



EB-2014-0158

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O., 1998, c. 15, Schedule B;

AND IN THE MATTER OF cost award eligibility for interested stakeholders in the consultation to review Part II of the *Energy Consumer Protection Act, 2010*.

BEFORE: Marika Hare
Presiding Member

Cathy Spoel
Board Member

DECISION ON COST ELIGIBILITY

August 26, 2014

In a [letter](#) issued on April 8, 2014, the Ontario Energy Board (the “Board”) announced that it was undertaking a consultation to support the development of a report to the Minister of Energy in response to the Minister’s request that the Board review Part II of the *Energy Consumer Protection Act, 2010*. In that letter, the Board indicated that cost awards would be available to eligible persons under section 30 of the *Ontario Energy Board Act, 1998* in relation to their participation in this consultation. The Board also indicated that costs awarded, as well as the Board’s costs, will be recovered from all rate-regulated licensed electricity distributors, all rate-regulated natural gas distributors, all licensed natural gas marketers and all licensed low-volume electricity retailers (collectively, the “Payors”), and apportioned amongst them on the same basis as indirect costs are apportioned for purposes of the Board’s cost assessments under section 26 of the *Ontario Energy Board Act, 1998*.

By letter dated [July 21, 2014](#), the Board provided additional information regarding cost awards, including the process for addressing cost award eligibility.

The Board received requests for cost eligibility from the following stakeholders:

- Building Owners and Managers Association of Greater Toronto (“BOMA”)
- Canadian Manufacturers & Exporters (“CME”)
- Consumers Council of Canada (“CCC”)
- Electricity Distributors Association (“EDA”)
- London Property Management Association (“LPMA”)
- Vulnerable Energy Consumers Coalition (“VECC”)

The Board did not receive any objections from Payors by the deadline established for that purpose in the Board’s July 21, 2014 letter.

Based on the criteria set out in section 3 of the Board’s *Practice and Direction on Cost Awards* (the “Practice Direction”), the Board has determined that BOMA, CME, CCC, LPMA and VECC are eligible for an award of costs. The Board notes that BOMA, CME and LPMA each represent, to a greater or lesser degree, higher volume consumers. The Board also notes, however, that each has indicated in its request for cost award eligibility that its membership does or may include entities that are low-volume consumers. The Board wishes to emphasize to each of these stakeholders that this consultation pertains to a legislative and regulatory regime that applies to low-volume consumers, and that cost awards will only be granted for participation that relates to low-volume consumers.

The EDA stated that it is requesting cost award eligibility due to the implications that continued electricity retailers have on the interests of Ontario’s electricity distributors and consumers. The EDA also stated that its participation with cost awards would allow external expert assistance to be utilized to focus on a number of key areas, allowing the EDA to present evidence in regard to the consumer experience with electricity retailers and to provide an analysis of the overall state of the retail energy markets in Ontario and the ramifications for distributor customers since their inception. The EDA is *prima facie* ineligible for an award of costs under section 3.05 of the Practice Direction. While the Board believes that the views of electricity distributors will be informative to this consultation, the Board

has determined that no special circumstances exist so as to warrant an award of costs for the EDA in this instance.

The Board expects that eligible stakeholders with similar interests will make reasonable efforts to coordinate their participation and to cooperate with other participants, and will consider any lack of coordination or cooperation when determining the amount of a cost award.

ISSUED AT Toronto, August 26, 2014.

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary