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August 26, 2023 Revised **VIA E-MAIL**

Ms. Nancy Marconi
Registrar
Ontario Energy Board
Toronto, ON

Dear Ms. Marconi:

Re: EB-2022-0028 EPCOR Electricity Distribution Ontario Inc. (EEDO)
Cost Claim Objection Reply

We are in receipt of the letter of August 16, 2023 in which EEDO objects to the cost claim of VECC in the above noted proceeding. EEDO also objects to the cost claims of the School Energy Coalition (SEC) and the Small Business Utility Alliance (SBUA). It did not object to the cost claim of Environmental Defence.

EEDO's specific objection is that "*VECC's claim for time spent preparing interrogatories appears excessive and disproportionate compared to the amount of time spent by SEC, which is a comparable intervenor for this cost category.*" Based on this comparison "*EEDO proposes that VECC's total time for the preparation of interrogatories be reduced by 9 hours at a rate of $330/hour amounting to a total reduction of $2,970.00 + HST*". VECC has viewed EEDO's objection and submits that it should be rejected for the reasons set out below.

First VECC agrees with SEC's submission regarding the EEDO's objections that comparing the time spent on a given activity with other intervenors is a poor indicator of the reasonableness of cost claim. This is because each intervenor will have different work habits, different focus, and different responsibilities.

Cost comparison by claim categories is a poor indicator because different parties, and indeed different members within an intervenor's team, may have different practices for developing their work. For example, one consultant or lawyer may start creating notes with respect on the application at the time of developing interrogatories while another may do the equivalent activity only after interrogatory responses are filed and prior to the settlement conference. The categories are also not exact as to their meaning. For example, at times we have used the category "interrogatory response review" somewhat interchangeably with "Settlement Conference preparation" depending on the nature and procedural elements of the proceeding. Another example, is distinguishing between time spent reviewing the Application and time spent preparing IRs. VECC notes that while its cost claim includes 0.5 hours for reviewing the Application, the SEC cost claim includes 5.6 hours. This difference alone accounts for more than half of the 9.2 hour difference EEDO noted.

Second, VECC submits that focusing on the number of information requests by each participant is not a useful indicator of the time required to prepare the information requests. Some information requests are the result of a detailed review of complex models or spreadsheets, others are based on historical or

other analytical techniques. It is not unusual for one intervenor to have more hours in certain categories due to the legal or technical expertise they bring to a subject matter. VECC and other intervenors often rely on SEC's legal expertise and this allows VECC to avoid duplicative legal related costs. In a similar fashion VECC retains expertise in cost allocation and rate design which by its nature requires extended time to prepare. We have found parties often rely upon VECC's expertise to allow them to avoid duplicative work in the area of cost allocation and rate design. These are a few of the many examples of adhering to the Board long-standing request that parties work together where possible. It does not seem right to us to be penalized for adhering to Board directions.

In this case, it makes even less sense to make such comparisons when some intervenors had a very narrow scope of intervention and interest, especially when compared to VECC and SEC which take broad perspectives on all the interests. And while we are not writing to defend the practice of other intervenors, we do wish to register our concern with EEDO's representations with respect to the SBUA. We have no comments with respect to SBUA's participation, but we are very concerned that EEDO potentially breaches its settlement confidentiality undertakings in making its submission:

"*In EEDO's view, SBUA failed to participate responsibly in the settlement conference. Notably, SBUA was for some time absent from the process and unreachable which caused confusion amongst participants and contributed to delays in the process. Furthermore, in EEDO's view, SBUA was not an active participant in the settlement process and their limited attendance was neither meaningful nor helpful to the resolution of issues addressed in that process*."

In our opinion should the Board wish to assess the meaningfulness of a party's participation in a settlement conference it might look to the appointed facilitator or if necessary to Board Staff and only then in the most unusual of circumstances. Certainly, it should be cautious in considering the views on the behaviour of others as given from an aggrieved party. We also object to EEDO putting words in our mouth as to what if any "*confusion amongst participants*" was caused by SBUA's participation.

Finally, it is worth noting that the Board's Decision required cost claims to be submitted by August 13, 2023 and prior to Staff's second submission of August 16 pointing out additional errors in the Applicant's DRO. Our consultants' review of that submission and the necessity to review a second draft DRO were provided pro bono to VECC by its consultants.

Overall, VECC submits that, given its level of participation in the proceeding, the total quantum of its cost claim is reasonable and should be approved.

All of which is respectfully submitted.

Yours truly,
Mark Garner
For VECC/PIAC

Mark C. Garner Digitally signed by Mark C. Garner
Date: 2023.08.26 12:19:49 -04'00'

cc.
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