



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

DECISION AND ORDER ON COST AWARDS

EB-2020-0030

HYDRO ONE NETWORKS INC.

Application for rates and other charges beginning January 1, 2021

BEFORE: Cathy Spoel
Presiding Commissioner

Emad Elsayed
Commissioner

February 5, 2021

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 an annual rate update application with the Ontario Energy Board (OEB) on August 31, 2020 under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B) seeking approval for changes to its electricity distribution rates to be effective January 1, 2021.

The OEB granted the Association of Major Power Consumers in Ontario (AMPCO), Building Owners and Managers Association (BOMA), Canadian Manufacturers and Exporters (CME), Consumers Council of Canada (CCC), School Energy Coalition (SEC) and Quinte Manufacturers Association (QMA) intervenor status and cost award eligibility.

On December 17, 2020, the OEB issued its Decision and Rate 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.

Cost claims were filed on or before the due date from BOMA, CME and SEC. AMPCO and CCC were late in filing their cost claims. The OEB accepts AMPCO and CCC's cost claims notwithstanding the late filings. By email dated January 18, 2021, QMA stated that it will not file a cost claim.

On January 18, 2021, Hydro One filed a letter stating that it had concerns with the claims made by AMPCO, CME, CCC and SEC. Hydro One noted that Procedural Order No. 1 (PO #1) had stated that:

cost awards will be limited to “activities related to Hydro One’s request to dispose of the balances in the deferral and variance accounts and the Earnings Sharing Mechanism account” and that despite broad descriptions of areas of interest in some intervention letters, “the OEB expects its review of this application to be primarily a mechanistic process. The OEB therefore expects that parties’ participation will reflect the limited scope of this proceeding.”

Hydro One further stated that AMPCO, CME, CCC and SEC devoted over fifty percent of their argument to issues that clearly fell outside the scope of PO #1, including argument that essentially amounted to a request to re-open and re-litigate the capital factor which was approved by the OEB in EB-2017-0049 for the duration of the Custom

IR period. Hydro One noted that in the Decision and Rate Order for the current proceeding, the OEB had agreed with its position and stated that “this matter is out of scope for this application”. Hydro One therefore proposed a reduction to the cost claims of each of AMPCO, CME, CCC and SEC in the amount of 50% under the Argument Preparation category.

CME, CCC and SEC all responded to Hydro One’s objection letter.

CME argued that the calculation of Hydro One’s capital factor has and will continue to have material impacts on its members. CME stated that it had raised what is, to its knowledge, a novel issue,¹ in good faith and in an effort to be of assistance to the OEB. CME requested that the OEB use its discretion to award it 100% of its reasonably incurred costs in this matter.

CCC stated that the OEB should use its discretion to allow it to be awarded 100% of its reasonably incurred costs for this proceeding, including those costs related to its submissions regarding the calculation of the capital factor.

SEC requested that the OEB exercise its discretion and award it the full amount included in the cost claim.

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 that the costs claimed by AMPCO, CCC, CME and SEC shall be reduced and that BOMA’s cost claim is approved as filed.

PO #1 stated that “cost awards will be limited to activities related to Hydro One’s request to dispose of the balances in the deferral and variance accounts and the Earnings Sharing Mechanism account.” Some of the interrogatories and the final submissions by some intervenors addressed other issues, such as the capital factor.

In reference to the capital factor issue, the OEB’s Decision and Order in this proceeding concluded that “the OEB agrees with Hydro One that this matter is out of scope for this application.”

¹ Namely, the non-cumulative calculation of a capital factor over a custom incentive ratemaking term.

As the scope of activities for which costs awards were available was clearly set out in PO #1, the OEB finds that costs will not be available after the fact for other issues. Intervenors who intended to claim costs in relation to these issues should have asked the OEB to expand the limits set out in PO #1.

Based on the limited scope of the cost awards in this case, the OEB reviewed the details of the submitted claims and determined that a 30% reduction in the total cost claims of AMPCO, CME and SEC, and a 15% reduction in CCC's claim is reasonable. The reason that the reductions are expressed as a percentage of the total cost claims, as opposed to just Argument Preparation as proposed by Hydro One, is that some intervenors addressed the capital factor in both their interrogatories and final argument.

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:

• Association of Major Power Consumers in Ontario	\$2,218.75
• Building Owners and Managers Association	\$2,359.44
• Canadian Manufacturers and Exporters	\$1,344.70
• Consumers Council of Canada	\$2,218.75
• School Energy Coalition	\$4,893.92

DATED at Toronto February 5, 2021

ONTARIO ENERGY BOARD

Original Signed By

Christine E. Long
Registrar