

DECISION AND ORDER ON COST AWARDS

EB-2019-0242

ASSOCIATION OF MAJOR POWER CONSUMERS IN ONTARIO

**Application to review amendments to the market rules made by
the Independent Electricity System Operator**

BEFORE: Cathy Spoel
Presiding Member

Emad Elsayed
Member

Susan Frank
Member

February 26, 2020

INTRODUCTION AND SUMMARY

This is a decision of the Ontario Energy Board (OEB) on cost claims filed with respect to a proceeding under section 33 of the *Electricity Act, 1998*, S.O. 1998, c. 15, (Schedule B) (Act).

On September 26, 2019, the Association of Major Power Consumers in Ontario (AMPCO) filed a Notice of Appeal (Application) asking the OEB to review and issue an order revoking amendments to the market rules made by the Independent Electricity System Operator (IESO) (MR-00439-R00 to -R05) (Amendments), and referring the Amendments back to the IESO for further consideration. The Amendments enable the evolution of the IESO's Demand Response Auction into a Transitional Capacity Auction (TCA), including allowing participation by certain generators.

AMPCO also filed a Notice of Motion requesting an order of the OEB under section 33(7) of the Act staying the operation of the Amendments pending the completion of the OEB's review (Motion).

The OEB granted intervenor status to a number of parties including the Association of Power Producers of Ontario (APPo), Kingston CoGen Limited Partnership (KCLP) and the School Energy Coalition (SEC).

On October 18, 2019, the OEB issued Procedural Order No. 2 in which it stated that it intends for the IESO to bear the costs of this proceeding. The OEB did, however, allow the IESO an opportunity to make a submission if it wished to object to bearing the costs of this proceeding, and if it wished to object to any of the requests for cost award eligibility made by AMPCO, APPo, SEC and KCLP. Provision was also made for a reply submission by any party whose request for cost award eligibility was the subject of an objection by the IESO. On November 12, 2019, the OEB issued its Decision on Cost Eligibility and Cost Responsibility in which it determined that the IESO shall bear the costs of this proceeding, granted cost award eligibility to AMPCO, APPo and SEC, and denied cost award eligibility to KCLP.

On January 23, 2020, the OEB issued its Decision and Order in which it set out the process for parties eligible for an award of costs to file their cost claims, for the IESO to object to the claims, and for parties eligible for an award of costs to respond to any objections raised by the IESO.

The OEB received cost claims from AMPCO, APPo, KCLP and SEC. On February 13, 2020, the IESO filed a letter stating that it is of the view that counsel and consultants

acted reasonably and efficiently in this proceeding and made efforts to allocate responsibilities so as to promote efficiency and avoid duplication. The IESO did not object to the costs submitted by AMPCO, APPrO and SEC. With respect to KCLP's cost claim, the IESO submitted that the expert retained by KCLP, Dr. Brian Rivard, professionally discharged his obligations as an independent expert and provided evidence that was useful to the OEB. However, the IESO submitted that KCLP was not entitled to recover its costs in this proceeding for reasons earlier stated in the IESO's cost submissions and as determined by the OEB in its Decision on Cost Eligibility and Cost Responsibility.

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 parties. KCLP was not found eligible for costs. However, since the OEB found the testimony of Dr. Rivard helpful, the OEB will award KCLP an honorarium of \$15,000.

The claim of SEC requires a minor adjustment due to automatic rounding for printing disbursements.

The OEB finds that AMPCO and APPrO are eligible for 100% of their reasonably incurred costs of participating in this proceeding. The OEB finds that the claims of AMPCO, APPrO, and the adjusted claim of SEC are reasonable. The OEB also finds that KCLP shall be awarded an honorarium of \$15,000. Each of these claims shall be reimbursed by the IESO.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, the IESO shall immediately pay the following amounts to the parties for their costs:

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| • Association of Major Power Consumers in Ontario | \$124,087.15 |
| • Association of Power Producers of Ontario | \$32,676.22 |
| • Kingston CoGen Limited Partnership | \$15,000.00 |
| • School Energy Coalition | \$22,542.99 |

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

DATED at Toronto February 26, 2020

ONTARIO ENERGY BOARD

Original signed by

Christine E. Long
Registrar and Board Secretary