



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.

In a decision released July 3, 2007 (the "July decision"), the Board determined that the following participants are eligible for an award of costs in this process, subject to satisfaction certain conditions listed in the decision:

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

- Energy Probe Research Foundation (“Energy Probe”);
- Federation of Ontario Cottagers’ Association Inc. (the “Federation”);
- Green Energy Coalition (“GEC”);
- London Property Management Association (“LPMA”);
- Pollution Probe;
- School Energy Coalition (“SEC”); and
- Vulnerable Energy Consumer’s Coalition (“VECC”).

As directed in the July decision, BOMA, LPMA, GEC and Pollution Probe each filed additional information describing potential coordination and identifying areas where coordinated participation is not feasible relative to the other participant that the Board had found had a significant overlap in interests.

Both BOMA and LMPA note that their constituencies, while having some overlap, are primarily drawn from different rate classes: residential and general service with under 50 kW of peak demand; and general service with over 50 kW of peak demand and large users, respectively. They each submitted that the issues and viewpoints are largely different but suggest that they will coordinate with each other and other parties.

Both GEC and Pollution Probe note that, while there is overlap of the issues of interest to each, they have rarely shared viewpoints or approaches often leading to different experts being retained. Pollution Probe states that the similarity or divergence of its views with GEC can only be determined as the project progresses and suggests that after the fact reductions in funding based on contribution are more appropriate than upfront limitations on eligibility.

The submissions received have helped the Board to better understand the similarities and differences in the constituencies and viewpoints of the parties. The Board considers it desirable to encourage cooperation wherever possible. In subsequent stages of this project, the Board may issue further directions regarding coordination where it feels it is warranted and the extent to which the cost awards for each participant may be limited as a result.

Also, in accordance with section 5.01 of the Practice Direction, the Board may limit the award to any party after the fact due to considerations including conduct, compliance with directions or efforts to reduce duplication and repetition.

In the July decision, the Board noted that the Board had previously found (in its April 26, 2007 decision in proceeding EB-2006-0034) that it did not have jurisdiction to develop a rate class using income level as a determining factor and that this issue would be excluded from the electricity rate design process. With that consideration, the Board directed the Low-Income Energy Network (“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, most notably CCC and VECC.

LIEN has not filed in response to that direction. In the absence of any filing, the Board cannot assess LIEN’s eligibility. Therefore, LIEN is not eligible for cost awards in the subsequent consultative stages of this project. The Board will re-consider LIEN’s application for costs if and when it files the material requested by the Board in the July decision. However, because comments on the first stage of this project were due before the Board had occasion to rule on eligibility the Board finds that LIEN is eligible for costs incurred to date.

ISSUED at Toronto, August 14, 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**

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