



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

BY E-MAIL

August 27, 2019

Lisa (Elisabeth) DeMarco
DeMarco Allan LLP
Bay Adelaide Centre
333 Bay St., Suite 625
Toronto, ON M5H 2R2
lisa@demarcoallan.com

Matt Gardner
Willms & Shier Environmental Lawyers LLP
1 Toronto St., Suite 900
Toronto, ON M5C 2V6
mgardner@willmsshier.com

Wes Johnston
President & CEO
Canadian Solar Industries Association
240 Bank St., Suite 400
Ottawa, ON K2P 1X4
wjohnston@cansia.ca

Patricia Phillips
Executive Director
Energy Storage Canada
777 Bay St., Unit C208B
Toronto, ON M5G 2C8
pat.phillips@energystoragecanada.org

Dear Ms. DeMarco, Mr. Gardner, Mr. Johnston and Ms. Phillips:

Re: **EB-2018-0287 / EB-2018-0288 (“Utility Remuneration” and “Responding to Distributed Energy Resources”)**
Requests to Review and Vary Decision on Cost Eligibility

By letter dated August 22, 2019, I advised Energy Storage Canada, the Ontario Sustainable Energy Association (OSEA), the Canadian Solar Industries Association (CanSIA) and the Association of Power Producers of Ontario (APPrO) that the Ontario Energy Board (OEB) intended to treat their “motions to review” the OEB’s July 17, 2019 Decision on Cost Eligibility as appeals under section 7 of the *Ontario Energy Board Act, 1998* (the Act). I further advised that the OEB proposed to combine the four matters together in a single proceeding, pursuant to subsection 21(5) of the Act, and that it was anticipated that no further submissions would be necessary. I invited the four organizations to let me know by August 26, 2019 if they had any objections to the proposed approach.

On August 23, 2019, APPrO and OSEA wrote to request an extension to August 30, 2019 to respond to my letter. On August 26, 2019, the OEB received a similar request from CanSIA.

The purpose of my August 22, 2019 letter was to accommodate the four organizations who asked for a process and a form of relief (a motion to review and vary a decision by an employee under delegated authority) that does not exist. Instead of not processing the requests, I proposed to deal with them as though they were framed as section 7 appeals. This would allow a panel of the OEB to review the employee’s decision, and to vary or cancel it if the panel disagreed with it. I presumed this panel review was what the four organizations wanted, but sent my letter to confirm.

This appears to me to be a case where combining the four appeals clearly makes sense, as they all relate to the same decision and raise similar grounds. The consent of the parties is not required before combining more than one proceeding (subsection 21(5) of the Act). Nevertheless, as a courtesy, I invited the four organizations to let me know if they had any concerns.

Regarding your request for cost awards for the appeals, that is a matter that can be dealt with by the panel hearing the appeals, should you choose to proceed.

I will not proceed to process the appeals of APPrO, CanSIA or OSEA until such time as they confirm they wish to proceed.

I had viewed this as a relatively simple procedural matter and therefore established a quick turn around time to respond to my letter. APPrO, CanSIA and OSEA have indicated they need until August 30, 2019. I will not establish a new deadline for parties. However, I do note that the consultation for which the parties seek costs is

scheduled for September 17 and 18, 2019. Parties should consider that timing, recognizing that it will take some time for a panel to consider their appeal.

I have not received an objection from Energy Storage Canada. Therefore, the OEB will proceed to process that appeal.

Yours truly,

Original Signed By

Christine E. Long
Registrar