca www.piac.ca
Michael Janigan - Direct: 31 Hillsdale Avenue E, Toronto, ON M4S 1T4 Tel: 416-840-3907 mjanigan@piac.ca

The recruitment, scoping, editing, and confirmatory legal research for the evidence did require some 29.9 hours of legal counsel time and 8 hours of student time. Review, editing and compilation of responses to interrogatories asked on the VECC evidence required 5.5 hours of legal counsel time and 1.5 hours of consultant time. There was, however, no attempt to segregate the time associated with the attendance of the expert witnesses at the hearing itself and the preparation associated with the same, and it was simply included in the Oral Hearing counsel amounts.

As we noted when the cost claim was submitted, the requisite claim form presents difficulties for identifying, segregating and recording time in an exact fashion. Because of the impact on costs claimed by the presentation of evidence, we have accordingly filed two amended cost claim detail forms that may more clearly show how time was allocated.

Preparation Time

When the counsel and consultant time associated with the commissioning and presentation of evidence is eliminated together with that associated with the assistance with the preparation of interrogatory responses and the preparation of argument, the VECC claim reflects 34.5 hours of consultant time and 50.3 hours of legal counsel time for a total of 84.8 hours.

While each case may present different challenges and appropriate time requirements that may not be fairly reflected by hearing time expended, VECC notes the Cost Claims Decision in EB 2014-0116 Toronto Hydro-Electric System Limited. In that case, the hearing panel proposed a ceiling on preparation hours exclusive of argument preparation (and presumably evidence presentation, although none was the subject of a cost award in the THESL proceeding). The ceiling was based on twice the total amount of the total hearing time involved in the proceeding. In this proceeding, the transcripts appear to show some 50 hours were expended in hearing time. If that same rule of thumb was used, the preparation time reflected in VECC cost claim is well within a 100 hour limitation so derived.

Argument Preparation

VECC's argument preparation of 66.6 hours of counsel and consultant hours involved the review of transcripts and evidence from multiple stakeholders pertinent to the policy and plans for implementation of a proposed strategy. Unlike what is usually the case with more routine OEB applications, all written and oral evidence reflecting stakeholder positions was geared to the same constellation of issues albeit with different analyses and solutions. There was also a necessity to then review and respond to the initial submissions filed by approximately twenty parties with a reply submission. VECC submits that this allocation of time claimed was reasonable.

Summary

VECC understands the concern that this proceeding did require substantial resources and multiple stakeholder participation. But the monetary cost of the aggregate commitment of time is largely a product of the number of proceeding participants and the difficult policy matrix in which the issue of community expansion is situate. VECC's submits that its own time commitments for participation were reasonable and in keeping with the role it sought to play in the hearing as both a presenter of evidence with respect to OEB policy options, and a representative of the interests of vulnerable residential consumers. VECC would accordingly request approval of its cost claim.

Thank you.

Michael Janigan
Counsel for VECC

cc: All Intervenors

AMENDED

Ontario Energy Board

COST CLAIM FOR HEARINGS

Detail of Fees and Disbursements Being Claimed

File # EB- EB-2016-0004 **Process:** OEB Generic Proceeding on Community Expansion

Party: VECC **Service Provider Name:** Michael Janigan

SERVICE PROVIDER TYPE	(check one)	Year Called to Bar	Completed Years Practising/Years of Relevant Experience
Legal Counsel	☑	1980	35
Articling Student/Paralegal	☐		
Consultant	☐		
Analyst	☐		

Hourly Rate: $330

For Consultant/Analyst: ☐ CV attached ☐ CV provided within previous 24 months

HST Rate Charged (*enter %*): 3.9%

Statement of Fees Being Claimed

	Hours	Hourly Rate	Subtotal	HST	Total
Pre-hearing Conference					
Preparation	6.60	$ 330.00	$ 2,178.00	$ 85.81	$ 2,263.81
Attendance	4.60	$ 330.00	$ 1,518.00	$ 59.81	$ 1,577.81
~~Technical Conference~~					
EVIDENCE Preparation	29.90	$ 330.00	$ 9,867.00	$ 388.76	$ 10,255.76
Attendance		$ 330.00	$ -	$ -	$ -
~~Interrogatories~~					
ALL OTHER EVIDENCE Preparation	3.70	$ 330.00	$ 1,221.00	$ 48.11	$ 1,269.11
VECC EVIDENCE Responses	5.50	$ 330.00	$ 1,815.00	$ 71.51	$ 1,886.51
Issues Conference					
Preparation	2.20	$ 330.00	$ 726.00	$ 28.60	$ 754.60
Attendance		$ 330.00	$ -	$ -	$ -
ADR - Settlement Conference					
Preparation		$ 330.00	$ -	$ -	$ -
Attendance		$ 330.00	$ -	$ -	$ -
Proposal Preparation		$ 330.00	$ -	$ -	$ -
Argument					
Preparation	47.10	$ 330.00	$ 15,543.00	$ 612.39	$ 16,155.39
Oral Hearing					
Preparation	37.80	$ 330.00	$ 12,474.00	$ 491.48	$ 12,965.48
Attendance	37.50	$ 330.00	$ 12,375.00	$ 487.58	$ 12,862.58
~~Other Conferences~~					
REVIEW DECISION Preparation	0.90	$ 330.00	$ 297.00	$ 11.70	$ 308.70
Attendance		$ 330.00	$ -	$ -	$ -
Case Management		$ 170.00	$ -	$ -	$ -
TOTAL SERVICE PROVIDER FEES			$ 58,014.00	$ 2,285.75	**$ 60,299.75**

AMENDED

Ontario Energy Board

COST CLAIM FOR HEARINGS

Detail of Fees and Disbursements Being Claimed

File # EB- EB-2016-0004 **Process:** OEB Generic Proceeding on Community Expansion

Party: VECC **Service Provider Name:** Cynthia Khoo

SERVICE PROVIDER TYPE	(check one)	Year Called to Bar	Completed Years Practising/Years of Relevant Experience
Legal Counsel	☐	2016	
Articling Student/Paralegal	☑		
Consultant	☐		
Analyst	☐		

Hourly Rate: $100

For Consultant/Analyst: ☐ CV attached ☐ CV provided within previous 24 months

HST Rate Charged (*enter %*):

Statement of Fees Being Claimed

	Hours	Hourly Rate	Subtotal	HST	Total
Pre-hearing Conference					
Preparation		$ 100.00	$ -	$ -	$ -
Attendance		$ 100.00	$ -	$ -	$ -
Technical Conference					
Preparation		$ 100.00	$ -	$ -	$ -
Attendance		$ 100.00	$ -	$ -	$ -
Interrogatories					
Preparation		$ 100.00	$ -	$ -	$ -
Responses		$ 100.00	$ -	$ -	$ -
Issues Conference					
Preparation		$ 100.00	$ -	$ -	$ -
Attendance		$ 100.00	$ -	$ -	$ -
ADR - Settlement Conference					
Preparation		$ 100.00	$ -	$ -	$ -
Attendance		$ 100.00	$ -	$ -	$ -
Proposal Preparation		$ 100.00	$ -	$ -	$ -
Argument					
Preparation		$ 100.00	$ -	$ -	$ -
Oral Hearing					
Preparation		$ 100.00	$ -	$ -	$ -
Attendance		$ 100.00	$ -	$ -	$ -
~~**Other Conferences**~~					
EVIDENCE Preparation	8.00	$ 100.00	$ 800.00	$ -	$ 800.00
Attendance		$ 100.00	$ -	$ -	$ -
Case Management		$ 170.00	$ -	$ -	$ -
TOTAL SERVICE PROVIDER FEES			$ 800.00	$ -	**$ 800.00**