



EB-2010-0199

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 participants in a consultative process for the 2010 Natural Gas Market Review.

BEFORE: Paula Conboy
Member

DECISION ON COST ELIGIBILITY

On July 13, 2010, the Ontario Energy Board (the "Board") issued a letter to interested stakeholders giving notice of a consultation process for the 2010 Natural Gas Market Review. That letter also notified interested stakeholders 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 process, and that any costs awarded would be recovered from all rate-regulated natural gas distributors based on their respective distribution revenues.

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

- Association of Power Producers on Ontario ("APPrO");
- Canadian Manufacturers & Exporters ("CME");
- City of Timmins;
- Consumers Council of Canada ("CCC");
- Council of Canadians ("CoC");
- Energy Probe;

- Federation of Rental-Housing Providers of Ontario (“FRPO”);
- Industrial Gas Users Association (“IGUA”);
- London Property Management Association (“LPMA”); and
- Vulnerable Energy Consumers Coalition (“VECC”).

Gas distributors were given an opportunity to file any objections they might have in relation to the eligibility of the above-noted participants for an award of costs. The Board did not receive any objections from distributors.

The Board’s *Practice Direction on Cost Awards* (the “Practice Direction”) sets out the following policy regarding cost eligibility:

3.03 A party in a Board process is eligible to apply for a cost award where the party:

- (a) primarily represents the direct interests of consumers (e.g. ratepayers) in relation to regulated services;
- (b) primarily represents a public interest relevant to the Board’s mandate; or
- (c) is a person with an interest in land that is affected by the process.

3.05 Parties not eligible for a cost award include:

- (a) applicants before the Board;
- (b) transmitters, wholesalers, generators, distributors, and retailers of electricity, either individually or in a group;
- (c) transmitters, distributors, and marketers of natural gas, and gas storage companies, either individually or in a group;
- (d) the IESO; and
- (e) the Ontario Power Authority.

In addition, the Practice Direction articulates the discretion the Board exercises in the application of the policy:

3.04 In making a determination whether a party is eligible or ineligible, the Board may also consider any other factor the Board considers to be relevant to the public interest.

3.06 Notwithstanding section 3.05, the Board may, in special circumstances, find that a party which falls into one of the categories listed in section 3.05 is eligible for a cost award in a particular process.

Based on the criteria set out in section 3.03 of the Board's Practice Direction, the Board has determined that the following stakeholders are eligible for awards of costs in this process: City of Timmins; CCC; CME; CoC; Energy Probe; FRPO; IGUA; LPMA; and VECC.

APPo would not usually be eligible for an award of costs, as "generators" are ineligible pursuant to section 3.05(b) of the Practice Direction. However, the Board has found that special circumstances exist in this consultation that would allow APPo to be eligible. Specifically, gas-fired generators are significant users of natural gas and are major customers of Ontario and Federally regulated gas utilities and, in that sense, they can be likened to consumers in the circumstances of this consultation. The Board also notes that APPo has established a constituency that represents significant expertise in the matters relevant to this consultation, and are therefore expected to assist the Board in developing a better understanding of the issues of broad interest that are being considered in this consultation..

The Board expects that eligible participants will make every effort to communicate and co-ordinate their participation in this process to the extent that they represent the same interests or class of persons.

ISSUED at Toronto, August 20, 2010

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary