



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

---

# **DECISION AND ORDER ON COST AWARDS**

**EB-2020-0194**

**HYDRO ONE NETWORKS INC.**

**2017 – 2022 Transmission Revenue Requirement and Charge Determinants and  
2018-2022 Distribution Revenue Requirement and Rates, Remittal of Future Tax  
Savings Issue**

**BEFORE:** **Lynne Anderson**  
Presiding Chief Commissioner

**Michael Janigan**  
Commissioner

**Robert Dodds**  
Commissioner

---

**July 22, 2021**

## OVERVIEW

This is a decision of the Ontario Energy Board on cost claims filed with respect to a Hydro One Networks Inc. (Hydro One) proceeding arising from the approval of a refund from ratepayers to Hydro One related to taxes for the transmission and distribution businesses of Hydro One for the period 2017 to 2022.

The OEB issued a letter which confirmed that cost-eligible intervenors in Hydro One transmission and distribution proceedings EB-2016-0160, EB-2017-0049 and EB-2019-0082 would be eligible for cost awards with respect to the implementation of the Court's decision if they were eligible for cost awards for these prior proceedings.

On May 27, 2021, the OEB issued its Decision and Interim Rate Order and Revenue Requirement and Charge Determinant Order in which it set out the process for intervenors to file their cost claims, for Hydro One to raise any objections to the claims and for intervenors to respond to any objections raised by Hydro One.

The OEB received cost claims from the Association of Major Power Consumers in Ontario (AMPCO), Canadian Manufacturers & Exporters (CME), Consumers Council of Canada (CCC), Energy Probe Research Foundation (Energy Probe), London Property Management Association (LPMA), School Energy Coalition (SEC) and Vulnerable Energy Consumers Coalition (VECC).

On June 21, 2021, Hydro One filed a letter stating that it had no objections to the cost claims with the exception of that of SEC.

Hydro One noted that SEC's claim was disproportionate to the other claims and submitted that SEC's interrogatories and motion related to these interrogatories were an attempt to undermine the Divisional Court Decision<sup>1</sup> from which this proceeding arose and to expand the scope of this proceeding by seeking information that was not relevant. Hydro One further noted that although the OEB had rejected the motion, it had caused significant delay and had increased the costs for all parties.

Hydro One accordingly submitted that SEC's cost claim should be reduced from \$29,766.46 to \$10,830.49.

SEC rejected Hydro One's arguments and submitted that no reduction in its cost claim should be made by the OEB. SEC argued that its interrogatories and the motion were

---

<sup>1</sup> *Hydro One Networks Inc. v. Ontario Energy Board*, 2020 ONSC 4331 (CanLii), July 16, 2020

fully justified as the amount involved in this proceeding is substantial. SEC noted that this case had already been through four previous levels of adjudication and submitted that there was legitimate doubt about how much room intervenors would have to minimize the impact of this \$2.6 billion tax amount on customers.

SEC stated that it did not in any way deny the Court decision, nor ignore the OEB's procedural order, but rather had sought to find an interpretation of the Court decision that would allow the Applicant to recover the full amount they sought to collect, while keeping the impact on customers as low as possible.

SEC submitted that had the interrogatories and motion been frivolous, it would have assumed that the OEB would have so stated in its decision on the motion. SEC observed that the OEB had not done this. SEC argued that what the OEB had said was that it would not deal with the concerns raised by SEC in this proceeding, but that the OEB panel in the next cost of service case may deal with those issues.

## 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 approves the cost claims for AMPCO, CME, CCC, Energy Probe, LPMA, and VECC. The OEB is reducing SEC's cost award by 20%. The OEB has applied the weighted-average-hourly rate for SEC of \$319.68 and on this basis has reduced SEC's cost claim by \$5,268.33 and \$684.88 of HST for a total cost claim of \$23,813.25. The next highest cost claim is VECC at \$7,031.54.

The OEB finds SEC's claim too high given the scope of the proceeding established by the OEB for implementing the court decision. The OEB did not find that SEC's motion was frivolous or irresponsible but does find that SEC spent excessive time exploring tax calculations beyond the 2017-2022 period of the misallocated Future Tax Savings. Furthermore, SEC provided extensive analysis in its submission that was not helpful to the OEB. The OEB concludes that SEC could have argued for its proposed approach to repayment in less than the 35.4 hours that was claimed.

The OEB finds that the claims of AMPCO, CME, CCC, Energy Probe, LPMA and VECC and the adjusted claim of SEC are reasonable and 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:

• Association of Major Power Consumers in Ontario	\$5,127.38
• Canadian Manufacturers & Exporters	\$902.87
• Consumers Council of Canada	\$5,034.15
• Energy Probe Research Foundation	\$5,452.80
• London Property Management Association	\$3,281.52
• School Energy Coalition	\$23,813.25
• Vulnerable Energy Consumers Coalition	\$7,031.54

**DATED** at Toronto July 22, 2021

**ONTARIO ENERGY BOARD**

*Original Signed By*

Christine E. Long  
Registrar