



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

**DECISION AND ORDER ON COST
AWARDS**

EB-2016-0246

**UNION GAS LIMITED AND ENBRIDGE GAS
DISTRIBUTION INC.**

**Application for Approval of New and Updated Conservation
Measures and the Technical Resource Manual**

BEFORE: Allison Duff
Presiding Member

Peter C.P. Thompson Q.C.
Member

August 4, 2017

INTRODUCTION AND SUMMARY

This is a decision of the Ontario Energy Board (OEB) on cost claims filed with respect to a joint application filed by Union Gas Limited (Union) and Enbridge Gas Distribution Inc. (Enbridge).

Union and Enbridge jointly applied to the OEB for approval of new and updated conservation measures and the associated engineering assumptions related to life cycle, energy usage, and gas savings included within a new Technical Reference Manual.

The OEB granted the Association of Power Producers of Ontario (APPo), Building Owners and Managers Association (BOMA), Canadian Manufacturers & Exporters (CME), Energy Probe Research Foundation (Energy Probe), Industrial Gas Users Association (IGUA), Ontario Sustainable Energy Association (OSEA) and School Energy Coalition (SEC) intervenor status and cost award eligibility.

On June 22, 2017, 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.

BOMA, IGUA, OSEA and SEC each filed cost claims by the June 29, 2017 deadline specified in the Decision and Order. APPo's cost claim was filed on July 11, 2017. APPo's cost claim is accepted by the OEB notwithstanding the late filing. By email, CME and Energy Probe each indicated that a cost claim would not be submitted.

On July 6, 2017, Enbridge and Union filed a letter stating they had no objection to the cost claims but noted that OSEA's claim appeared to have a discrepancy in the total of legal/consultant costs claimed. On July 11, 2017, OSEA filed a revised cost claim.

Findings

The OEB has reviewed the cost claims filed by APPo, BOMA, IGUA, OSEA and SEC to ensure that they are compliant with the OEB's *Practice Direction on Cost Awards*.

The OEB finds that APPo, BOMA, IGUA, OSEA and SEC are eligible for 100% of their reasonably incurred costs of participating in this proceeding.

The claim of IGUA requires a reduction of \$181.93 to correct the 0.7 extra hours claimed by Ms. Laura Van Soelen. With this adjustment made, the OEB finds that the

total amounts claimed by APPrO, IGUA, OSEA and SEC are reasonable. These claims, inclusive of fees, disbursements and HST, range from \$1,097.23 for APPrO to \$8,800.44 for SEC.

The OEB finds that the total claim made by BOMA for fees, disbursements and HST of \$23,098.54 is unreasonable and excessive. The 61.80 total hours claimed by BOMA produce fees of \$20,394.00 excluding HST. These amounts substantially exceed the total time spent and fee amounts claimed by SEC and OSEA being the two intervenors with levels of participation in this proceeding similar to that of BOMA.

The total time spent by SEC of 23.60 hours produces fees of \$7,788.00 before HST. For OSEA, the total time spent of 36.10 hours produces a fees claim before HST of \$7,323.00. The fees claimed by BOMA of \$20,394.00 before HST are almost 2.6 times the fees of SEC.

Work for BOMA was undertaken by a consultant and counsel each with many years of experience. The OEB questions the need for BOMA to engage two experienced professionals given the consultant's familiarity with DSM inputs, her role as an expert in the new OEB-led process and the limited legal issues raised in this proceeding. The OEB appreciates the importance of the issues raised in this proceeding to BOMA's members, but BOMA's level of participation does not justify a substantially higher fees claim compared to SEC and OSEA.

The OEB finds that, for cost award purposes, BOMA's fees claims should be reduced by 20 hours and \$6,600.00 plus HST respectively to bring the award within the upper limit of a reasonable range for participating in this case. The reduced fees of \$13,794.00 plus HST that the OEB approves for BOMA are 1.77 times greater than the fees claimed by SEC.

The disbursement claim of BOMA requires a minor adjustment to correct the HST calculation on a courier charge for Mr. Tom Brett.

Union Gas and Enbridge shall each pay 50% of the approved cost awards to APPrO, BOMA, IGUA, OSEA, and SEC.

THE ONTARIO ENERGY BOARD ORDERS THAT:

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

• Association of Power Producers of Ontario	\$557.55
• Building Owners and Managers Association	\$7,820.27
• Industrial Gas Users Association	\$1,557.42
• Ontario Sustainable Energy Association	\$4,162.21
• School Energy Coalition	\$4,400.22

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

• Association of Power Producers of Ontario	\$557.55
• Building Owners and Managers Association	\$7,820.27
• Industrial Gas Users Association	\$1,557.41
• Ontario Sustainable Energy Association	\$4,162.22
• School Energy Coalition	\$4,400.22

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

DATED at Toronto August 4, 2017

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary