



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

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**DECISION AND ORDER ON COST  
AWARDS**

**EB-2016-0296/ EB-2016-0300/ EB-2016-0330**

**UNION GAS LIMITED**

**ENBRIDGE GAS DISTRIBUTION INC.**

**NATURAL RESOURCE GAS LIMITED**

**Application for approval of 2017 Cap and Trade Compliance Plan  
cost consequences.**

**BEFORE: Ken Quesnelle**  
Presiding Member and Vice Chair

**Victoria Christie**  
Member

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**March 28, 2018**

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## INTRODUCTION AND SUMMARY

This is a decision of the Ontario Energy Board (OEB) on cost claims filed with respect to Union Gas Limited (Union Gas), Enbridge Gas Distribution Inc. (Enbridge Gas) and Natural Resource Gas Limited (NRG) proceeding.

Union Gas, Enbridge Gas and NRG (collectively, the Gas Utilities) each filed an application with the Ontario Energy Board (OEB) on November 15, 2016 seeking approval of the estimated costs arising from their respective cap and trade Compliance Plans for the January 1 to December 31, 2017 time period.

The OEB granted the following parties intervenor status and cost award eligibility:

- Association of Power Producers of Ontario (APPrO)
- Building Owners and Managers Association, Greater Toronto (BOMA)
- Canadian Manufacturers & Exporters (CME)
- Consumer Council of Canada (CCC)
- Environmental Defence
- Federation of Rental-housing Providers of Ontario (FRPO)
- Industrial Gas Users Association (IGUA)
- Low-Income Energy Network (LIEN)
- London Property Management Association (LPMA)
- Ontario Association of Physical Plant Administrators (OAPPA)
- Ontario Greenhouse Vegetable Growers (OGVG)
- Ontario Sustainable Energy Association (OSEA)
- School Energy Coalition (SEC)

On September 21, 2017, the OEB issued a combined Decision and Order for the public portions of the Gas Utilities' Compliance plans which sets out the process for intervenors to file their cost claims, for the Gas Utilities to object to the claims and for intervenors to respond to any objections. The OEB issued its Decision and Rate Orders for each of the Gas Utilities on November 16, 2017.

The OEB received cost claims from APPrO, BOMA, CME, CCC, Environmental Defence, FRPO, IGUA, LPMA, LIEN, OSEA and SEC. OAPPA and OGVG indicated through email that they would not file cost claims. The OEB accepted CME's cost claim

filed on November 23, 2017, and CCC's cost claim filed on November 24, 2017, notwithstanding the late filing.

On November 29, 2017, Enbridge Gas filed a letter with the OEB indicating that OSEA had submitted one claim for Enbridge Gas and Union Gas combined, and that each of APPRO, BOMA, CCC, IGUA, LIEN and SEC submitted one claim for the three Gas Utilities combined. Enbridge had no comment on the specifics of the cost claims as filed as it was unable to determine its share of the claims. Enbridge Gas suggested that the OEB consider approving the cost claims by CME, FRPO and Environmental Defence, which were directed specifically to Enbridge Gas. Enbridge Gas further suggested that the OEB allocate the other aggregated claims to the appropriate Gas Utilities on a pro-rata basis using the utility's Compliance Plan Cost Forecast Summary Table which appears at Table 2 of the OEB's Decision and Order dated September 21, 2017 (Forecast Cost Table).

On November 30, 2017, Union Gas filed a letter with the OEB indicating that it had no specific concerns with the cost claims with the exception of BOMA. Union Gas stated that BOMA's cost claim appeared to exceed the next highest claim and the approximate average of the other claims by approximately three times.

On December 7, 2017, BOMA replied to Union Gas' letter of objection and explained that it was necessary to review the complicated and lengthy: recently enacted cap and trade legislation and regulations; the Ontario Government's policy framework; and supporting documentation. BOMA stated that, in order to clarify the evidence it was necessary to ask many interrogatories; 47 of Union Gas, and 46 of Enbridge Gas. BOMA further submitted that, in order to get enough information to form a coherent view of the Gas Utilities' proposals, and the implications for ratepayers, it was necessary to do a great deal of interpretation, extrapolation, and analysis of the little public information that was made available to intervenors.

## Findings

The OEB has determined that the cost awards granted in this proceeding will be allocated to the three applicants using the OEB section 30 cost assessment methodology.<sup>1</sup> This will result in a cost allocation that is proportionate to the number of customers each utility has. As these were the first hearings dealing with the cost

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<sup>1</sup> Ontario Energy Board Act, 1998, S.O. 1998, Chapter 15, Schedule B, page 26 of 90

consequences of cap and trade compliance plans, the OEB has dealt with many of the issues in a generic fashion. The cost allocation has been addressed similarly. Analysis indicates that the allocation of costs using more precise cost drivers would not result in a materially different outcome.

With respect to the individual claims, the OEB finds that BOMA's claim of \$80,845.00 and OSEA's claim of \$28,275.00 are unreasonable. BOMA has defended its claim on the basis that it had to complete extensive research and analysis on the regulatory framework in Ontario and on the broader anticipated cap and trade market. The OEB finds that the level of BOMA's effort with respect to gaining its understanding of the broad cap and trade framework is not fully eligible for reimbursement. As per the OEB's *Report of the Board – Regulatory Framework for Assessment of Costs of Natural Gas Utilities' Cap and Trade Activities*, the OEB's role is not to approve the Compliance Plans but to assess these plans for cost-effectiveness and reasonableness.<sup>2</sup> The OEB does not consider BOMA's efforts to be commensurate with what would be required to assess the reasonableness of the cost consequences of the proposed plans.

OSEA's claim exceeds the claims of all other intervenors, with the exception of BOMA, with no apparent additional value or product for its efforts. The OEB does not consider OSEA's contributions or efforts warrant the amount claimed.

The OEB accepts that the range of the other submitted claims are reasonable and will use them to establish reasonable awards for both OSEA and BOMA.

BOMA and OSEA are each awarded \$22,000.00 which is the mid point between the approximate average of all other intervenor claims (\$19,000) and \$25,000.00 which is the approximate claim of the highest four of the other nine intervenors.

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

The claim of FRPO requires a small correction to a hotel accommodation charge because the hotel receipt do not match the cost claim.

The claim of LIEN requires a reduction of \$27.72 due to duplicate courier charges claimed.

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<sup>2</sup> OEB Cap and Trade Framework, p. 7

The OEB finds that the claims of APPrO, CME, CCC, ED, IGUA, LPMA, and SEC and the adjusted claims of BOMA, OSEA, FRPO and LIEN are reasonable and that each of these claims shall be reimbursed by the appropriate Gas Utility. The claims of APPrO, CME, CCC, ED, IGUA, and SEC and the adjusted claims of BOMA, OSEA, and LIEN shall be apportioned to, and reimbursed by, Enbridge Gas, Union Gas and EPCOR Natural Gas Limited Partnership (formerly NRG) based on the number of customers each utility has. The claims of LPMA and FRPO shall be reimbursed by Union Gas and Enbridge Gas, respectively.

### THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Enbridge Gas Distribution Inc. shall immediately pay the following amounts to the intervenors for their costs:

• Association of Power Producers of Ontario	\$14,848.96
• Building Owners and Managers Association, Greater Toronto	\$13,130.80
• Canadian Manufacturers & Exporters	\$15,191.04
• Consumer Council of Canada	\$10,905.78
• Environmental Defence	\$8,860.46
• Federation of Rental-housing Providers of Ontario	\$14,971.81
• Industrial Gas Users Association	\$15,239.40
• London Property Management Association	\$9,083.84
• Low-Income Energy Network	\$6,509.77
• Ontario Sustainable Energy Association	\$13,130.80
• School Energy Coalition	\$8,201.25

2. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Union Gas Limited shall immediately pay the following amounts to the intervenors for their costs:

• Association of Power Producers of Ontario	\$9,971.20
• Building Owners and Managers Association, Greater Toronto	\$8,817.44
• Canadian Manufacturers & Exporters	\$10,200.92
• Consumer Council of Canada	\$7,323.33

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• Environmental Defence	\$5,949.88
• Federation of Rental-housing Providers of Ontario	\$9,981.21
• Industrial Gas Users Association	\$10,233.39
• London Property Management Association	\$6,055.90
• Low-Income Energy Network	\$4,371.36
• Ontario Sustainable Energy Association	\$8,817.44
• School Energy Coalition	\$5,507.22

3. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, EPCOR Natural Gas Limited Partnership (formerly NRG) shall immediately pay the following amounts to the intervenors for their costs:

• Association of Power Producers of Ontario	\$58.53
• Building Owners and Managers Association, Greater Toronto	\$51.76
• Canadian Manufacturers & Exporters	\$59.88
• Consumer Council of Canada	\$42.99
• Environmental Defence	\$34.93
• Industrial Gas Users Association	\$60.07
• Low-Income Energy Network	\$25.66
• Ontario Sustainable Energy Association	\$51.76
• School Energy Coalition	\$32.33

4. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Enbridge Gas Distribution Inc, Union Gas Limited and EPCOR Natural Gas Limited Partnership (formerly NRG) shall pay the OEB's costs of, and incidental to, this proceeding immediately upon receipt of the OEB's invoice.

**DATED** at Toronto March 28, 2018

**ONTARIO ENERGY BOARD**

Kirsten Walli  
Board Secretary

OEB's Decision and Order on Cost Awards

EB-2016-0296/ EB-2016-0300/ EB-2016-0330

Gas Distributor, Transmitter, Storage Company	Association of Power Producers of Ontario	Building Owners and Managers Association, Greater Toronto	Canadian Manufacturers & Exporters	Consumer Council of Canada	Environmental Defence	Federation of Rental-housing Providers of Ontario	Industrial Gas Users Association	London Property Management Association	Low-Income Energy Network	Ontario Sustainable Energy Association	School Energy Coalition	Total
Enbridge Gas Distribution	\$ 14,848.96	\$ 13,130.80	\$ 15,191.04	\$ 10,905.78	\$ 8,860.46	\$ 14,971.81	\$ 15,239.40	\$ 9,083.84	\$ 6,509.77	\$ 13,130.80	\$ 8,201.25	\$ 130,073.92
Union Gas	\$ 9,971.20	\$ 8,817.44	\$ 10,200.92	\$ 7,323.33	\$ 5,949.88	\$ 9,981.21	\$ 10,233.39	\$ 6,055.90	\$ 4,371.36	\$ 8,817.44	\$ 5,507.22	\$ 87,229.28
Natural Resource Gas	\$ 58.53	\$ 51.76	\$ 59.88	\$ 42.99	\$ 34.93		\$ 60.07		\$ 25.66	\$ 51.76	\$ 32.33	\$ 417.91
TOTAL	\$ 24,878.69	\$ 22,000.00	\$ 25,451.84	\$ 18,272.10	\$ 14,845.27	\$ 24,953.02	\$ 25,532.86	\$ 15,139.74	\$ 10,906.79	\$ 22,000.00	\$ 13,740.80	\$ 217,721.11