



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

**DECISION AND ORDER ON COST
AWARDS**

EB-2017-0319

ENBRIDGE GAS DISTRIBUTION INC.

Application for the Renewable Natural Gas Enabling Program

BEFORE: Susan Frank
Presiding Member

Lynne Anderson
Member

Emad Elsayed
Member

January 15, 2019

INTRODUCTION AND SUMMARY

This is a decision of the Ontario Energy Board (OEB) on cost claims filed with respect to an Enbridge Gas Distribution Inc. (Enbridge) proceeding.

Enbridge filed an application with the OEB seeking approval for the cost consequences of its proposed Renewable Natural Gas Enabling Program and Geothermal Energy Service Program. This included approval of the methodology to set the service fees for each program and the annual sufficiency/deficiency of the programs within the Cap and Trade Compliance Obligation Variance Accounts.

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

- Anwaatin Inc. (Anwaatin)
- Association of Power Producers of Ontario (APPrO)
- Building Owners and Managers Association (BOMA)
- Canadian Biogas Association (CBA)
- Consumers Council of Canada (CCC)
- Energy Probe Research Foundation (Energy Probe)
- Federation of Rental-housing Providers of Ontario (FRPO)
- Industrial Gas Users Association (IGUA)
- Ontario Geothermal Association (OGA)
- Ontario Greenhouse Vegetable Growers (OGVG)
- Ontario Sustainable Energy Association (OSEA)
- School Energy Coalition (SEC)
- Vulnerable Energy Consumers Coalition (VECC)

On October 18, 2018, the OEB issued its Decision and Order in which it set out the process for intervenors to file their cost claims, for Enbridge to object to the claims and for intervenors to respond to any objections raised by Enbridge.

Anwaatin, APPrO, BOMA, CBA, CCC, Energy Probe, IGUA, OGA, OGVG, OSEA and SEC filed cost claims by the deadline specified in the Decision (December 6, 2018). FRPO's cost claim was filed on December 12, 2018. VECC did not participate actively and did not file a cost claim. On December 14, 2018, Enbridge filed a letter noting that FRPO did not submit its cost claim until December 12, 2018, almost a full week after the deadline established by the OEB. Enbridge objected that BOMA's claim was excessively high because it was 116% higher than the average cost claim and 34% higher than the next highest cost claim.

On January 3, 2019, BOMA argued that it did not believe that neither the differential above the second highest claim nor the fact that its cost claim was above the average claim is a valid basis for the OEB to disallow a portion of such claim. BOMA submitted that unlike most intervenors, it conducted a detailed review of the draft contract, which underpinned the programs and concluded that the provisions in the contract were not sufficient to protect ratepayers from incremental risks arising from the programs.

Findings

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

The cost claims for Enbridge's Renewable Natural Gas Enabling Application raised several concerns for the OEB; namely the magnitude of the BOMA cost claim, the magnitude of the Anwaatin cost claim, and the timing of the FRPO submission of their cost claim. The OEB addresses these concerns in the following paragraphs.

BOMA submitted a claim for 74.2 hours and \$27,691.75 (including total disbursements). BOMA, in its reply to the Enbridge letter, indicated that their submission covered a detailed review of the draft contract underpinning the Renewable Natural Gas Enabling program. The OEB finds that BOMA's submissions in this proceeding were of similar assistance to the OEB as some other intervenors. The OEB finds that the time claimed by BOMA for argument preparation was excessive compared to other intervenors. The OEB continues to expect that the experience of the senior staff used by BOMA should enable more efficient preparation time. BOMA's hours will be cut by 20 hours and the grand total cost award reduced to \$20,233.75.

Anwaatin submitted a claim for 69.5 hours and \$20,670.69 (including total disbursements). Anwaatin's submission was focused on consultation and engagement with Indigenous rights-holding communities as well as the terms, conditions, and regulation of Enbridge's proposed RNG business. The OEB finds the time claimed for argument preparation, issues list and case management was excessive. Anwaatin's claim will be cut by 15 hours and the grand total cost award reduced to \$16,233.01 based on applying the revised hours to the hourly rates from the cost award tariff in the same proportion as the original claim.

Finally, the OEB acknowledges Enbridge's valid concern about the late submission of FRPO's cost claim. The dates in the OEB orders are important and should be followed unless a specific justifiable request to deviate from the order is submitted. In the future, the OEB will consider reductions to cost claims for late filings. However, FRPO's cost

claim is approved for this proceeding with the noted warning. The OEB expects all cost eligible intervenors to carefully follow the timing in the OEB orders.

All other cost claims are approved as submitted. The OEB finds that the claims of APPrO, CBA, CCC, Energy Probe, FRPO, IGUA, OGA, OGVG, OSEA and SEC and the adjusted claims of Anwaatin and BOMA are reasonable and each of these claims shall be reimbursed by Enbridge.

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:

• Anwaatin Inc.	\$16,233.01
• Association of Power Producers of Ontario	\$12,577.69
• Building Owners and Managers Association	\$20,233.75
• Canadian Biogas Association	\$14,618.25
• Consumers Council of Canada	\$7,830.90
• Energy Probe Research Foundation	\$13,621.35
• Federation of Rental-housing Providers of Ontario	12,981.50
• Industrial Gas Users Association	\$20,328.20
• Ontario Geothermal Association	\$2,330.34
• Ontario Greenhouse Vegetable Growers	\$491.55
• Ontario Sustainable Energy Association	\$7,901.92
• School Energy Coalition	\$12,959.97

2. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Enbridge Gas Distribution Inc. shall pay the OEB's costs of, and incidental to, this proceeding immediately upon receipt of the OEB's invoice.

DATED at Toronto, January 15, 2019

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary