



EB-2010-0021

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

AND IN THE MATTER OF a proceeding initiated by the Ontario Energy Board to determine methodologies for commodity pricing, load balancing and cost allocation for natural gas distributors;

AND IN THE MATTER OF an application by Enbridge Gas Distribution Inc. for approval of its 2010 Natural Gas Demand Side Management Plan;

AND IN THE MATTER OF an application by Union Gas Limited for approval of its 2010 Natural Gas Demand Side Management Plan;

AND IN THE MATTER OF a Notice of Motion by the Low-Income Energy Network for review of the Board's Decision and Order on Cost Awards in EB-2008-0106, EB-2009-0154 and EB-2009-0166;

AND IN THE MATTER OF Rules 42, 44.01 and 45.01 of the Board's Rules of Practice and Procedure.

BEFORE: Ken Quesnelle
Presiding Member

Paul Sommerville
Member

DECISION AND ORDER ON COST AWARDS

On January 4, 2010, the Board issued its Decision and Order on Costs Awards (the “QRAM Cost Decision”) in relation to a proceeding it commenced on its own motion (EB-2008-0106). On January 7, 2010, the Board issued its Decision and Orders on Cost Awards in relation to the 2010 Demand Side Management applications filed independently by Enbridge Gas Distribution Inc. and Union Gas Limited respectively. (EB-2008-0154 and EB-2009-0166 collectively “DSM Cost Decisions”). LIEN was an intervenor found to be eligible for a cost award in all three proceedings; in all three cost award decisions the Board reduced LIEN’s cost claims.

On January 25, 2010, LIEN filed a notice of motion seeking a review of the Board’s QRAM Cost Decision; on January 27, 2010, the Board received two more Notices of Motion seeking a review of the Board’s DSM Cost Decisions. LIEN requested that the hearing of all three motions to review be combined on the basis that there is a substantial overlap of the grounds in each Motion for Review, and the Board accommodated this request.

On April 1, 2010, the Board issued its Decision and Order on the combined Motion to Review in which it set out the process for LIEN to file its cost claim and to respond to any objections raised by Enbridge Gas Distribution Inc. (“Enbridge”) and Union Gas Limited (“Union”).

On April 15, 2010, LIEN filed a cost claim with the Board and copied Enbridge and Union.

On April 27, 2010, Enbridge filed a letter stating that it found LIEN’s cost claim to be consistent with the allowances of prescribed rates within the cost assessment guidelines.

By letter dated April 30, 2010, Union raised concern with the cost claim of LIEN. Union asserted that LIEN’s cost claim was excessive. It based this view on the observation that the Motion to Review was conducted entirely in writing and was dismissed at the threshold stage. Union noted that, as LIEN had recognized in its January 25, 2010 Notice of Motion, there was substantial overlap among the original three Motions for Review. Union further noted that it did not understand why, if a significant overlap existed, the inclusion of three Motions for Review justified the quantum of LIEN’s cost claim.

On May 14, 2010, LIEN filed a letter stating that the threshold question involved substantive issues of administrative law and preparation of legal argument in both the original submission and subsequent reply. LIEN further stated that it minimized duplication of effort and time on the part of the Board and all parties by seeking to consolidate the three motions into one proceeding.

Board Findings

The Board has reviewed LIEN's cost claim.

The Board finds that LIEN's claim is excessive in the circumstances. The Board notes that LIEN brought a very similar Motion to Review and Vary certain aspects of the Board's Decision on Cost Awards in EB-2006-0021, concerning case number EB-2006-0302. The costs claimed in that case were significantly lower, in fact, less than half of those claimed in the case before us. The issues raised by LIEN in this previous case were virtually identical to those advanced in this case. The Board did not receive any new or compelling arguments from LIEN in this proceeding. The Board notes that while the three Motions in this proceeding were combined, a single submission was common to all three. The Board finds that an amount equal to that awarded in EB-2006-0302, augmented somewhat to account for the combination of the three cases is an appropriate amount of costs for this proceeding. The Board therefore awards LIEN a total amount of \$7,000.

THE BOARD THEREFORE ORDERS THAT:

1. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Union Gas Limited shall immediately pay the Low Income Energy Network \$3,500 and Enbridge Gas Distribution Inc. shall immediately pay the Low Income Energy Network \$3,500.
2. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Union Gas Limited and Enbridge Gas Distribution Inc. shall pay the Board's costs of and incidental to, this proceeding immediately upon receipt of the Board's invoice.

DATED at Toronto, August 12, 2010.

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary