



Reply to the Attention of: Mike Richmond
Direct Line: 416.865.7832
Email Address: mike.richmond@mcmillan.ca
Our File No.: 267730
Date: February 26, 2020

BY RESS AND COURIER

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

Dear Ms. Long,

Re: EB-2019-0018 - Reply to Cost Objection of Alectra Utilities Corporation ("Alectra")

We write on behalf of Max Aicher (North America) Ltd. and Max Aicher (North America) Bloom Mill ("MANA") in Reply to Alectra's objection to Alectra's cost claim. We note that Alectra failed to forward its cost objection on MANA or to notify MANA in any way of its objections, in contravention of the Board's order made on January 30, and such objection has only come to MANA's attention on February 26, 2020, the day before its Reply is due.

Throughout this Application, Alectra has rejected the role its customers could play in evaluation of its application, even where the Board has held it to be appropriate. Alectra first opposed MANA's intervention. On the merits of the application, it then relied on a customer engagement that the Board found was "not always reflected in the final investment plan". Alectra now objects to the cost claim of its customer, MANA, relying casually on arguments that the Board should completely reject.

Alectra raises the following points, to which MANA wishes to Reply:

- The number of hours claimed by MANA;
- The number of people involved in MANA's cost claim;
- The "average" of the cost claims; and
- The value of MANA's participation.

The following information reflects the cost claims made by all of the intervenors in this application:

	Intervenor	Total Cost Claim	Argument Phase
1.	SEC	\$91,472.37	\$35,649.24
2.	Energy Probe	\$67,318.65	\$11,495.03
3.	AMPCO	\$53,511.15	\$16,873.73
4.	BOMA	\$50,929.73	\$17,265.27
5.	CCC	\$40,459.65	\$10,068.30
6.	VECC	\$34,724.27	\$11,576.32
7.	MANA	\$33,030.63	\$19,250.68
8.	DRC	\$21,885.03	\$6,453.43
	Average	\$49,166.44	\$16,079.00

MANA has claimed the second lowest total amount of costs. MANA's cost claim was 33% lower than the average cost claim. This fact, combined with the facts about how MANA staffed this matter (addressed below), should lead the Board to reject Alectra's arguments about the "hours spent" by MANA and Alectra's arguments about MANA's "argument phase" cost claim being higher than average.

MANA's low cost claim was accomplished primarily through two strategic decisions, both of which MANA submits are good policy. First, MANA limited its participation to where it was reasonably necessary. For example, MANA did not attend the cross-examination believing that the time to do so would be disproportionate for the benefit to its argument. MANA's non-attendance at the cross-examinations and hearing dates may have increased the costs of composition of its argument but saved dozens of hours of time, overall.

Where MANA did participate, its submissions added value and were restricted to the terms of the intervention it was granted. For example, and as pointed out in MANA's cost claim, MANA's arguments regarding the usefulness of Alectra's customer engagement appear to have been considered and upheld by the Board. As such, the Board should reject any unsubstantiated negative assertion about the "value" of MANA's participation.

Second, MANA, where possible, used less expensive counsel. MANA avoided using its most senior counsel for every step of this application. Where appropriate, MANA relied on the work of a junior partner and student. It is true that, in theory, if MANA's most senior counsel had done all of the work, fewer *hours* could have been incurred. In that circumstance, however, it is a certainty that MANA's total *costs* would have been higher.

Alectra made no argument, and none exists, that the work of MANA's lawyers was duplicative. MANA's staffing approach makes good sense, and is a practice the Board should encourage. In fact, the two lowest cost claims made in this application, those of MANA and

DRC, both involved the use of multiple lawyers at different hourly rates. For this reason, Alectra's argument about the "number of people" MANA used should be rejected.

In the alternative to the foregoing, should the Board give weight to Alectra's arguments about "average costs" as opposed to deferring to costs actually incurred and claimed, MANA requests that it be awarded a higher amount for its costs. In such circumstances, the Board should increase MANA's total cost award by \$16,135.81, to achieve the average cost claim of \$49,166.44.

Yours truly,

A handwritten signature in cursive script that reads "Michael Richmond".

Mike Richmond