



EB-2007-0031

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 parties in a consultation process to develop a
policy framework for electricity distribution rate design.

BEFORE: Pam Nowina
Presiding Member and Vice Chair

Paul Vlahos
Member

Ken Quesnelle
Member

DECISION ON COST ELIGIBILITY

On March 30, 2007, the Ontario Energy Board (the “Board”) issued a letter to interested parties giving notice of the consultation process that the Board intends to use in relation to the development of a policy framework for electricity distribution rate design. That letter also notified interested parties 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 rate-regulated licensed electricity distributors.

Thirty-nine parties have indicated their interest in participating in this consultation process. A list of all registered participants is attached as Appendix A to this Decision.

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

- Building Owners and Managers Association of Greater Toronto (“BOMA”);
- Consumers Council of Canada (“CCC”);

- Electricity Distributors Association (“EDA”);
- Energy Probe Research Foundation (“Energy Probe”);
- Federation of Ontario Cottagers’ Association Inc. (the “Federation”);
- Green Energy Coalition (“GEC”);
- London Property Management Association (“LPMA”);
- Low-Income Energy Network (“LIEN”);
- Mindscape Innovations (“Mindscape”);
- Pollution Probe;
- School Energy Coalition (“SEC”); and
- Vulnerable Energy Consumer’s Coalition (“VECC”).

Electricity 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.

Based on the criteria set out in section 3 of the Board’s *Practice Direction on Cost Awards* (the “*Practice Direction*”), the Board has determined that the following participants are eligible for an award of costs in this process, subject to satisfaction of the conditions set out below where applicable: BOMA, CCC, Energy Probe, the Federation, GEC, LPMA, Pollution Probe, SEC and VECC.

The Board notes that certain of the eligible participants appear to represent similar constituencies or interests. This is the case for the following:

- BOMA and LPMA; and
- GEC and Pollution Probe.

To avoid the duplication of funded participation, the Board requires from participants in each of these two groups the following additional information: (a) a description of how they can coordinate their participation in this process with the other participant in the group; and (b) an identification of areas where coordinated participation is not feasible or desirable due to the fact that they have a unique perspective relative to the other participant in the group. Following a review of these filings, the Board may issue further directions regarding coordination and the extent to which the cost awards for each

participant in each group may be limited as a result. In accordance with section 4.04 of the *Practice Direction*, the Board intends to take its directions into account in determining the amount of cost awards for the participants in these groups.

With respect to LIEN, the Board notes that in its April 26, 2007 Decision in proceeding EB-2006-0034, the Board found that it does not have the jurisdiction to develop a rate class using income level as a determining factor. That Decision is currently the subject of an appeal to the Divisional Court. Pending determination of the appeal, the Board does not intend for this issue to be revisited within the context of this consultation process, nor will the Board award costs to any participant in relation to participation that is geared towards the development of rate design policies or structures that the Board has determined are not within its jurisdiction. The Board also notes that LIEN's constituency or interests appear to overlap with those of certain other eligible participants. The Board therefore directs LIEN, in accordance with section 4.03 of the *Practice Direction*, to file additional information identifying what unique perspective it might bring to this consultation process or what unique constituency it might represent relative to the perspectives and constituencies of the other eligible participants noted above, most notably CCC and VECC. Following a review of this filing, the Board will determine LIEN's eligibility for an award of costs in this consultation process.

Based on section 3.05 of the *Practice Direction*, the Board finds that the EDA, as an association of electricity distributors (a number of which are participating in this consultation process) is not eligible for an award of costs. The Board does not find that any special circumstances exist in this process that would persuade the Board to deviate from its normal practice.

Mindscape is a consultancy whose clients include consumers that wish to connect to distribution systems in Ontario. It does not appear from the information provided by Mindscape that its participation in this consultation is at the instance of an identified group of consumers. On that basis, it is not clear that Mindscape directly represents any particular interest referred to in section 3.03 of the *Practice Direction*. In addition, the interests of consumers more broadly are already represented by the other eligible participants referred to above. The Board therefore finds that Mindscape is not eligible for an award of costs.

The Board appreciates the interest that the EDA and Mindscape have shown in relation to this consultation process, and hopes that all unfunded parties will choose to participate.

In accordance with section 4.03 of the *Practice Direction*, the Board directs Building Owners and Managers Association of Greater Toronto, London Property Management Association, Green Energy Coalition, Pollution Probe and Low-Income Energy Network to file the additional information referred to above in this Decision on or before **July 18, 2007**. These filings must be in the form of 3 hard copies and must be received by the Board by 4:45 p.m. on the stated date. An electronic copy of the filing must also be provided, in searchable Adobe Acrobat (PDF), if available, or in Microsoft Word. Electronic copies may be submitted on diskette or by e-mail to the Board Secretary at Boardsec@oeb.gov.on.ca.

THE BOARD ORDERS THAT:

ISSUED at Toronto, July 3, 2007

ONTARIO ENERGY BOARD

Original signed by

Pamela Nowina
Presiding Member and Vice Chair

Original signed by

Paul Vlahos
Member

Original signed by

Ken Quesnelle
Member

Appendix A

List of Participants

EB-2007-0031

DATED July 3, 2007

**REVIEW OF ELECTRICITY DISTRIBUTION RATE DESIGN
EB-2007-0031**

LIST OF PARTICIPANTS

Participants	Representative Name and Contact Information
1. Barrie Hydro Distribution Inc 55 Patterson PO Box 7000 Barrie ON L4M 4V8	Stephen Perry Manager of Regulatory Affairs & CDM Tel: 705-722-7244 x 278 Fax: 705-722-6159 Email: sperry@barriehydro.com
2. Bluewater Power Distribution Corp. P.O. Box 2140 855 Confederation Street Sarnia ON N7T 7L6	Leslie Dugas Manager of Regulatory Affairs Tel: 519-337-8201 x 255 Fax: 519-344-6094 Email: ldugas@bluewaterpower.com
3. BOMA Toronto 20 Queen Street West, Suite 2012 Toronto ON M5H 3R3	Chuck Stradling Executive Vice President Tel: 416-596-8065 Fax: 416-596-1085 Email: cstradling@bomatoronto.org
AND	Michael McGee President Energy Profiles Limited 295 The West Mall, Suite 503 Toronto ON M9C 4Z4 Tel: 416-440-1323 Fax: 416-440-0301 Email: mmcgee@energyprofiles.com
AND	William Houston Vice President & General Counsel Energy Advantage Tel: 905-319-1717 x 308 Fax: 905-319-7980 Email: william.houston@energyadvantage.com
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6. Chatham-Kent Energy Inc. P.O. Box 70 320 Queen Street Chatham ON N7M 5K2	Jim Hogan Chief Financial and Regulatory Officer Tel: 519-352-6300 x 277 Fax: 519-352-9860 Email: jimhogan@ckenergy.com
7. Consumers Council of Canada The Exchange Tower, Suite 1600 P.O. Box 480, 130 King Street West Toronto ON M5X 1J5	Robert B. Warren Barrister & Solicitor Tel: 416-947-5075 Fax: 416-365-1876 Email: rwarren@weirfoulds.com
AND	Julie Girvan Consultant 2 Penrose Road Toronto ON M4S 1P1 Tel: 416-322-7936 Fax: 416-322-9703 Email: jgirvan@ca.inter.net
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9. Electricity Distributors Association 3700 Steeles Ave. West, Suite 1100 Vaughan ON L4L 8K8	Debora Steggles Vice President, Policy and Government Relations Tel: 905-265-5300 Fax: 905-265-5301 Email: dsteggles@eda-on.ca
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24. Mindscape Innovations 35 Vicmount Dr. Kitchener ON N2M 2A2	Derek Satnik Managing Partner Tel: 519-744-3592 Fax: 519-744-6384 Email: dsatnik@mi-group.ca
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