



EB-2010-0038

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 regarding
proposed amendments to the alternative bid provisions of
the Distribution System Code.

BEFORE: Ken Quesnelle
Presiding Member

DECISION ON COST ELIGIBILITY

April 1, 2010

On March 10, 2010, the Ontario Energy Board (the "Board") issued a Notice of Proposal to Amend a Code (the "Notice") that sets out proposed amendments to the Distribution System Code (the "Code") regarding the application of the alternative bid provisions of the Code. The Notice indicated 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 licensed electricity distributors based on their respective distribution revenues.

The Board received requests for eligibility from the following participants:

- Association of Major Power Consumers in Ontario ("AMPCO");
- Association of Major Power Producers of Ontario ("APPPO");
- Electricity Contractors Association of Ontario ("ECAO")
- London Property Management Association ("LPMA"); and
- School Energy Coalition ("SEC").

Due to an administrative oversight, the requests for eligibility were not posted on the webpage for this consultation that appears on the Board's website, an oversight which has now been rectified. In the circumstances, the Board is making the determinations on eligibility that are set out below subject to any objections that rate-regulated licensed electricity distributors may file.

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: AMPCO, LPMA, and SEC.

ECAO is an association or industry group that represents commercial interests. It is not typically eligible for an award of costs. However, in the context of this particular consultation, the Board is of the view that ECAO represents a public interest relevant to the Board's mandate, as referred to in section 3.03(b) of the Practice Direction, and is in a position to contribute specialized knowledge to this consultation. The Board has therefore determined that ECAO is eligible for an award of costs in this consultation.

APPPrO is not usually eligible for an award of costs, due to its inclusion in the list of ineligible parties in section 3.05 of the Practice Direction. However, the Board has found that special circumstances exist in this consultation that would allow APPPrO to be eligible. Specifically, in relation to the application of the alternative bid provisions of the Code, generators are customers of a distributor in the same way as are consumers (load customers), and they can be expected to have a perspective and expertise on the issues that may differ from the perspective and expertise of participants that represent load customers.

As noted earlier in this Decision, the above determinations of eligibility are subject to any objections that may be filed by rate-regulated licensed electricity distributors. Any such objections must be filed in accordance with the filing instructions set out in the Notice and must be received no later than 4:45 pm on **Friday, April 9, 2010**.

The Board takes this opportunity to reiterate that participants that are eligible for an award of costs in this process are expected to 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, April 1, 2010

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary