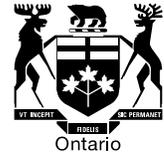


Ontario Energy Board
P.O. Box 2319
2300 Yonge Street
27th Floor
Toronto ON M4P 1E4
Telephone: (416) 481-1967
Facsimile: (416) 440-7656
Toll free: 1-888-632-6273

Commission de l'énergie de l'Ontario
C.P. 2319
2300, rue Yonge
27e étage
Toronto ON M4P 1E4
Téléphone: (416) 481-1967
Télécopieur: (416) 440-7656
Numéro sans frais: 1-888-632-6273



VIA E-MAIL AND WEB POSTING

February 1, 2011

**To: All Licensed Electricity Retailers
All Licensed Natural Gas Marketers
All Rate-regulated Licensed Electricity Distributors
All Rate-regulated Natural Gas Distributors
Building Owners and Managers Association of the Greater Toronto Area
Canadian Manufacturers & Exporters
Consumers Council of Canada
Energy Probe Research Foundation
Housing Help Association of Ontario
London Property Management Association
Mr. Bruce Sharp
Vulnerable Energy Consumers Coalition**

**Re: Notice of Hearing for Cost Awards
Implementation of the Consumer Protection (Retailer/Marketer)
Provisions of the *Energy Consumer Protection Act, 2010*
Board File No.: EB-2010-0245**

Background

On August 4, 2010, the Ontario Energy Board (the "Board") issued a letter to interested parties that set out an overview of the consultation process that the Board intends to follow to implement the consumer protection provisions of the *Energy Consumer Protection Act, 2010* that relate to the activities of electricity retailers and gas marketers ("suppliers"). In that letter, the Board indicated that cost awards will be available to eligible persons under section 30 of the *Ontario Energy Board Act, 1998* (the "Act") in relation to the consultation. The Board also indicated that costs awarded would be recovered from licensed electricity retailers (50%) and licensed gas marketers (50%), and apportioned amongst them in the manner to be determined by the Board at the relevant time.

In its September 8, 2010 Decision on Cost Eligibility (the “September Decision”), the Board determined that the following participants were eligible for an award of costs in this consultation process:

- Building Owners and Managers Association of the Greater Toronto Area (“BOMA”);
- Canadian Manufacturers & Exporters (“CME”);
- Consumers Council of Canada;
- Energy Probe Research Foundation;
- Housing Help Association of Ontario;
- London Property Management Association;
- Mr. Bruce Sharp; and
- Vulnerable Energy Consumers Coalition,

(together, the “eligible participants”).

The Board’s determination on cost award eligibility was subject to any objections that rate-regulated licensed electricity distributors and rate-regulated natural gas distributors might make. No objections were filed with the Board within the period specified for that purpose in the September Decision.

In the September Decision, the Board also stated as follows with respect to the cost award eligibility of certain of the eligible participants:

- The Board expects BOMA and CME to limit their participation in this consultation process to issues directly affecting their respective higher volume consumer constituencies, and does not anticipate that these participants will require the full allotment of hours in order to participate effectively.
- Mr. Sharp is eligible for an award of costs, but only to the extent of any reasonable disbursements that he may incur to participate in this consultation. However, the Board may consider awarding Mr. Sharp an honorarium if appropriate based on his participation.

In the September Decision, the Board also determined that the recovery of cost awards in this consultation should be allocated on a basis that differs from what

the Board specified in its letter of August 4, 2010. Specifically, the Board determined that cost awards will be recovered from licensed electricity retailers (25%), licensed gas marketers (25%), rate-regulated licensed electricity distributors (25%) and rate-regulated gas distributors (25%), and will be apportioned amongst them as follows:

- for each of the electricity distributor and gas distributor groups, based on their respective distribution revenues; and
- for each of the electricity retailer and gas marketer groups, based on their respective share of the low-volume consumer market.

The activities for which cost awards are available in this consultation are the following:

- the provision of written comments on the proposed regulatory instruments attached to the Board's August 12, 2010 Notice of Proposal, up to a **maximum of 40 hours**;
- preparation for, attendance at and reporting on the August 20, 2010 stakeholder meeting, up to a **maximum of actual meeting time plus 50% of meeting time for preparation and reporting**; and
- the provision of written comments on the revised proposed regulatory instruments attached to the Board's October 15, 2010 Notice of Revised Proposal, up to a **maximum of 10 hours**.

On November 17, 2010, the Board issued a further Notice advising interested parties of the adoption and issuance by the Board of the regulatory instruments that have been the subject-matter of this consultation. With the issuance of the November 17, 2010 Notice, this consultation process has been completed.

Supplier Market Share Information

In the September Decision, the Board stated that it would, in due course, direct licensed suppliers to provide updated low-volume customer figures for the purposes of apportioning amongst them any costs awarded to eligible participants.

Under the Board's Reporting and Record Keeping Requirements ("RRR"), licensed suppliers are required to provide quarterly information regarding their customer numbers. The filing for the quarter ending September 30, 2010 was due on November 30, 2010, and filings regarding low-volume customer numbers have been made by the licensed suppliers listed in Attachment A to this Notice of Hearing. The Board will use these filings as the basis for the apportionment of cost awards amongst licensed suppliers, and will not require suppliers to make a separate filing for that purpose.

Consistent with the treatment of this information under the applicable RRR, the Board does not intend to disclose individual supplier customer numbers for the purposes of addressing cost awards in this consultation. However, unless the Board acts as a clearinghouse for the purposes of the payment of cost awards to eligible participants, each licensed supplier's relative market share would be disclosed in the process of addressing cost awards. If a licensed supplier has concerns about the disclosure of relative market share information for purposes of the Board's ultimate decision on the awarding of costs and the apportionment of those costs amongst the different classes of payors, the supplier should file a submission to that effect with the Board no later than **February 15, 2011**.

Notice of Hearing

The Board is initiating this hearing on its own motion in order to determine the cost awards that will be made in accordance with section 30 of the Act in relation to this consultation. The file number for this hearing is **EB-2010-0245**.

The Board intends to proceed by way of written hearing unless a party can satisfy the Board that there is a good reason for not holding a written hearing. If a party wants to object to a written hearing, the objection must be received by the Board no later than **7 days** after the date of this Notice of Hearing.

Assuming that the Board does not receive any objections to a written hearing, the hearing will follow the process set out below.

1. Eligible participants shall submit their cost claims by **February 15, 2011**. The cost claims must be completed in accordance with section 10 of the Board's *Practice Direction on Cost Awards*. A copy of the cost claim must

be filed with the Board. Given the number of entities that are liable to pay cost awards in this consultation, the Board will attend to serving the cost claims on the licensed electricity retailers identified in Attachment A, the licensed gas marketers identified in Attachment A, all rate-regulated licensed electricity distributors and all rate-regulated gas distributors (together, the “payors”).

2. Each payor will have until **March 1, 2011** to object to any aspect of the costs claimed. A copy of the objection must be filed with the Board and one copy must be served on the eligible participant against whose claim the objection is being made.
3. An eligible participant whose cost claim was objected to will have until **March 15, 2011** to make a reply submission as to why its cost claim should be allowed. A copy of the reply submission must be filed with the Board and one copy is to be served on the objecting payor.

The Board will then issue its decision on cost awards. The Board's costs may also be addressed in the cost awards decision.

Service of cost claims, objections and reply submissions on other parties may be effected by courier, registered mail, facsimile or e-mail.

Parties must file two paper copies and one electronic copy of their submissions with the Board Secretary by **4:45 pm** on the required dates. The Board requests that parties make every effort to provide electronic copies of their filings in searchable/unrestricted Adobe Acrobat (PDF) format, and to submit their filings through the Board's web portal at www.errr.oeb.gov.on.ca. A user ID is required to submit documents through the Board's web portal. If you do not have a user ID, please visit the “e-filings services” webpage on the Board's website at www.oeb.gov.on.ca, and fill out a user ID password request. Additionally, parties are requested to follow the document naming conventions and document submission standards outlined in the document entitled “RESS Document Preparation – A Quick Guide” also found on the e-filing services webpage. If the Board's web portal is not available, electronic copies of filings may be filed by e-mail at boardsec@oeb.gov.on.ca. Those that do not have internet access should provide a CD or diskette containing their filing in PDF format.

All submissions must quote file number **EB-2010-0245** and include your name, address, telephone number and, where available, your e-mail address and fax number.

Except as noted above in this Notice of Hearing in respect of supplier customer and relative market share information, all submissions in this hearing (including cost claims, objections, or replies) will form part of the public record and copies of the submissions will be available for inspection at the Board's offices during normal business hours and may be published on the Board's website.

If the submission is from a private citizen (i.e., not a lawyer representing a client, not a consultant representing a client or organization, not an individual in an organization that represents the interests of consumers or other groups, and not an individual from a regulated entity), before making the submission available for viewing at the Board's offices or placing the submission on the Board's website, the Board will remove any personal (i.e., not business) contact information from the submission (i.e., the address, fax number, phone number, and e-mail address of the individual). However, the name of the individual and the content of the submission will be available for viewing at the Board's offices and will be placed on the Board's website.

If you do not file a letter objecting to a written hearing or do not participate in the hearing by filing written submissions in accordance with this Notice of Hearing, the Board may proceed without your participation and you will not be entitled to further notice in this proceeding.

Yours truly,

Original signed by

Kirsten Walli
Board Secretary

Attachment A
To
February 1, 2011 Notice of Hearing for Cost Awards
EB-2010-0245

Active Licensed Suppliers Reporting Low-volume Consumer Customers

Licensed Gas Marketers	Licensed Electricity Retailers
Access Gas Services (Ontario) Inc.	Active Energy Inc.
Active Energy Corp.	Ag Energy Co-operative Ltd.
Ag Energy Co-operative Ltd.	Blue Power Distributed Energy Corp.
Canadian RiteRate Energy Corporation	Bullfrog Power Inc.
Constellation NewEnergy Canada, Inc.	Canada Energy Wholesalers Ltd.
Direct Energy Marketing Limited	Comsatec Inc.
Gas Ontario Inc.	Constellation NewEnergy Canada, Inc.
Gateway Energy Services Ltd.	Direct Energy Marketing Limited
Just Energy Ontario L.P.	Just Energy Ontario L.P.
MxEnergy (Canada) Ltd.	ONIT Energy Ltd.
Planet Energy (Ontario) Corp.	Planet Energy (Ontario) Corp.
Summitt Energy Management Inc.	Summitt Energy Management Inc.
Superior Energy Management Gas LP	Superior Energy
The Buying Group	Toronto Hydro Energy Services Inc.
Universal Energy Corporation	Universal Energy Corporation
morEnergy Savings Corp.	