



Ontario  
Energy  
Board | Commission  
de l'énergie  
de l'Ontario

---

# **DECISION AND ORDER ON COST AWARDS**

**EB-2019-0082**

## **HYDRO ONE NETWORKS INC.**

**Application for electricity transmission rates for the period from January 1, 2020  
to December 31, 2022**

**BEFORE: Emad Elsayed**  
Presiding Member

**Lynne Anderson**  
Member

**Robert Dodds**  
Member and Vice Chair

---

**September 4, 2020**

---

## INTRODUCTION AND SUMMARY

This is a decision of the Ontario Energy Board (OEB) on cost claims filed with respect to a Hydro One Networks Inc. (Hydro One) proceeding.

Hydro One filed a custom incentive rate-setting application with the OEB on March 21, 2019 under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B), seeking approval for changes to the rates that Hydro One Networks charges for electricity transmission, to be effective January 1, 2020 and for each following year through to December 31, 2022.

The OEB granted the following parties intervenor status and cost award eligibility:

- Anwaatin Inc. (Anwaatin)
- Association of Major Power Consumers in Ontario (AMPCO)
- Association of Power Producers of Ontario (APPrO)
- Building Owners and Managers Association, Greater Toronto (BOMA)
- Canadian Manufacturers & Exporters (CME)
- Consumers Council of Canada (CCC)
- Energy Probe Research Foundation (Energy Probe)
- Environmental Defence Canada Inc. (Environmental Defence)
- London Property Management Association (LPMA)
- Michipicoten First Nation (MFN)
- School Energy Coalition (SEC)
- Vulnerable Energy Consumers Coalition (VECC)

On April 23, 2020, the OEB issued its Decision and Order and on July 16, 2020, the OEB issued its Revenue Requirement and Charge Determinant Order in which it set out the process for intervenors to file their cost claims; for Hydro One to object to the claims; and for intervenors to respond to any objections raised by Hydro One. On July 19, 2020, CCC filed a letter with the OEB requesting a one-week extension for the filing of its cost claim. On July 20, 2020, the OEB granted CCC's request for the extension and revised the dates for the filing of cost claims to no later than July 30, 2020. Hydro One was given until August 6, 2020 to object to any aspect of the costs claimed, while intervenors were given until August 13, 2020 to file any responses.

---

The OEB received cost claims by the due date from Anwaatin, AMPCO, APPrO, BOMA, CCC, Energy Probe, Environmental Defence, LPMA, MFN, SEC and VECC. CME filed its cost claim on August 7, 2020. The OEB has considered CME's cost claim notwithstanding the late filing.

On August 6, 2020, Hydro One filed a letter stating that it had no objections to the cost claims with the exception of those of BOMA and MFN. Subsequently, Hydro One advised that it had no objection to the late CME's cost claim and withdrew its objection to the costs claimed by MFN. MFN had initially requested confidential treatment for some information in its cost claim, but subsequently acknowledged that the information will be on the public record.

With respect to BOMA's cost claim, Hydro One noted that BOMA had claimed 129.5 hours for preparation of argument. Hydro One submitted that this amount was very high in consideration of the scope of BOMA's argument and in relation to the amounts claimed by other parties for argument preparation. Hydro One further noted that the next highest claim in this category was that of SEC, whose argument was significantly broader in scope than BOMA's, at 112.7 hours. Hydro One further stated that the average time claimed by all other parties for argument preparation was much lower: 33 hours. In addition, Hydro One noted that in its last transmission proceeding, the OEB had concluded that BOMA's cost claim for argument preparation was excessive and reduced its claim in that category by 40 hours.<sup>1</sup> Hydro One submitted that an appropriate reduction to bring BOMA's claim to a level more commensurate with other parties and with the scope of its argument is similarly warranted here.

In response to Hydro One's objection, BOMA submitted that Hydro One's proposed reduction was inappropriate. BOMA argued that like SEC, it did not address every issue on the Issues List, but its argument was comprehensive, nuanced, and carefully constructed. BOMA submitted that its argument addressed all the major issues including rates and bill impacts, the size and nature of the capital budget, productivity improvements, customer engagement, prioritization of capital projects/programs, capital versus OM&A spending, benchmarking, earnings sharing, financial and profitability issues, capital adder (C-factor), the stretch factor, compensation, and capitalization practices. BOMA stated that it was not unusual for SEC and BOMA to have among the larger cost claims in major cases because of the depth and breadth of their analyses.

---

<sup>1</sup> EB-2016-0160, Decision and Order on Cost Awards dated January 9, 2018 p 3.

BOMA further stated that while its argument was lengthy, it was only about 15% of the length of Hydro One's reply argument of 254 pages and further noted that Hydro One's Argument-in-Chief was an additional 123 pages. BOMA suggested the fact that the OEB had reduced BOMA's hours in a previous Hydro One case, was not relevant to the disposition of BOMA's cost claim in this case.

## Findings

The OEB has reviewed the cost claims to ensure that they are compliant with the OEB's *Practice Direction on Cost Awards* (Practice Direction).

The OEB approves all the cost claims as submitted, with the following exceptions:

### BOMA

The OEB agrees with Hydro One that BOMA's claim of 129.5 hours for final argument preparation is excessive compared to other intervenors. The OEB is not persuaded that BOMA's final argument is any more comprehensive than that of other intervenors (e.g. SEC) to justify the higher hours claimed. The OEB is reducing BOMA's cost award in this category by 20 hours.

The OEB is also reducing BOMA's claim under rail travel from business class to the cost of an economy class fare, which is the standard set out in the Practice Direction. The reasons provided by BOMA for using business class are not compelling. BOMA's cost claim will be reduced by \$91.76 to reflect this adjustment.

BOMA did not provide an adequate reason for incurring hotel accommodation costs in Toronto for Friday November 1, 2019 and Saturday November 2, 2019 instead of travelling by rail to London and back. The incremental cost of \$120 between two nights of hotel accommodation and rail travel is denied.

The claim of BOMA also requires a reduction of \$45.12 due to \$32.69 claimed for meal disbursements and \$12.43 for HST charged twice on food. The OEB's August 24, 2017 (revised August 25, 2017) letter titled *New Guidance on Practice Direction on Cost Awards* provides that "the OEB will no longer consider claims for the costs of meals to be disbursements eligible for recovery under section 7.01 of the Practice Direction."

### CME

The OEB finds that the total hours claimed by CME (426.8 hours) are excessive compared to other intervenors. The next highest claim for total hours is 369.9 claimed

by SEC. The OEB has identified two areas where it believes the claimed hours have not been justified.

First, CME claimed 104 hours for interrogatory preparation. The next highest claim in this category is 56 hours by Energy Probe. Taking the number of interrogatories and the general nature of these interrogatories into account, the OEB finds that the claim in this category is excessive and is reduced by 20 hours.

The second area is oral hearing preparation where CME claimed 112.3 hours with the next highest claim being 65.7 hours (SEC). Again, taking into account the parties' contribution at the oral hearing, the OEB finds that this significant gap between CME and the rest of the intervenors has not been justified. Therefore, the OEB is reducing CME's claim in this category by 30 hours.

The OEB has applied the weighted-average-hourly rate for CME of \$182.22 and on this basis has reduced CME's cost claim for the disallowed 50 hours by \$9,110.82 and \$1,184.41 HST.

The OEB accepts CME's use of a flexible economy class fare recognizing the potential uncertainty associated with the hearing schedule in this case.

The claim of CME also requires a reduction of \$92.73 due to \$88.89 for meal disbursements and \$3.84 for gratuities for taxis which are not in accordance with the *New Guidance on Practice Direction on Cost Awards*.

### Energy Probe

The OEB observes that Energy Probe claimed time for two persons attending the oral hearing which is discouraged by the OEB. However, in this case, the OEB is satisfied that the two participants each actively participated in the hearing, addressed different topics and that their collective time claim falls within the range of other intervenors.

The OEB finds that the claims of Anwaatin, AMPCO, APPRO, CCC, Energy Probe, Environmental Defence, LPMA, MFN, SEC and VECC and the adjusted claims of BOMA and CME are reasonable and that each of these claims shall be reimbursed by Hydro One.

---

**THE ONTARIO ENERGY BOARD ORDERS THAT:**

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

|   |               |
|---|---------------|
| • Anwaatin Inc.   | \$ 28,310.23  |
| • Association of Major Power Consumers in Ontario           | \$ 97,420.13  |
| • Association of Power Producers of Ontario                 | \$ 36,120.61  |
| • Building Owners and Managers Association, Greater Toronto | \$96,605.83   |
| • Canadian Manufacturers & Exporters                        | \$80,250.84   |
| • Consumers Council of Canada                               | \$ 72,342.60  |
| • Energy Probe Research Foundation                          | \$ 78,897.33  |
| • Environmental Defence Canada Inc.                         | \$ 9,308.24   |
| • London Property Management Association                    | \$ 42,174.99  |
| • Michipicoten First Nation                                 | \$ 19,915.50  |
| • School Energy Coalition                                   | \$ 102,103.41 |
| • Vulnerable Energy Consumers Coalition                     | \$ 61,876.00  |

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

**DATED** at Toronto September 4, 2020

**ONTARIO ENERGY BOARD**

*Original signed by*

Christine E. Long  
Registrar and Board Secretary