

# **DECISION AND ORDER ON COST AWARDS**

**EB-2018-0016**

## **ALECTRA UTILITIES CORPORATION**

**Application for electricity distribution rates beginning January 1,  
2019**

**BEFORE: Lynne Anderson**  
Presiding Member

**Allison Duff**  
Member

**Michael Janigan**  
Member

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**April 12, 2019**

## INTRODUCTION AND SUMMARY

This is a decision of the Ontario Energy Board (OEB) on cost claims filed with respect to an Alectra Utilities Corporation (Alectra Utilities) proceeding.

Alectra Utilities filed an application with the OEB on June 7, 2018 under section 78 of the *Ontario Energy Board Act, 1998* seeking approval for changes to the rates that Alectra Utilities charges for electricity distribution, to be effective January 1, 2019. The application included a request for incremental capital funding in the Enersource and PowerStream rate zones (RZs) under the Incremental Capital Module (ICM) funding option.

The OEB granted the Association of Major Power Consumers Ontario (AMPCO), Building Owners and Managers Association (BOMA), Consumers Council of Canada (CCC), Energy Probe Research Foundation (Energy Probe), School Energy Coalition (SEC) and Vulnerable Energy Consumers Coalition (VECC) intervenor status and cost award eligibility.

The Notice of Application established that cost awards would only be available for three issues. The OEB issued Procedural Order No. 2 which clarified that those issues would include:

- the balances and disposition of the deferral accounts related to the change in capitalization policy for each of the Brampton and Enersource rate zones
- the earnings sharing mechanism for the Horizon rate zone, including the effect on it from the change in capitalization policy
- the ICMs for the Enersource and PowerStream RZs

On February 21, 2019, the OEB issued its Final Rate Order in which it set out the process for intervenors to file their cost claims, for Alectra Utilities to object to the claims and for intervenors to respond to any objections raised by Alectra Utilities.

The OEB received cost claims from AMPCO, BOMA, CCC, Energy Probe, SEC and VECC. On March 7, 2019, Alectra Utilities filed a response to the cost claims and noted that with the exception of the cost claim of BOMA, it had no specific concerns. Alectra Utilities was concerned about the costs claimed by BOMA in three specific areas:

- \$17,190.69 claimed for the settlement conference. Alectra Utilities indicated that BOMA claimed significantly more hours for preparation and for attending the settlement conference than any other intervenor: 30 hours for preparation settlement conference and 15.3 hours for settlement attendance.

- 41.70 hours claimed for argument preparation. Alectra Utilities indicated that BOMA claimed almost double the number of hours claimed for argument preparation as the next highest intervenor (AMPCO at 25.75 hours).
- BOMA's claim for accommodation

Specifically, Alectra Utilities noted that BOMA spent double the time of SEC in preparing the final argument. Alectra Utilities further stated that the drivers of SEC's claim were well understood since SEC's focus was on the accounting policy changes, which were not resolved until the morning of the oral hearing. Alectra Utilities was concerned since the only elements of the application that were eligible for cost awards for the argument phase were the five ICM projects. Alectra Utilities submitted that the number of hours claimed by BOMA should be reduced on an overall basis to the average of that of the other intervenors which is approximately \$25,100.

In response, BOMA argued that there are some misstatements in Alectra Utilities' objection letter. BOMA noted that it is entitled to claim accommodation expenses as its counsel now resides in London, Ontario. BOMA also noted that it claimed fifteen hours for the settlement conference while some other intervenors claimed twelve hours, a difference of three hours. BOMA further stated that it would be fairer to compare its overall claim to the overall claim of other active intervenors. BOMA claimed \$44,757.11 while SEC claimed \$40,273.20. BOMA also noted that it concentrated on the five substantial ICM projects and had lower costs than SEC for the hearing preparation and attendance.

## Findings

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

The OEB approves the cost claims as filed for all cost eligible intervenors, except for BOMA. The OEB finds that the time spent by BOMA on its argument is excessive, being 16 hours higher than the next highest claim, and the OEB does not find BOMA's contribution and assistance to the panel to be commensurate with its claim. The OEB reduces BOMA's cost award by \$5,966.40 (16 hours at \$330 per hour and HST). The claim of BOMA also requires a reduction of \$33.24 due to \$1.50 for local phone call charge and \$31.74 in excess of the allowed limit on accommodation charge. The total amount awarded is \$38,757.47.

The OEB finds that the claims of AMPCO, CCC, Energy Probe, SEC and VECC and the adjusted claim of BOMA to be reasonable and each of these claims shall be reimbursed by Alectra Utilities.

**THE ONTARIO ENERGY BOARD ORDERS THAT:**

1. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Alectra Utilities Corporation shall immediately pay the following amounts to the intervenors for their costs:
  - Association of Major Power Consumers Ontario \$24,249.80
  - Building Owners and Managers Association \$38,757.47
  - Consumers Council of Canada \$20,136.60
  - Energy Probe Research Foundation \$22,152.00
  - School Energy Coalition \$40,273.20
  - Vulnerable Energy Consumers Coalition \$19,122.36
2. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Alectra Utilities Corporation shall pay the OEB's costs of, and incidental to, this proceeding immediately upon receipt of the OEB's invoice.

**DATED** at Toronto April 12, 2019

**ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary