



EPCOR Electricity Distribution Ontario Inc.

**Application for electricity distribution rates and other
charges beginning January 1, 2023**

PROCEDURAL ORDER NO. 1

July 15, 2022

EPCOR Electricity Distribution Ontario Inc. (EPCOR Electricity Distribution Ontario) filed a cost of service application with the Ontario Energy Board (OEB) on May 27, 2022 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 EPCOR Electricity Distribution Ontario charges for electricity distribution, beginning January 1, 2023.

A Notice of Hearing was issued on June 13, 2022. Each of Environmental Defence Canada Inc. (Environmental Defence), School Energy Coalition (SEC), Small Business Utility Alliance (SBUA) and Vulnerable Energy Consumers Coalition (VECC) applied for intervenor status and cost eligibility.

EPCOR filed an objection in relation to SBUA's request for intervenor status. EPCOR did not object to the requests from Environmental Defence, SEC and VECC.

Intervention Request of Small Business Utility Alliance

In its notice of intervention the SBUA stated that it "is a group of small business ratepayers in Ontario" and its "members are located, for example, in the Cities of Toronto and Ottawa, the Counties of Chatham-Kent, Wellington, Muskoka, Brant, Suffolk, and Norfolk, and the Niagara Falls area." SBUA further stated that "In anticipation of its potential intervention in this case, SBUA has begun engagement efforts vis-à-vis small businesses in the Collingwood, Stayner, Creemore and Thornbury. However, regardless of the location of its member base, SBUA is committed to advocating for the interests of small business ratepayers in the Province of Ontario generally, as set out in its Constitution." SBUA described its interest in this proceeding as follows:

- a. The appropriateness and reasonableness of the amounts proposed by EPCOR Electricity Distribution Ontario Inc. as new electricity distribution rates effective January 1, 2023.

- b. The appropriateness and reasonableness of the Distribution System Plan proposed by EPCOR Electricity Distribution Ontario Inc.
- c. The role of the Small Businesses in the Distribution System Plan proposed by EPCOR Electricity Distribution Ontario Inc.
- d. The requests made by EPCOR Electricity Distribution Ontario Inc. regarding the creation or clearance of deferral accounts, and
- e. Generally, to represent the interests of SBUA in this process.

SBUA also requested eligibility for an award of costs in this proceeding.

By letter dated July 6, 2022, EPCOR Electricity Distribution Ontario objected to SBUA's intervention request noting that SBUA does not represent any small businesses who are served by EPCOR Electricity Distribution Ontario and as such, SBUA has not established that it has a substantial interest within meaning of Rule 22.02 of the OEB's *Rules of Practice and Procedure*. EPCOR submitted that "the membership of representative organizations who seek intervenor status are an important factor to consider in determining whether or not there is a 'substantial interest'". EPCOR Electricity Distribution Ontario further stated that SBUA "should at a minimum be expected to (a) represent a constituency that is directly impacted by the application and (b) be able to show there is an effective means to obtain instruction and direction from representatives of that constituency."

By letter dated July 12, 2022, SBUA stated that EPCOR has misunderstood SBUA's mandate and has erroneously concluded that SBUA does not have a substantial interest in this proceeding. SBUA submitted that it represents the interests of small business throughout Ontario and need not have local businesses as members to demonstrate its interest in this proceeding. SBUA further stated that "the OEB has not required other regular intervenors to prove that they have individual members who are customers of the applicant. It is enough for prospective intervenors to show that they represent a broader constituency (i.e., small businesses in Ontario) which has an interest in the proceeding." SBUA also noted that it is the only intervenor that is advocating for the interests of small businesses and that if granted status, it will continue direct consultations with local businesses, local chambers of commerce and business improvement associations, "to ensure that the positions SBUA takes in the proceeding are tailored not only to concerns common to all small businesses in Ontario, but also to specific local concerns."

The onus is on SBUA to satisfy the OEB that it has a substantial interest in this proceeding. The OEB assesses substantial interest on a case-by-case basis and has on various occasions required that parties applying for intervenor status provide additional information in respect of their request. The OEB is aware that SBUA was granted intervenor status in other OEB proceedings, including the Enbridge Gas Inc. 2022-2027

Natural Gas Demand Side Management Plan and Framework proceeding (EB-2021-0002); and the recent Alectra Utilities Inc. Incremental Capital Module proceeding (EB-2022-0013). In those cases, at least some of SBUA's members would have been served by the utility whose rates were at issue.

The current proceeding pertains to rates and charges for EPCOR Electricity Distribution Ontario's service area, and in that context persons having a substantial interest in this proceeding are ratepayers located in that service area. Before the OEB can make a determination on SBUA's request for intervenor status in this matter, the OEB requires that SBUA provide more information on its membership and how and on what basis it would represent the interests of small business ratepayers operating in EPCOR Electricity Distribution Ontario's service area. If SBUA wishes to provide the additional information, it must be filed with the OEB by **July 20, 2022**.

Intervention Requests of Environmental Defence, SEC and VECC

EPCOR did not object to the requests from Environmental Defence, SEC and VECC. Environmental Defence, SEC and VECC are approved as intervenors and eligible to apply for an award of costs under the OEB's [Practice Direction on Cost Awards](#). The list of parties in this proceeding is attached as Schedule A to this Procedural Order.

Cost eligible intervenors should be aware that the OEB will not generally allow the recovery of costs for the attendance of more than one representative of any party unless a compelling reason is provided when cost claims are filed.

Issues List

The OEB is making provision for the development of an issues list prior to the filing of interrogatories. EPCOR Electricity Distribution Ontario, OEB staff and the intervenors shall develop and OEB staff shall file a proposed issues list for the OEB's consideration.

Interrogatories

At this time, provision is also being made for written interrogatories. The OEB will review the single test year application both in the context of the projects and programs that are requested for the test year and from the perspective of the distributor's plans for the subsequent four years until the next scheduled rebasing application.

Parties should examine the value presented by the proposed investments as opposed to focusing only on the costs. Parties should also assess the fit between EPCOR Electricity Distribution Ontario's plans and its stated objectives and consider how the plans contribute to positive outcomes for customers, in particular those outcomes that arise from the asset management decisions reflected in EPCOR Electricity Distribution

Ontario's distribution system plan. The OEB will consider the entire five-year distribution system plan to assess the planning and pacing proposals of EPCOR Electricity Distribution Ontario and whether the test year requests are appropriately aligned with the distribution system plan. The OEB will also consider productivity and benchmarking results in assessing cost forecasts, bill impacts and distributor performance.

Parties should not engage in detailed exploration of items that do not appear to be material. Parties should use the materiality thresholds documented in Chapter 2 of the Filing Requirements as a guide. In making its decision on cost awards, the OEB will consider whether intervenors made reasonable efforts to ensure that their participation in the hearing was focused on material issues.

Parties should consult sections 26 and 27 of the OEB's [Rules of Practice and Procedure](#) regarding required naming and numbering conventions and other matters related to interrogatories.

Presentation of Settlement Proposal

The OEB is making provision for a settlement conference. Following the settlement conference, provision is being made for the filing of letters informing the OEB of the status of the settlement discussions, the presentation of any settlement proposal filed by EPCOR Electricity Distribution Ontario, whether full or partial, and for the presentation of any unsettled issues to be adjudicated by the OEB. EPCOR Electricity Distribution Ontario's presentation is intended to summarize and provide any salient information for the OEB's consideration in reviewing the settlement proposal.

It is necessary to make provision for the following matters related to this proceeding. Further procedural orders may be issued by the OEB.

IT IS THEREFORE ORDERED THAT:

1. OEB staff shall file a proposed issues list, or, alternatively, shall advise the OEB in writing that the parties and OEB staff have been unable to reach an agreement on a draft issues list by **July 22, 2022**.
2. OEB staff and intervenors shall request any relevant information and documentation from EPCOR Electricity Distribution Ontario that is in addition to the evidence already filed, by written interrogatories filed with the OEB and served on all parties by **August 5, 2022**.
3. EPCOR Electricity Distribution Ontario shall file with the OEB complete written responses to all interrogatories and serve them on OEB staff and all intervenors by **August 25, 2022**.

4. A settlement conference among the parties and OEB staff will be convened on **September 7-8, 2022**, starting at 9:30 a.m. If necessary, the settlement conference will continue on **September 9, 2022**. This will be a virtual event and information on how to participate will be provided in advance of the conference.
5. **Within 48 hours** of the conclusion of the settlement conference, EPCOR Electricity Distribution Ontario shall file a letter informing the OEB of the status of the settlement discussions including whether a tentative agreement had been reached or if the parties propose to continue the settlement discussions.
6. If there is no settlement proposal arising from the settlement conference, EPCOR Electricity Distribution Ontario shall file a statement to that effect with the OEB by **September 16, 2022**. In that event, parties shall file and serve on the other parties by **September 23, 2022**, any submissions on which issues shall be heard in writing, and for which issues the OEB should hold an oral hearing.
7. If there is a settlement, any settlement proposal arising from the settlement conference shall be filed with the OEB on or before **October 3, 2022**. In addition to outlining the terms of any settlement, the settlement proposal should contain a list of any unsettled issues, indicating with reasons whether the parties believe those issues should be dealt with by way of oral or written hearing.
8. Any submission from OEB staff on a settlement proposal shall be filed with the OEB and served on all parties by **October 11, 2022**.
9. The OEB is setting a tentative date of **October 18, 2022, at 9:30 a.m.** for EPCOR Electricity Distribution Ontario to present to the OEB any settlement proposal and a summary of any unsettled issues in the case. OEB staff will, at the direction of the OEB, confirm or amend this date in subsequent correspondence.

Parties are responsible for ensuring that any documents they file with the OEB, such as applicant and intervenor evidence, interrogatories and responses to interrogatories or any other type of document, **do not include personal information** (as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*), unless filed in accordance with rule 9A of the OEB's [Rules of Practice and Procedure](#).

Please quote file number, **EB-2022-0028** for all materials filed and submit them in searchable/unrestricted PDF format with a digital signature through the [OEB's online filing portal](#).

- Filings should clearly state the sender's name, postal address, telephone number and e-mail address.

- Please use the document naming conventions and document submission standards outlined in the [Regulatory Electronic Submission System \(RESS\) Document Guidelines](#) found at the [File documents online page](#) on the OEB's website.
- Parties are encouraged to use RESS. Those who have not yet [set up an account](#), or require assistance using the online filing portal can contact registrar@oeb.ca for assistance.
- Cost claims are filed through the OEB's online filing portal. Please visit the [File documents online page](#) of the OEB's website for more information. All participants shall download a copy of their submitted cost claim and serve it on all required parties as per the [Practice Direction on Cost Awards](#).

All communications should be directed to the attention of the Registrar at the address below and be received by end of business, 4:45 p.m., on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Katherine Wang at Katherine.Wang@oeb.ca and OEB Counsel, James Sidlofsky at James.Sidlofsky@oeb.ca.

Email: registrar@oeb.ca

Tel: 1-877-632-2727 (Toll free)

DATED at Toronto, July 15, 2022

ONTARIO ENERGY BOARD

By delegation, before: Rudra Mukherji

Rudra Mukherji
Manager, Adjudicative Process

SCHEDULE A

PROCEDURAL ORDER NO. 1

EPCOR ELECTRICITY DISTRIBUTION ONTARIO INC.

EB-2022-0028

APPLICANT & LIST OF INTERVENORS

EPCOR Electricity Distribution Ontario Inc.
EB-2022-0028

APPLICANT & LIST OF INTERVENORS

July 15, 2022

APPLICANT

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July 15, 2022

INTERVENORS

Rep. and Address for Service

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APPLICANT & LIST OF INTERVENORS

July 15, 2022

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July 15, 2022

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