



**Ontario Energy Board
Commission de l'énergie de l'Ontario**

**DECISION AND ORDER ON COST AWARDS
(PHASE 1)**

EB-2016-0276

HYDRO ONE INC.

ORILLIA POWER DISTRIBUTION CORPORATION

HYDRO ONE NETWORKS INC.

**Application for approval to purchase Orillia Power Distribution
Corporation**

BEFORE: Ken Quesnelle
Presiding Member & Vice Chair

Christine Long
Member and Vice Chair

Cathy Spoel
Member

January 9, 2018

INTRODUCTION AND SUMMARY

Hydro One Inc. (Hydro One), filed an application on October 11, 2016, under section 86(2)(b) of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B) (Act), requesting approval to purchase all of the shares of Orillia Power Distribution Corporation (Orillia Power). As part of the share purchase, Orillia Power and Hydro One Networks Inc. (HONI) requested the OEB's approval for related transactions/proposals:

- Inclusion of a rate rider in Orillia Power's 2016 OEB approved rate schedule, under section 78 of the Act, to give effect to a 1% reduction in the 2016 base electricity delivery rates for residential and general service classes until 2022,
- Transfer of Orillia Power's rate order to HONI, under section 18 of the Act
- Transfer of Orillia Power's distribution system to HONI, under section 86(1)(a) of the Act
- Cancellation of Orillia Power's electricity distribution licence, under section 77(5) of the Act, after the transfer of the distribution system to HONI is completed
- Amendment of HONI's electricity distribution licence, under section 74 of the Act, at the same time as Orillia Power's licence is cancelled, authorizing HONI to serve Orillia Power's customers

Intervention requests were filed by the Consumers Council of Canada (CCC), the School Energy Coalition (SEC), the Vulnerable Energy Consumers Coalition (VECC), and by Mr. Stanley Makuch on behalf of Mr. Frank Kehoe and the Orillia Water, Light and Power Commission (Commission). The City of Orillia (City) objected to the granting of any status to the Commission submitting that the Commission does not exist.

In Procedural Order No.1 dated December 12, 2016, the OEB granted CCC, SEC and VECC intervenor status and cost award eligibility. The OEB approved the intervention request of Mr. Kehoe in his capacity as a resident of the City and stated the following:

"Mr. Kehoe is also eligible to apply for an award of costs; however, as an individual representing his own interests, Mr. Kehoe is advised to carefully review the OEB's *Practice Direction on Cost Awards* for information about the types of costs and disbursements that an individual may claim. For example, while wage or salary losses incurred as a result of participating in an OEB hearing may be claimed, legal or consultant fees are not generally permitted to be claimed by

individuals under the OEB's Cost Award Tariff. Also, being eligible to apply for recovery of costs is not a guarantee of recovery of any costs claimed. Cost awards are made by way of OEB order at the end of a hearing.”

With respect to the Commission, Procedural Order No. 1 stated that it is not possible for the OEB to determine whether to grant intervenor status (or cost eligibility) to a party whose existence is in dispute. The OEB ordered Mr. Makuch to file with the OEB any evidence relevant to the existence of the Commission. Mr. Makuch and the City filed submissions on this matter. Following review of these submissions, the OEB determined, in Procedural Order No. 4 issued on February 16, 2017, that there is no basis on which to determine that the Commission still exists and denied the intervention request by Mr. Makuch, on behalf of the Commission.

On July 27, 2017, the OEB issued Procedural Order No. 6, in which it set out the process for intervenors to file their cost claims, for Hydro One to object to the claims and for intervenors to respond to any objections raised by Hydro One.

The OEB received cost claims from CCC, SEC, VECC and Mr. Kehoe. No objection was received from Hydro One.

Finding

The OEB has reviewed the claims filed to ensure that they are compliant with the OEB's *Practice Direction on Cost Awards* (Practice Direction).

The OEB accepts the cost claims of CCC, SEC and VECC.

The OEB has determined that Mr. Kehoe's claim is not properly constituted. It is clear in the granting of intervention status to Mr. Kehoe that he was an individual interested party and as such would not generally be eligible for the reimbursement of legal fees.

The OEB will consider a cost claim for the legal fees and disbursements incurred seeking intervention status for the Commission in accordance with the Practice Direction and schedule of tariffs. The OEB will consider a separate claim from Mr. Kehoe in accordance with the terms of his intervention acceptance as set out in Procedural Order No. 1 and the Practice Direction.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Mr. Kehoe shall file a revised cost claim with the OEB and forward to the applicants and intervenors by January 24, 2018.
2. The applicants shall file with the OEB and forward to Mr. Kehoe any objections to the claimed costs by January 31, 2018.
3. Mr. Kehoe shall file with the OEB and forward to the applicants and intervenors any response to any objections for costs claimed by February 7, 2018.
4. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, the applicants shall immediately pay the following amounts to the following intervenors for their costs:

• Consumers Council of Canada	\$8,017.35
• School Energy Coalition	\$12,081.96
• Vulnerable Energy Consumers Coalition	\$6,439.08
5. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, the applicants shall pay the OEB's costs of, and incidental to, this proceeding immediately upon receipt of the OEB's invoice.

DATED at Toronto January 9, 2018

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary