

DECISION ON COST ELIGIBILITY

EB-2020-0152

**Consultation on Implementing the Process for Enabling Customers
to Opt Out of Time-of-Use Pricing**

By Delegation Before: Brian Hewson

Vice President

Consumer Protection & Industry Performance

June 11, 2020

On June 1, 2020, the Government of Ontario announced its intention to provide consumers with the choice to opt out of time-of-use pricing and requested the Ontario Energy Board (OEB) to develop, in consultation with electricity distributors and other stakeholders as appropriate, the rules to implement that customer choice initiative. On June 3, 2020, the OEB issued a letter initiating a consultation focused on the development of amendments to the OEB's Standard Supply Service Code and other regulatory instruments as required in order to ensure the timely, efficient and effective implementation of the new opt-out mechanism.

The letter indicated cost awards would be available under section 30 of the *Ontario Energy Board Act, 1998* and made provision for stakeholders to apply for eligibility. The letter also stated that costs awarded will be recovered from all rate-regulated licensed electricity distributors based on the number of customers they serve. Due to the timelines of this consultation, the OEB waived the normal process of allowing objections to cost eligibility requests.

The following organizations applied for cost eligibility:

- Consumers Council of Canada (CCC)
- BEworks Inc.
- Building Owners and Managers Association Toronto (BOMA)
- Distributed Resource Coalition (DRC)
- Low Income Energy Network (LIEN)
- London Property Management Association (LPMA)
- Vulnerable Energy Consumers Coalition (VECC)

The OEB finds that CCC, BOMA, LIEN, LPMA and VECC meet the criteria established in section 3 of the *Practice Direction on Cost Awards* and are therefore eligible for cost awards.

The DRC's request indicates it is comprised of two groups: the Electric Vehicle Society (EVS) and Plug'n Drive. While EVS represents customers of distributors, the OEB finds Plug'n Drive does not meet the eligibility criteria for cost awards because, according to its website, it is funded by sponsors that include regulated utilities (which are generally ineligible under section 3.05(b) of the *Practice Direction*) and electric vehicle manufacturers (which are generally ineligible under section 3.04(b), as they represent commercial interests). Moreover, it should be emphasized that the consultation is

focused on narrow, technical issues concerning the implementation of the Government's customer choice policy, such as the form and content of any notice that customers would need to provide to their distributor; it is not concerned with the broader policy questions which the DRC is raising and on which it might bring a unique perspective or specialized knowledge. Although the DRC is welcome to participate, the OEB finds that it is not eligible for costs.

The OEB also finds that BEworks Inc. does not meet the criteria set out in section 3.03 of the *Practice Direction*. BEworks Inc.'s application did not include information about its mandate and the constituents it represents and did not provide a rationale for why it believes it meets the eligibility criteria. According to its website, BEworks Inc. provides commercial consulting services. Under section 3.02 of the *Practice Direction* the burden of establishing eligibility is on the applicant and it has not been met in this instance. The OEB therefore finds that BEworks Inc. is not eligible for costs, but is still welcome to participate in the consultation.

Participants with similar viewpoints are requested to coordinate their activities in order to reduce costs. This effort will be taken into account during the decision on award of costs.

Consultation activities for which eligible participants may claim costs will be announced as the project progresses. This cost eligibility decision applies to all eligible activities in this process.

DATED at Toronto June 11, 2020

ONTARIO ENERGY BOARD

Original Signed By

Brian Hewson
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