



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

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# DECISION AND ORDER ON COST AWARDS

## EB-2023-0195

### TORONTO HYDRO-ELECTRIC SYSTEM LTD

Application for electricity distribution rates beginning January 1,  
2025

**BEFORE:** **Michael Janigan**  
Presiding Commissioner

**Allison Duff**  
Commissioner

**Anthony Zlahtic**  
Commissioner

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March 13, 2025

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## OVERVIEW

Toronto Hydro-Electric System Limited (Toronto Hydro) filed an application with the Ontario Energy Board (OEB) on November 17, 2023, under section 78 of the *Ontario Energy Board Act, 1998*, seeking approval for changes to the rates that Toronto Hydro charges for electricity distribution, beginning January 1, 2025, and for each following year through to December 31, 2029.

With Procedural Order No 1, issued January 15, 2024, the OEB granted cost eligibility status to the following intervenors:

- Association of Major Power Consumers in Ontario (AMPCO)
- Building Owners and Managers Association (BOMA)
- Consumers Council of Canada (CCC)
- Coalition of Concerned Manufacturers and Businesses of Canada (CCMBC)
- Distributed Resources Coalition (DRC)
- Energy Probe Research Foundation (Energy Probe)
- Environmental Defence (ED)
- Pollution Probe
- School Energy Coalition (SEC)
- Vulnerable Energy Consumers Coalition (VECC)

On December 10, 2024, the OEB issued its Partial Decision and Order in which it set out the process for cost claims.

The OEB received cost claims from AMPCO, BOMA, CCC, CCMBC, DRC, Energy Probe, ED, Pollution Probe, SEC, and VECC. Toronto Hydro filed a submission on the cost claims. BOMA filed a response to Toronto Hydro's comments.

In its submission, Toronto Hydro stated that it did not object to any cost claims in the proceeding. However, Toronto Hydro stated that it is important the OEB review intervenor and OEB staff activities as part of the proceeding. Particularly, Toronto Hydro submitted that the OEB review activities with the following considerations:

- Collaboration to reduce duplication
- The quality of discovery activities from the intervenors and OEB staff
- The quality and benefit of BOMA's intervenor evidence to the proceeding
- Cost awards on the basis of the value of intervenor's participation

On January 26, 2024, BOMA requested leave of the OEB to file evidence. BOMA proposed to:

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- Focus on Toronto Hydro's filed load forecast methodologies and the 2025-2029 load forecast as they relate to the commercial building sector.
  - Present analysis of electricity consumption trends for different commercial building types, based on empirical data from Ontario's Energy and Water Reporting and Benchmarking for commercial buildings, and Broader Public Sector for institutional buildings.
  - Establish a model that would quantify the impacts of conservation and demand-side management efforts and electrification in the commercial building sector.

BOMA asserted that this evidence would focus on the potential for electrification of different commercial building types. BOMA's evidence would highlight the areas of Toronto Hydro's load forecast that is supported by or inconsistent with the BOMA's modelling.

Particularly, BOMA's proposal was to comment specifically on the following areas:

- Exhibit 3: Toronto Hydro's load forecast
- Exhibit 2B: Electrification, Net Zero 2040 strategy, and the Distribution System Plan
- Exhibit 7: Cost allocation

With Procedural Order No 3, issued February 5, 2024, the OEB granted BOMA leave to file the proposed evidence. In particular, the OEB noted that it would be beneficial for BOMA's evidence to include the number of Toronto Hydro customers by rate class and the associated energy volumes that BOMA represents.

Toronto Hydro submitted that BOMA's interrogatories and technical conference questioning show that the proposed study relied on data that BOMA hoped to obtain from Toronto Hydro. Toronto Hydro asserted that this was a baseless expectation for an experienced intervenor. Further, when it was apparent Toronto Hydro did not have this data after interrogatories and the technical conference, BOMA should have withdrawn its proposal to submit evidence.

Toronto Hydro described BOMA's evidence as anecdotal in contrast to what was proposed and approved by the OEB. Specifically, Toronto Hydro submitted that intervenor evidence should only be filed if two criteria are met:

1. The subject matter is material to the OEB's decisions in the proceeding
2. It is reasonably expected the evidence would influence those decisions

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Separate from criticizing BOMA's evidence, Toronto Hydro recognized the disproportionately large roles played by SEC and VECC compared to BOMA, and drew reference to the quantum of cost claims filed.

In its response, BOMA claimed the electrification trends presented in its evidence were accepted in the settlement conference. In BOMA's view, the corresponding reductions to the load forecast and distribution rates are examples of the value of the filed evidence. BOMA justified its technical conference questions, stating that these served to confirm assumptions related to electrification and obtain market segmentation data.

BOMA challenged Toronto Hydro's characterization that the filing was "guesswork." BOMA stated that its conservation and electrification analyses are based on a substantial volume of building information. This information was based on BOMA's direct involvement with energy efficiency and electrification planning projects in Toronto and Ontario. BOMA submitted that Toronto Hydro's comments on its evidence indicate a lack of understanding of the urgency, scale and complexity of the energy transition. BOMA claimed that Toronto Hydro's submission does not appreciate the value that intervenors and expert evidence bring to utility planning and protecting the interests of its customers.

## 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 filed by all parties except for BOMA.

The OEB finds that BOMA's cost claim is excessive and does not reflect the value of its participation. In particular, the OEB notes that the actual evidence differed greatly from what was described in the January 26, 2024, letter when BOMA requested leave to file evidence. The evidence was intended to focus on Toronto Hydro's proposed load forecast methodologies and the resulting 2025-2029 load forecast with respect to the commercial building sector. The evidence was to include an analysis of electricity consumption trends from different commercial building types based on the most recent empirical data. BOMA also noted the work would focus on the potential for electrification of different commercial building types.

There were considerable drawbacks or deficiencies in the product provided to the OEB, these include:

1. BOMA did not appear to provide Enerlife Consulting with sufficient instructions.
2. The information that would have been beneficial to the weight of the BOMA evidence as suggested by the OEB concerning the number of BOMA customers served by Toronto Hydro was not provided.
3. There was no evidence that the data provided applied to buildings actually served by Toronto Hydro.
4. The expected analysis of the impact of electrification on load forecast, billing revenue and capital did not transpire. The basis for projection was an anecdotal summary of comments made by some 20 clients. There were instead recommendations for Toronto Hydro to conduct an analysis on the potential impact of electrification on the proposed load forecast, capital investment plan and to collaborate with interested parties on specific goals, targets and timelines for quantifying and delivering on this waste heat recovery potential.
5. There were no comments on NetZero 2040 strategy, the Distribution System Plan or Cost Allocation.

The OEB also agrees with Toronto Hydro's submission that as an experienced intervenor, BOMA should have known the drawbacks to providing its evidence if not from the outset, certainly after Toronto Hydro's interrogatory responses were filed. In that circumstance, the OEB also finds that the very limited influence that the evidence would potentially have (and ultimately did have) on the Decision should have been considered more carefully by BOMA.

The OEB reduces BOMA's hours claimed by 42% as summarized in the table below. The OEB's reductions reflect the following:

- The value of BOMA's evidence was limited to the adjustment made to Toronto Hydro's load forecast that reflected the annual adjustments for building electrification that was part of the Settlement Proposal. The OEB reduces BOMA's claim to prepare the evidence by 90%.
- The value of BOMA's interrogatory responses was limited. The OEB finds most answers unresponsive to the interrogatories posed and strayed into submission. The OEB reduces BOMA's claim for interrogatory responses by 50%.
- The OEB evaluated the time spent by BOMA in comparison to the hours claimed by other intervenors associated with similar issues. The results of that review show that BOMA's cost claims for the activities identified below are materially higher than the claims of other intervenors with a similar level of involvement in the proceeding. The result set out in the BOMA claim award herein reflects the comparison to the average hours for other approved intervenor relevant claims excluding BOMA.

- Preparation of Settlement Proposal: BOMA claimed significantly more time than virtually all other intervenors for preparation of the settlement proposal. The only intervenor who claimed more time than BOMA, was SEC and the OEB agrees with Toronto Hydro's acknowledgement of SEC's prominent role in the settlement process. Excluding SEC, the average time spent by intervenors for this activity was 5 hours. The OEB finds that BOMA's claim for this activity should be 5 hours.
- Review of the Rate/Accounting Order: Only 3 intervenors claimed time to review the rate/accounting order. The amount of time claimed by BOMA for this activity far exceeded the time spent by the two other intervenors. The average time spent by the other intervenors for this activity was 1 hour. The OEB finds that BOMA's claim should be reduced to 1 hour.

	Hours			% Reduction
	Claimed	Awarded	Reduction	
Preparation of Intervenor Evidence	126.58	13.00	113.58	90%
Interrogatory Responses to Intervenor Evidence	76.00	38.00	38.00	50%
Preparation of Settlement Proposal	43.00	5.00	38.00	88%
Review Rate/Accounting Order	10.50	1.00	9.50	90%
Other Categories	214.92	214.92	0.00	0%
Total	471.00	271.92	199.08	42%

The OEB finds that adjustments to BOMA's cost claim reasonable and shall be reimbursed by Toronto Hydro.

#### THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Toronto Hydro shall immediately pay the following amounts to the intervenors for their costs:
  - Association of Major Power Consumers in Ontario \$110,191.98
  - Building Owners and Managers Association \$101,139.08
  - Coalition of Concerned Manufacturers and Businesses of Canada \$38,035.80
  - Consumers Council of Canada \$90,784.20
  - Distributed Resources Coalition \$63,759.12
  - Energy Probe Research Foundation \$44,383.91
  - Environmental Defence Canada Inc. \$36,821.05
  - Pollution Probe \$91,826.64
  - School Energy Coalition \$185,317.78

- Vulnerable Energy Consumers Coalition \$97,412.55

**DATED** at Toronto March 13, 2025

**ONTARIO ENERGY BOARD**

Nancy Marconi  
Registrar