



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

**DECISION AND ORDER ON COST
AWARDS**

EB-2015-0166 / EB-2015-0175

UNION GAS LIMITED

ENBRIDGE GAS DISTRIBUTION INC.

**Applications for Pre-Approval of the Cost Consequences of Long-Term
Natural Gas Transportation Contracts for Capacity on the NEXUS Pipeline**

BEFORE: Cathy Spoel
Presiding Member

Christine Long
Member

Allison Duff
Member

February 16, 2016

INTRODUCTION AND SUMMARY

Union Gas Limited (Union) and Enbridge Gas Distribution Inc. (Enbridge) each applied to the Ontario Energy Board (OEB) for pre-approval of the cost-consequences of 15-year transportation contracts under section 36 of the *Ontario Energy Board Act, 1998* and the OEB's Filing Guidelines for Pre-Approval of Long-Term Natural Gas Supply and/or Upstream Transportation Contracts. The OEB heard the two applications together as part of a combined proceeding.

For the Union proceeding, the OEB granted intervenor status and cost award eligibility to the following parties:

- Association of Power Producers of Ontario (APPrO)
- Building Owners and Managers Association Toronto (BOMA)
- Canadian Manufacturers and Exporters (CME)
- Consumers Council of Canada (CCC)
- Energy Probe Research Foundation (Energy Probe)
- Federation of Rental-housing Providers of Ontario (FRPO)
- Industrial Gas Users Association (IGUA)
- London Property Management Association (LPMA)
- School Energy Coalition (SEC)
- Vulnerable Energy Consumers Coalition (VECC)

For the Enbridge proceeding, the OEB granted intervenor status and cost award eligibility to the following parties:

- Association of Power Producers of Ontario (APPrO)
- Building Owners and Managers Association Toronto (BOMA)
- Canadian Manufacturers and Exporters (CME)
- Consumers Council of Canada (CCC)
- Energy Probe Research Foundation (Energy Probe)
- Federation of Rental-housing Providers of Ontario (FRPO)
- Industrial Gas Users Association (IGUA)
- Mr. Ron Tolmie
- School Energy Coalition (SEC)
- Vulnerable Energy Consumers Coalition (VECC)

On December 17, 2015, the OEB issued its Decision and Order in which it set out the process for intervenors to file their cost claims, for Union and Enbridge to object to the claims and for intervenors to respond to any objections raised by Union and Enbridge.

The OEB received cost claims from APPrO, BOMA, CME, CCC, Energy Probe, FRPO, IGUA, LPMA, Mr. Tolmie, SEC and VECC.

On January 21, 2016, Union filed a response to the cost claims and noted that it had no objections to the cost claims. Union agreed to share the costs as per the direction of the OEB.

Also on January 21, 2016, Enbridge filed a response to the cost claims and noted that Mr. Tolmie accounted for 396 km of travel at a cost of \$0.54 per km. Enbridge noted that as per the OEB's *Practice Direction on Cost Awards*, mileage in Southern Ontario is to be claimed at a cost of \$0.40 per km. Enbridge stated that the other parties' cost claims are within the tolerances of the guidelines.

OEB Findings

The OEB reviewed the claims filed by APPrO, BOMA, CME, CCC, Energy Probe, FRPO, IGUA, LPMA, Mr. Tolmie, SEC and VECC to ensure that they are compliant with the OEB's *Practice Direction on Cost Awards*.

The OEB approves the cost claims of BOMA, CCC, IGUA, LPMA, SEC and VECC as filed.

FRPO's cost claim requires a minor reduction of \$7.28 as double HST was charged on mileage.

In regard to Mr. Tolmie's cost claim, the OEB notes that fees are not generally permitted to be claimed by individuals under the OEB's Cost Award Tariff. However, the OEB has discretion, as set out in section 3.08 of the *Practice Direction on Cost Awards*, to award an honorarium. The OEB will approve an honorarium of \$1,500 for Mr. Tolmie for his participation in the proceeding. This amount is in addition to the \$402.40 in disbursements that Mr. Tolmie requested, and adjusted for mileage as per the OEB's *Practice Direction on Cost Awards*.

With respect to CME, APPrO and Energy Probe, the OEB finds that their cost claims were not proportionate to their contribution to the hearing.

The OEB will reduce the fee portion of CME's cost claim by 50%. The OEB finds that the over 40 hours of preparation time undertaken for the oral hearing is excessive in the context of CME's limited cross examination and when compared to other intervenors' claims. In addition, the OEB finds that CME's written argument was of limited assistance in its deliberations. In total, the OEB will approve cost awards in the amount of \$25,058.13 (\$23,648.08 in fees and \$1,410.05 in disbursements) for CME.

The OEB will reduce the fee portion of APPrO's cost claim by 50%. The OEB finds that APPrO's participation in the hearing was of limited assistance to the OEB's understanding of the issues. The cost claim of APPrO also requires a further reduction of \$78.41 as double HST was charged on mileage and on VIA Rail expenses. In total, the OEB will approve cost awards in the amount of \$15,669.26 (\$14,562.31 in fees and \$1,106.95 in disbursements) for APPrO.

The OEB will reduce Energy Probe's cost claim by 35%. The OEB notes that Energy Probe's cost claim includes costs associated with the work of 3 consultants, which is excessive compared to other intervenor cost claims. In addition, the OEB finds Energy Probe's written argument was of limited assistance in its deliberations. In total, the OEB will approve cost awards in the amount of \$14,551.10 (\$14,551.10 in fees and \$0 in disbursements) for Energy Probe.

The OEB finds that given the combined nature of the proceeding it is appropriate to split intervenor cost awards equally between Union and Enbridge. The approved cost awards are split equally in the order section below, except as indicated.

LPMA was an intervenor in Union's proceeding only. Therefore, LPMA's approved costs will be paid solely by Union.

Mr. Tolmie intervened in Enbridge's proceeding only. Therefore, Mr. Tolmie's approved disbursements and honorarium will be paid solely by Enbridge.

THE ONTARIO ENERGY BOARD ORDERS THAT:

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

Association of Power Producers of Ontario	\$7,834.63
Building Owners and Managers Association Toronto	\$19,024.76
Canadian Manufacturers and Exporters	\$12,529.06

Consumers Council of Canada	\$4,008.68
Energy Probe Research Foundation	\$7,275.55
Federation of Rental-housing Providers of Ontario	\$19,957.71
Industrial Gas Users Association	\$3,615.11
London Property Management Association	\$12,568.54
School Energy Coalition	\$6,934.25
Vulnerable Energy Consumers Coalition	\$3,124.70

2. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Enbridge shall immediately pay the following amounts to the intervenors for their costs:

Association of Power Producers of Ontario	\$7,834.63
Building Owners and Managers Association Toronto	\$19,024.76
Canadian Manufacturers and Exporters	\$12,529.06
Consumers Council of Canada	\$4,008.68
Energy Probe Research Foundation	\$7,275.55
Federation of Rental-housing Providers of Ontario	\$19,957.71
Industrial Gas Users Association	\$3,615.11
Mr. Ron Tolmie	\$1,902.40
School Energy Coalition	\$6,934.25
Vulnerable Energy Consumers Coalition	\$3,124.70

3. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Union and Enbridge shall pay the OEB's costs of, and incidental to, this proceeding immediately upon receipt of the OEB's invoice.

DATED at Toronto February 16, 2016

ONTARIO ENERGY BOARD



Kirsten Walli
Board Secretary