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February 7, 2020

**Delivered by Email, RESS & Courier**

Ms. Christine Long  
Registrar and Board Secretary  
Ontario Energy Board  
2300 Yonge Street  
27th Floor, Box 2319  
Toronto, ON M4P 1E4

Dear Ms. Long:

**Re: Application for Review of an Amendment to the Independent Electricity System Operator Market Rules  
Board File No. EB-2019-0242  
Cost Claim of Kingston CoGen Limited Partnership (“Kingston CoGen”)**

On November 12, 2019, the Board issued its Decision on Cost Responsibility & Cost Eligibility in which the Board determined that Kingston CoGen was not eligible for an award of costs. Kingston CoGen will comply with the Board’s determination on the matter and is not seeking recovery of any costs associated with its legal counsel (BLG).

However, Kingston CoGen is requesting a limited scope exception to the Board’s initial decision on costs specifically to permit recovery of part (not all) of the costs associated with engaging Dr. Brian Rivard.

The proceeding involved complex issues surrounding electricity market design and operations.

In Procedural Order No. 2, the Board expressly indicated that it is interested in:

*“receiving evidence that describes the experience with compensation for demand response in markets in other relevant jurisdictions, and the extent to which that experience is informative in the context of the Amendments having regard to any pertinent differences such as differences in market design or structure.”*

Dr. Rivard’s testimony was directly responsive to this request. In addition, Dr. Rivard introduced concepts of horizontal equity and included detailed scenario analyses of the offer strategies of differently configured market resources in the presence or absence of energy payments for DR Resources.

Dr. Rivard was one of only two experts<sup>1</sup> engaged to assist the Board by providing expert evidence.

Dr. Rivard's evidence was prepared on an expedited basis solely to assist the Board impartially as an independent expert by giving evidence that is both fair and objective, in accordance with Section 13A of the Rules of Practice and Procedure.

The Board cited Dr. Rivard's evidence to support its decision regarding whether the Amendments were unjustly discriminatory,<sup>2</sup> and in determining that FERC Order 745 and the net benefit test were not applicable to Ontario.<sup>3</sup>

Due to the complexity of the issues before the Board, Dr. Rivard was required to conduct extensive research, and appeared before the Board for direct and cross examination. To that end, Dr. Rivard's participation in the process was not unduly repetitive and was focused on relevant and material issues. In addition, both Kingston CoGen and Dr. Rivard have at all times complied with the Board's orders, rules, codes, guidelines, filing requirements, and with all directions of the Board.

Kingston CoGen respectfully requests that the Board grant a limited scope exception to its initial decision on costs to permit recovery of Dr. Rivard's costs in accordance with the *Practice Direction On Cost Awards*. Dr. Rivard fulfilled his role as an expert by assisting the Board impartially by giving evidence that is fair and objective. The request for costs is detailed in the attached Cost Claim for Hearings form (along with Dr. Rivard's invoice).

Kingston CoGen would continue to bear all other costs associated with its participation in the process, including costs for its legal counsel and fees paid to Dr. Rivard above the Board's maximum permitted cost recovery amounts.

In the alternative, and for the foregoing reasons, Kingston CoGen requests that the Board award Kingston CoGen an honorarium in the amount of \$30,950.70 pursuant to section 3.08 of the *Practice Direction On Cost Awards* in respect of the work undertaken to engage Dr. Brian Rivard.

Yours very truly,

**BORDEN LADNER GERVAIS LLP**

Per:

*Original signed by John A.D. Vellone*

John A.D. Vellone

cc: Adrian Pye, IESO  
James Hunter, IESO  
Glenn Zacher, Stikeman Elliott LLP  
John Windsor, Northland Power Inc.

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<sup>1</sup> The other expert being London Economics International, who was engaged by OEB Staff.

<sup>2</sup> Decision and Order, issued January 23, 2020, at p. 15.

<sup>3</sup> *Ibid*, p. 19.

# Ontario Energy Board COST CLAIM FOR HEARINGS



## Affidavit and Summary of Fees and Disbursements

This form should be used by a party to a hearing before the Board to identify the fees and disbursements that form the party's cost claim. Paper and electronic copies of this form and itemized receipts must be filed with the Board and served on one or more other parties as directed by the Board in the applicable Board order. Please ensure all required (yellow-shaded) fields are filled in and the Affidavit portion is signed and sworn or affirmed.

### Instructions

- Required data input is indicated by yellow-shaded fields. Formulas are embedded in the form to assist with calculations.
- All claims must be in Canadian dollars. If applicable, state exchange rate and country of initial currency.  

Rate: N/A Country: N/A
- A separate "Detail of Fees and Disbursements Being Claimed" (comprising a "Statement of Fees Being Claimed" and a "Statement of Disbursements Being Claimed") is required for each lawyer, analyst/consultant and articling student/paralegal. However, only one "Summary of Fees and Disbursements" covering the whole of the party's cost claim should be provided.
- The cost claim must be supported by a completed Affidavit signed by a representative of the party.
- A CV for each consultant/analyst must be attached unless provided to the Board as prescribed on the Cost Award Tariff.

Except as provided in section 7.03 of the Practice Direction on Cost Awards, itemized receipts must be provided.

<b>File # EB-</b> <u>2019-0242</u>	<b>Process:</b> <u>Application to review IESO market rule amendments</u>						
<b>Party:</b> <u>Kingston CoGen Limited Partnership</u>	<b>Affiant's Name:</b> <u>Gian Minichini</u>						
<b>HST Number:</b> <u>14026 3690 RT0001</u>	<b>HST Rate Ontario:</b> <u>13.00%</u>						
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">Full Registrant <input checked="" type="checkbox"/></td> <td style="width: 50%;">Qualifying Non-Profit <input type="checkbox"/></td> </tr> <tr> <td>Unregistered <input type="checkbox"/></td> <td>Tax Exempt <input type="checkbox"/></td> </tr> <tr> <td>Other <input type="checkbox"/></td> <td></td> </tr> </table>	Full Registrant <input checked="" type="checkbox"/>	Qualifying Non-Profit <input type="checkbox"/>	Unregistered <input type="checkbox"/>	Tax Exempt <input type="checkbox"/>	Other <input type="checkbox"/>		
Full Registrant <input checked="" type="checkbox"/>	Qualifying Non-Profit <input type="checkbox"/>						
Unregistered <input type="checkbox"/>	Tax Exempt <input type="checkbox"/>						
Other <input type="checkbox"/>							

### Affidavit

I, Gian Minichini, of the City/Town of Toronto  
in the Province/State of Ontario, swear or affirm that:

1. I am a representative of the above-noted party (the "Party") and as such have knowledge of the matters attested to herein.
2. I have examined all of the documentation in support of this cost claim, including the attached "Summary of Fees and Disbursements Being Claimed", "Statement(s) of Fees Being Claimed" and "Statement(s) of Disbursements Being Claimed".
3. The attached "Summary of Fees and Disbursements Being Claimed", "Statement(s) of Fees Being Claimed" and "Statement(s) of Disbursements Being Claimed" include only costs incurred and time spent directly for the purposes of the Party's participation in the Ontario Energy Board process referred to above.
4. This cost claim does not include any costs for work done, or time spent, by a person that is an employee or officer of the Party as described in sections 6.05 and 6.09 of the Board's Practice Direction on Cost Awards.

*Gian Minichini*

**Signature of Affiant**

**Sworn or affirmed before me** at the City/Town of Toronto,  
in the Province/State of Ontario, on Feb. 7, 2020.  
(date)

*J. Vels*  
**Commissioner for taking Affidavits**



Ontario Energy Board  
COST CLAIM FOR HEARINGS



Affidavit and Summary of Fees and Disbursements

File # EB- 2019-0242 Process: Application to review IESO market rule amendments

Party: Kingston CoGen Limited Partnership

**Summary of Fees and Disbursements Being Claimed**

Legal/consultant/other fees	\$	27,390.00
Disbursements	\$	-
HST	\$	3,560.70
<b>Total Cost Claim</b>	<b>\$</b>	<b>30,950.70</b>

**Payment Information**

Make cheque payable to: Kingston CoGen Limited Partnership

Send payment to this address: 5146 Taylor-Kidd Blvd.  
RR#3  
Bath, Ontario  
K0H 1G0

# Ontario Energy Board COST CLAIM FOR HEARINGS



## Detail of Fees and Disbursements Being Claimed

File # EB- <u>2019-0242</u>	Process: <u>Application to review IESO market rule amendments</u>
Party: <u>Kingston CoGen Limited Partnership</u>	Service Provider Name: <u>Brian Rivard</u>
<b>SERVICE PROVIDER TYPE</b> (check one)	Year Called to Bar
Legal Counsel <input type="checkbox"/>	<input type="text" value=""/>
Articling Student/Paralegal <input type="checkbox"/>	<input type="text" value=""/>
Consultant <input checked="" type="checkbox"/>	Completed Years Practising/Years of Relevant Experience <input type="text" value="26"/>
Analyst <input type="checkbox"/>	Hourly Rate: <input type="text" value="\$330"/>
For Consultant/Analyst: <input type="checkbox"/> CV attached	HST Rate Charged (enter %): <input type="text" value="13.0%"/>
<input checked="" type="checkbox"/> CV provided within previous 24 months	

Statement of Fees Being Claimed					
	Hours	Hourly Rate	Subtotal	HST	Total
<b>Pre-hearing Conference</b>					
Preparation		\$ 330.00	\$ -	\$ -	\$ -
Attendance		\$ 330.00	\$ -	\$ -	\$ -
<b>Technical Conference</b>					
Preparation		\$ 330.00	\$ -	\$ -	\$ -
Attendance		\$ 330.00	\$ -	\$ -	\$ -
<b>Interrogatories</b>					
Preparation	5.00	\$ 330.00	\$ 1,650.00	\$ 214.50	\$ 1,864.50
Responses	0.50	\$ 330.00	\$ 165.00	\$ 21.45	\$ 186.45
<b>Issues Conference</b>					
Preparation		\$ 330.00	\$ -	\$ -	\$ -
Attendance		\$ 330.00	\$ -	\$ -	\$ -
<b>ADR - Settlement Conference</b>					
Preparation		\$ 330.00	\$ -	\$ -	\$ -
Attendance		\$ 330.00	\$ -	\$ -	\$ -
Proposal Preparation		\$ 330.00	\$ -	\$ -	\$ -
<b>Argument</b>					
Preparation		\$ 330.00	\$ -	\$ -	\$ -
<b>Oral Hearing</b>					
Preparation	65.50	\$ 330.00	\$ 21,615.00	\$ 2,809.95	\$ 24,424.95
Attendance	12.00	\$ 330.00	\$ 3,960.00	\$ 514.80	\$ 4,474.80
<b>Other Conferences</b>					
Preparation		\$ 330.00	\$ -	\$ -	\$ -
Attendance		\$ 330.00	\$ -	\$ -	\$ -
<b>Case Management</b>		\$ 170.00	\$ -	\$ -	\$ -
<b>TOTAL SERVICE PROVIDER FEES</b>			\$ 27,390.00	\$ 3,560.70	\$ 30,950.70

**Ontario Energy Board**  
**COST CLAIM FOR HEARINGS**  
**Detail of Fees and Disbursements Being Claimed**



File # EB- 2019-0242

Process: Application to review IESO market rule amendments

Party: Kingston CoGen Limited Partner.

Service Provider Name: Brian Rivard

Statement of Disbursements Being Claimed				
		Net Cost	HST	Total
Scanning/Photocopy			\$ -	\$ -
Printing			\$ -	\$ -
Courier			\$ -	\$ -
Telephone/Fax			\$ -	\$ -
Transcripts			\$ -	\$ -
Travel: Air			\$ -	\$ -
Travel: Car			\$ -	\$ -
Travel: Rail			\$ -	\$ -
Travel (Other):			\$ -	\$ -
Parking			\$ -	\$ -
Taxi			\$ -	\$ -
Accommodation			\$ -	\$ -
Meals			\$ -	\$ -
Other:				\$ -
Other:				\$ -
Other:			\$ -	\$ -
<b>TOTAL DISBURSEMENTS:</b>		\$ -	\$ -	\$ -

## 2722442 Ontario Inc.

33 Banfield St  
Paris Ontario, N3L 2Y7

Phone: (437) 333 4913

brian.rivard27@gmail.com

**Bill To:** Borden Ladner Gervais LLP (John Vellone)

Phone: (416) 367 6000

Invoice #: BLG\_1

**Address:** Bay Adelaide Centre, East Tower, 22 Adelaide Street West,  
Toronto, ON, Canada M5H 4E3

Fax: (416) 367 6749

Invoice Date: December 17, 2019

Email:

Invoice For: Expert Witness Services in Connection with OEB Matter EB-2019-0242

### Billable Services

Date	Task	Time (hours)	Billing Rate	Billing Amount
24-Oct-19	Review IESO material and draft paragraph on difference bet+C10:C17ween utilization payments and energy payments	1		
25-Oct-19	Review AMPCO evidence and draft of potential IR questions	1		
30-Oct-19	Review AMPCO stay motion and offer economic analysis of evidence of harm. Phone conversation with Ewa.	2		
1-Nov-19	Review KCLP stay motion and offer comment on potential harm	1.5		
8-Nov-19	Total hours to complete testimony as per retainer	50		
12-Nov-19	Review of LEI paper to find similarities and differences and to offer IR questions	4		
16-Nov-19	Draft response to IR questions	0.5		
18-Nov-19	Witness prep	4		
21-Nov-19	Witness prep	4		
25-Nov-19	Attend Hearing	6		
26-Nov-19	Witness Prep	3		
28-Nov-19	Testify	6		

GST/HST Registration # 76562 5876

### Billable Expenses

Date	Reason for Expense	Expense Amount

Make all checks payable to 2722442 Ontario Inc..