

Sent by Email

August 25, 2023

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, ON M4P 1E4
Attention: Nancy Marconi, Registrar

Dear Ms. Marconi:

Re: EB-2022-0028 – Application for electricity distribution rates and other charges by EPCOR Electricity Distribution Ontario Inc. – SBUA Response to EPCOR’s Cost Claim Objection

We are counsel to the Small Business Utility Alliance (SBUA). In this letter, we respond to the Cost Claim Objection filed by EPCOR Electricity Distribution Ontario Inc. (EEDO) on August 16, 2023, as that objection relates to the time spent by SBUA’s counsel.

At the outset, we note that, like many intervenors, SBUA is a non-profit organization whose ability to participate in Board proceedings depends on costs for counsel time being recovered. To refuse to compensate counsel for time reasonably spent on the proceeding, in good faith, would create a chilling effect on participation.

SBUA participated meaningfully and responsibly in the process by making interrogatories, participating in the settlement conference to the extent that it could, participating in the oral hearing and submitting a final argument. SBUA’s participation was focused, directly related to the interests of its constituents, and avoided duplication with the issues raised by other intervenors.

EEDO’s position that no costs should be awarded to SBUA in connection with the settlement conference should be rejected. I could not attend the settlement conference because I was overseas participating in another hearing that had been scheduled before the settlement conference. Mr. Melo attended the beginning of the first day of the settlement conference and the second day. He explained to Ms. Daitch by email that I was overseas.

SBUA participated in the settlement conference to the greatest extent possible in the circumstances, having regard to prior engagements that could not be otherwise accommodated.

Regarding the specific reductions EEDO requests:

1. EEDO requests that 20 minutes (0.33 hours) of my time be removed from the costs claim because it was “related to the settlement conference” which I could not attend. On the contrary, as indicated on the invoice, this line item relates to emails three weeks after the settlement conference concerning the proposed settlement. There is no basis for the requested reduction.
2. EEDO states that Mr. Melo’s time to participate in the settlement conference was 6.17 hours. As reflected on the invoice, he participated in the first day of the settlement conference for 1.17 hours and the second day for 2.33 hours, for a total of 3.5 hours, not 6.17.
3. EEDO asserts that Mr. Melo spent 2.17 hours to review the Board’s decision. He in fact spent 40 minutes (0.67 hours), as reflected on the invoice, which is consistent with the time spent by other intervenors and is reasonable.
4. EEDO requests that time spent to prepare the costs claim should be disallowed. Since this represents a real cost to counsel (as does preparing this type of letter), SBUA submits that this type of cost should not be disallowed. Indeed, costs claims before the courts regularly include the cost of preparing the bill of costs or costs outline, which recognizes that compensation for participation in a proceeding is illusory if it does not include all aspects of participating in that proceeding.

We therefore respectfully request that SBUA’s costs be awarded as claimed.

Yours truly,



Myriam Seers

cc. All parties in EB-2022-0028