
◆ Norman D. Hann P.Eng ◆

March 23, 2020

Christine E. Long
Registrar and Board Secretary
Ontario Energy Board
PO Box 23 19
2300 Yonge Street, 27th Floor
Toronto ON
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Dear Ms. Long

Re: EB-2018-0165, Toronto Hydro-Electric System Limited (“Toronto Hydro”), 2020-2024
Custom Incentive Rate-setting (“Custom IR”) Application – Cost Claim Objection

In its Cost of Claim Objection dated March 18, 2020, Toronto Hydro objected to the cost claim of Mr. Hann. This letter is Mr. Hann’s reply to the objections raised by Toronto Hydro and request 100% of cost award.

In Toronto Hydro’s objection they state;

The principle that costs awarded should be proportionate to the contributions made by the party seeking costs in the proceeding underpins the considerations in section 5.01 of the OEB’s Practice Direction on Costs Awards.¹

In determining the amount of a cost award to a party, the Board may consider, amongst other things, whether the party has demonstrated through its participation and documented in its cost claim that it has:

- (a) participated responsibly in the process;*
- (b) contributed to a better understanding by the Board of one or more of the issues in the process;*
- (c) complied with the Board’s orders, rules, codes, guidelines, filing requirements and section 3.03.1 of this Practice Direction with respect to frequent intervenors, and any directions of the Board;*
- (d) made reasonable efforts to combine its intervention with that of one or more similarly interested parties, and to co-operate with all other parties;*

¹ Practice Direction on Costs Awards (April 24, 2014), s 5.01 at pages 5-6.

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(e) made reasonable efforts to ensure that its participation in the process, including its evidence, interrogatories and cross-examination, was not unduly repetitive and was focused on relevant and material issues;

*(f) engaged in any conduct that tended to lengthen the process unnecessarily;
or*

(g) engaged in any conduct which the Board considers inappropriate or irresponsible.

With regard to these considerations, and for the detailed reasons articulated below, Toronto Hydro objects to the cost claims submitted by DRC, Energy Probe, and Mr. Hann.

Toronto Hydro did not object to any of the sections stated above in the OEB's Practice Direction on Costs Awards, their objections were based on the following;

1. That Mr. Hann is an individual and that if the Board accepts his argument that there is scope for an individual expert to participate and be reimbursed for experience, expertise and effort.
2. That Mr. Hann is a expert
3. That Mr. Hann's costs were not in line with other intervenors.

1. Mr. Hann – an Individual and 2. Mr. Hann - an Expert

In the Nov 27, 2018 letter, the Board did not explicitly state that "legal or consultant fees" were not permitted for individuals. The letter stated the fees "are not **generally**² permitted to be claimed by individuals". This gives the Board latitude in the decision based on the unique participation of a specific individual as exemplified by the experience and expertise Mr. Hann brought to the proceeding based on his 35 years in the Electric Utility industry.³ This utility experience ranged from design, construction and operations to administration, systems development and asset management. Mr. Hann demonstrated his wide variety of experience and expertise throughout the proceeding and was acknowledged in part by the expert witness, Dr. Lowry, during Mr. Hann's cross examination when Dr Lowry stated "All I know is, the next time I am doing a reliability study I am calling you first."⁴

Mr. Hann has also been a conference speaker, author, member and leader in the electric industry⁵. With respect to precedence, much of Mr. Hann's experience and expertise was not represented by the other intervenors.

² OEB Intervenor Request letter - Reply to Mr. Hann (November 27, 2018).

³ Mr. Hann Cost Claim (March 11, 2020). Pg 6 and 7

⁴ Transcript VOLUME: 10 July 15, 2019 Pg 107 line 1-28

⁵ Mr. Hann Cost Claim (March 11, 2020). Pg 6

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He did not represent just himself as a customer but all customers who are trying to manage their electric costs. When Mr. Hann asked “what did you tell her (Mrs. Douglas) that Toronto

Hydro was going to do to reduce the delivery charge or the service charge portion of her bill?”⁶ and the Chair Ms. Anderson specifically asked Toronto to reply “I think we would like to hear the answer,”⁷ Mr. Hann was thinking of and asking for Ms. Douglas and all the other Ms. Douglas’s who are trying to manage their electric bills and do not have Mr. Hann’s experience or expertise to intervene.

Toronto Hydro did not provide any evidence to support the claim that Mr. Hann “was not an expert” nor that he only represented himself and did not represent the customers of Toronto Hydro.

3. Cost Comparison

Details from the “Ontario Energy Board COST CLAIM FOR HEARINGS Detail of Fees and Disbursements Being Claimed” show that for;

- VECC the cost claim⁸ was 94.85 hours or \$31400.5 (at the charge rate of \$330 without HST) less for Interrogatories Preparation, Argument Preparation and Oral Hearing Preparation and Attendance while the cost claim for
- CCC⁹ was 26 hours or \$8580 (at the charge rate of \$330 without HST) less for Oral Hearing Attendance.

If VECC and CCC had spent this time on these categories as Mr. Hann’s did, Mr. Hann’s costs are about 1% higher than VECC or CCC (without HST) , while considerably lower than the time spent by SEC¹⁰ (182.6 hours), BOMA¹¹ (101.4 hours) and slightly less than AMPCO¹² (21.4 hours) for the major variance categories with VEC of Interrogatories Preparation, Argument Preparation and Oral Hearing Preparation and Attendance.

Mr. Hann’s attendance at the hearings was higher due to the fact that he generally went last and did not know when he would be called upon. This explains the variance with CCC and part of VECC.

It appears that VECC is significantly lower than Mr. Hann’s as well as all the other intervenors for these categories.

⁶ Transcript VOLUME: 8 DATE: July 11, 2019 Pg 51 Line 5-28

⁷ Transcript VOLUME: 8 DATE: July 11, 2019 Pg 52 line 1-28

⁸ VECC_Cost Claim_THESL_20200304 (1) Cost Claim letter March 4, 2020 pg 4

⁹ CCC_CostClaim_THESL_20200305 (1) Cost Claim letter March 5, 2020 pg 4

¹⁰ SEC_Cost Claim_THESL_20200305 (1) Cost Claim letter March 5, 2020 pg 5 and 7

¹¹ BOMA_Cost_Claim_THESL_20200304 (1) Cost Claim letter March 4, 2020 pg 4

¹² AMPCO_CostClaim_THESL_20200308 (1) Cost Claim letter March 5, 2020 pg 5 and 8

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Summary

Therefore, Mr. Hann submits that the total cost claim of \$96,071.66 (including HST) for his full professional participation in the proceeding EB-2018-0165 is both reasonable and worthy of being awarded.

This is based on Mr. Hann's professional experience and expertise, the complexity and volume of the application and the fact that on the key activities of Interrogatories Preparation, Argument Preparation and Oral Hearing Preparation and Attendance, the work effort was at or below the other intervenors. VECC is the only intervenor that was lower and is a significant outlier on the low end of the hours scale.

With respect to not representing a "group", Mr. Hann represented all customers from a perspective that other intervenors for the most part did not bring to the proceeding. Section 5.01 of the OEB's Practice Direction on Costs Awards does not preclude an individual from receiving compensation provided they meet the requirements section (a) to (g) which Toronto Hydro did not argue that Mr. Hann did not adhere to.

Mr. Hann provided an important contribution in terms of both quality and quantity of issues addressed in the proceeding that he believes was of assistance to the Board in reaching its decision.

Sincerely



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