



Ontario  
Energy  
Board

Commission  
de l'énergie  
de l'Ontario

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# **DECISION AND ORDER ON COST AWARDS**

**EB-2018-0319**

## **ENBRIDGE GAS INC.**

**Application for approval to continue the existing financial terms associated with offering Open Bill Access services for the years 2019 and 2020**

**BEFORE: Lynne Anderson**  
Presiding Member

**Cathy Spoel**  
Member

**Robert Dodds**  
Member and Vice Chair

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**June 8, 2020**

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## INTRODUCTION AND SUMMARY

This is a decision of the Ontario Energy Board (OEB) on cost claims filed with respect to an Enbridge Gas Inc. (previously operating as Enbridge Gas Distribution Inc.) (Enbridge Gas) proceeding.

Enbridge Gas filed an application dated December 4, 2018 with the OEB under section 36 of the *Ontario Energy Board Act, 1998*, for approval to continue the existing financial terms associated with offering Open Bill Access services for 2019 and 2020.

The OEB granted the Building Owners and Managers Association Toronto (BOMA), Canadian Manufacturers and Exporters (CME), Energy Probe Research Foundation (Energy Probe), HVAC Coalition (HVAC), the Industrial Gas Users Association (IGUA) and the Vulnerable Energy Consumers Coalition (VECC) intervenor status and cost award eligibility.

On April 16, 2020, the OEB issued its Decision and Rate Order in which it set out the process for intervenors to file their cost claims, for Enbridge Gas to object to the claims and for intervenors to respond to any objections raised by Enbridge Gas.

The OEB received cost claims from BOMA, CME, Energy Probe, HVAC, IGUA and VECC. On May 7, 2020, Enbridge filed a letter stating that it had no objections to the cost claims but noted that the cost claim submitted by HVAC was significantly higher than the cost claims submitted by other parties.

In response to Enbridge Gas's objection, HVAC stated that Enbridge Gas had not commented on whether the time and effort spent by HVAC during that process was too much, too little, or the appropriate amount. HVAC stated that there was no information on the legal and consulting costs incurred by other intervenors (the Large Billers, or Vista), or with Enbridge Gas. None of them are required to file cost claims, so the OEB does not get visibility on the time and effort they invested in this process.

In support of its evidence, HVAC provided a table showing the claimed hours and argued that it took the lead among the intervenors on most of the issues, and in most of the steps in the process. HVAC noted that it had the longest history with the issues, and had the most background knowledge. HVAC noted that it posed the most comprehensive (multiple) sets of interrogatories, and generated the most data from those interrogatories. HVAC noted that during several stages of Alternative Dispute Resolution, the primary negotiation was between the Large Billers, Enbridge and HVAC, which was a continuation of the previous negotiations on Open Bill Access dating back

to 2007 and prior, which were also time consuming and very detailed. HVAC further noted that it led the customer-side positions, prepared drafts of possible customer protection modifications, and similar things. With respect to the oral hearing, HVAC noted that it was the only cost-eligible intervenor to lead written and oral evidence, which involved reviewing the HVAC written evidence in depth, and witness preparation. HVAC also took the lead in cross-examining Enbridge Gas. For the argument phase, HVAC only had slightly more time spent on argument as a result of its extensive involvement in the process, and HVAC provided the most comprehensive analysis of the issues in its argument.

HVAC submitted that the time and effort by HVAC was reasonable and necessary, and it paid off in further protections for customers, an improved program, and an efficient process with most key items settled.

## Findings

The OEB has reviewed the cost claims to ensure that they are compliant with the OEB's *Practice Direction on Cost Awards*. In light of the Covid-19 emergency, the OEB accepts the confirmation by HVAC of the nature of its cost award claim in the absence of an affidavit.

While Enbridge Gas noted that the cost claim from HVAC was significantly higher than from others, this did not assist in the OEB's assessment of the cost claims in the absence of any specific objection to the time spent, or analysis of HVAC's participation relative to that of other intervenors. The OEB accepts the explanations provided by HVAC on its extensive role in the proceeding.

The OEB finds that all parties are eligible for 100% of their reasonably incurred costs of participating in this proceeding. The OEB finds that the claims of BOMA, CME, Energy Probe, HVAC, IGUA and VECC are reasonable and shall be reimbursed by Enbridge Gas.

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**THE ONTARIO ENERGY BOARD ORDERS THAT:**

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

• Building Owners and Managers Association Toronto	\$21,642.66
• Canadian Manufacturers and Exporters	\$6,166.41
• Energy Probe Research Foundation	\$27,418.43
• HVAC Coalition	\$99,638.88
• Industrial Gas Users Association	\$4,583.19
• Vulnerable Vulnerable Energy Consumers Coalition	\$23,492.21

**DATED** at Toronto June 8, 2020

**ONTARIO ENERGY BOARD**

*Original signed by*

Christine E. Long  
Registrar and Board Secretary