



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

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# **DECISION AND ORDER ON COST AWARDS**

**EB-2019-0247**

**ENBRIDGE GAS INC.**

**2020 Federal Carbon Pricing Program Application**

**BEFORE: Lynne Anderson**  
Presiding Member

**Susan Frank**  
Member

**Michael Janigan**  
Member

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**September 21, 2020**

## INTRODUCTION AND SUMMARY

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

Enbridge Gas Inc. (Enbridge Gas) applied to the OEB for approval under section 36(1) of the *Ontario Energy Board Act, 1998* (OEB Act) to increase rates effective April 1, 2020 to recover costs associated with meeting its obligations under the federal *Greenhouse Gas Pollution Pricing Act* (GGPPA).

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

- Anwaatin Inc. (Anwaatin)
- Building Owners and Managers Association, Greater Toronto (BOMA)
- Energy Probe Research Foundation (Energy Probe)
- London Property Management Association (LPMA)
- School Energy Coalition (SEC)

On August 13, 2020, the OEB issued a Decision and Order in which it set out the process for intervenors to file their cost claims to this point in the proceeding, 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 Anwaatin, BOMA, Energy Probe, LPMA and SEC. Cost claims submitted are shown in Table 1.

**Table 1: Intervenor Cost Claims**

Intervenor	Cost Claim
Anwaatin Inc.	\$9,673.93
Building Owners & Managers Association, Greater Toronto	\$1,507.47
Energy Probe Research Foundation	\$7,561.50
London Property Management Association	\$2,610.30
School Energy Coalition	\$2,832.91

In support of its cost claim, Anwaatin noted that it was required to undertake additional legal research, analysis, and drafting regarding the substantive and procedural aspects of the constitutional issues it brought forward in this proceeding, regarding the applicability of the federal carbon charge to First Nations in light of the *Indian Act* and section 35 of the *Constitution Act, 1982*. In this proceeding, the OEB determined that it would defer consideration of these issues (the Deferred Issues) until the Supreme Court

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of Canada renders its decision on appeals concerning the constitutionality of the GGPPA.

On September 1, 2020, Enbridge Gas filed a letter stating that it had no specific concerns with the cost claims received from Anwaatin, BOMA, Energy Probe, LPMA and SEC.

## 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 finds the costs claimed by Energy Probe to be excessive. In its Decision on Updated Intervention Requests and Scope of Proceeding, dated March 19, 2020, the OEB approved Energy Probe as an intervenor for the issue of the disposition of the Federal Carbon Pricing Plan-related deferral and variance accounts. The OEB made clear its expectation that the scope of the proceeding was largely mechanistic. The OEB further indicated that intervenor activities in relation to adjusting Enbridge Gas' Federal Carbon Charge on customer bills to match the level set in the GGPPA would not be eligible for cost awards.

Given this limited scope, the OEB is reducing the hours claimed by Energy Probe by 50%. The OEB has applied the weighted-average-hourly rate for Energy Probe of \$322.73 and on this basis has reduced Energy Probe's cost claim for the disallowed 11 hours by \$3,550.00 and \$230.75 HST. The OEB notes that, with the exception of Anwaatin's claim, Energy's Probe's reduced cost award still exceeds that of the other intervenors.

Anwaatin's claim is significantly higher than that of other intervenors. The OEB recognizes that Anwaatin raised a unique issue. The OEB is accepting the current cost claim on the expectation that this work will not be duplicated when the OEB hears the Deferred Issues.

The OEB finds that the claims of Anwaatin, BOMA, LPMA and SEC and the adjusted claim of Energy Probe are reasonable and each of these claims shall be reimbursed by Enbridge Gas.

**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:

• Anwaatin Inc.	\$9,673.93
• Building Owners and Managers Association, Greater Toronto	\$1,507.47
• Energy Probe Research Foundation	\$3,780.75
• London Property Management Association	\$2,610.30
• School Energy Coalition	\$2,832.91

**DATED** at Toronto September 21, 2020

**ONTARIO ENERGY BOARD**

*Original signed by*

Christine E. Long  
Registrar and Board Secretary