



**EB-2010-0245**

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

**AND IN THE MATTER OF** cost awards for eligible participants in the consultation process regarding the implementation of the consumer protection (retailer/marketer) provisions of the *Energy Consumer Protection Act, 2010*.

**BEFORE:** Cynthia Chaplin  
Vice Chair

## **DECISION AND ORDER ON COST AWARDS**

### **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;
- Canadian Manufacturers & Exporters (“CME”);
- Consumers Council of Canada (“CCC”);
- Energy Probe Research Foundation;
- Housing Help Association of Ontario;
- London Property Management Association (“LPMA”);
- Mr. Bruce Sharp; and
- Vulnerable Energy Consumers Coalition (“VECC”),

(together, the “eligible participants”).

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%) (together, “the payors”), 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.

### **Notice of Hearing, Supplier Market Share Information and Cost Claims**

On February 1, 2011, the Board issued its Notice of Hearing for Cost Awards (the “Hearing Notice”) in relation to this consultation process. In addition to establishing the process for the filing and service of cost claims, any objections to cost claims and replies, the Hearing Notice also dealt with the issue of supplier market share information in the context of the apportionment of cost awards amongst the payors. Specifically:

- i. the Board determined that it would use quarterly information on low-volume customer numbers filed under the Board’s Reporting and Record Keeping Requirements as the basis for the apportionment of cost awards amongst the licensed suppliers listed in Attachment A to the Hearing Notice; and

- ii. the Board allowed suppliers an opportunity to make a submission if they had 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 Board received three submissions from four suppliers (one of the submissions was filed jointly by two suppliers), all of whom submitted that their respective relative market share information was commercially or competitively sensitive and should not be disclosed. The Board has determined that it will act as a clearinghouse for the purposes of the payment of cost awards to eligible participants, and will not for cost awards purposes disclose the suppliers' relative market share information.

In response to the Notice of Hearing, the Board also received a letter from Toronto Hydro-Electric System Limited. That letter advised the Board that Toronto Hydro Energy Services Inc., a licensed electricity retailer listed as a payor in Attachment A to the Hearing Notice, ceased retailing electricity to customers in December 2006 and since that time has carried out only retailer-consolidated billing as a service under its retailer licence. The Board acknowledges that this licensed electricity retailer does not have a share of the low-volume consumer market for the purposes of the apportionment of cost awards in the context of this consultation, and will therefore not recover from this retailer any of the costs awarded in this consultation.

The Board received cost claims from CME, CCC, LPMA, Mr. Bruce Sharp, and VECC by the February 15, 2011 deadline specified for that purpose in the Hearing Notice. The payors were given an opportunity to file any objections they might have in relation to the cost claims filed by these eligible participants. No objections to the cost claims were received by the Board within the time specified for that purpose in the Hearing Notice.

### **Board Findings on the Cost Claims**

The Board has reviewed the cost claims submitted by CME, CCC, LPMA and VECC and finds that each of those cost claims is within the approved limits set by the Board in relation to this consultation. Mr. Bruce Sharp's cost claim was limited to disbursements.

The Board finds that each of these eligible participants is entitled to 100% of its reasonably incurred costs of participating in this consultation.

Appendix A to this Decision and Order sets out the following: (i) the costs awarded to each of the above eligible participants; and (ii) the amount payable by each individual rate-regulated licensed electricity distributor and each individual rate-regulated gas distributor in relation to costs awarded to each of the above eligible participants. For the reasons noted above, the Board has not included in Appendix A the amount payable by each individual supplier in relation to costs awarded to the above eligible participants.

### **Process for Paying the Cost Awards**

The Board will use the process set out in section 12 of its *Practice Direction on Cost Awards* to implement the payment of the cost awards. Therefore, the Board will act as a clearing house for all payments of cost awards relating to this consultation process. Invoices will be issued by the Board to the payors at the same time as are invoices for cost assessments made under section 26 of the Act. The practice of the Board is to issue to each regulated entity one invoice that covers all cost awards payable by that entity for the relevant period. As a result, the invoice may cover cost awards payable in relation to a number of consultations, including this one.

### **THE BOARD THEREFORE ORDERS THAT:**

1. The amounts to be paid by each individual electricity distributor and each individual gas distributor to each eligible participant are as set out in Appendix A to this Decision and Order. The individual distributors shall pay the costs awarded to each of the eligible participants as set out in Appendix A.
2. The amounts to be paid by each individual licensed supplier listed in Appendix B to this Decision and Order are as set out in the applicable invoice. The individual licensed supplier shall pay the costs awarded to each of the eligible participants as set out in the applicable invoice.
3. Payment of the cost awards referred to in paragraphs 1 and 2 shall be made to the Ontario Energy Board in accordance with the invoice issued to the individual distributor or the individual supplier, and shall be due at the same time as cost assessments under section 26 of the Act are due.

**DATED** at Toronto, June 30, 2011

ONTARIO ENERGY BOARD

*Original signed by*

Kirsten Walli  
Board Secretary

## Appendix A

To

### June 30, 2011 Decision and Order on Cost Awards (EB-2010-0245)

<b>Rate-Regulated Gas Distributor</b>	<b>Bruce Sharp</b>	<b>CCC</b>	<b>CME</b>	<b>LPMA</b>	<b>VECC</b>	<b>Total</b>
Enbridge Gas Distribution Inc.	17.38	900.76	180.42	1,605.56	410.64	3,114.76
Union Gas Ltd.	14.94	774.38	155.10	1,380.30	353.03	2,677.76
Natural Resource Gas	0.06	2.91	0.58	5.19	1.33	10.08
<b>TOTAL</b>	<b>32.39</b>	<b>1,678.05</b>	<b>336.11</b>	<b>2,991.06</b>	<b>765.00</b>	<b>5,802.59</b>

<b>Electricity Distribution System Owner/Operator</b>	<b>Bruce Sharp</b>	<b>CCC</b>	<b>CME</b>	<b>LPMA</b>	<b>VECC</b>	<b>Total</b>
Algoma Power Inc.	0.20	10.14	2.03	18.07	4.62	35.06
Atikokan Hydro Inc.	0.01	0.75	0.15	1.34	0.34	2.61
Attawapiskat Power Corp.	0.01	0.55	0.11	0.97	0.25	1.89
Bluewater Power Distribution Corp.	0.21	10.90	2.18	19.42	4.97	37.68
Brant County Power Inc.	0.07	3.49	0.70	6.23	1.59	12.08
Brantford Power Inc.	0.18	9.08	1.82	16.18	4.14	31.39
Burlington Hydro Inc.	0.31	16.09	3.22	28.67	7.33	55.62
Cambridge And North Dumfries Hydro Inc.	0.24	12.18	2.44	21.72	5.55	42.13
Canadian Niagara Power Inc.	0.18	9.37	1.88	16.71	4.27	32.41
Centre Wellington Hydro Ltd.	0.03	1.62	0.32	2.89	0.74	5.61
Chapleau Public Utilities Corp.	0.01	0.39	0.08	0.69	0.18	1.35
Chatham-Kent Hydro Inc.	0.15	7.82	1.57	13.95	3.57	27.05
Clinton Power Corp.	0.01	0.38	0.08	0.67	0.17	1.31
Collus Power Corp.	0.06	3.15	0.63	5.62	1.44	10.90
Cooperative Hydro Embrun Inc.	0.01	0.35	0.07	0.62	0.16	1.21

<b>Electricity Distribution System Owner/Operator</b>	<b>Bruce Sharp</b>	<b>CCC</b>	<b>CME</b>	<b>LPMA</b>	<b>VECC</b>	<b>Total</b>
Cornwall Street Railway Light And Power Company Ltd.	0.13	6.97	1.40	12.43	3.18	24.11
E.L.K. Energy Inc.	0.05	2.67	0.54	4.76	1.22	9.24
Enersource Hydro Mississauga Inc.	1.31	68.00	13.62	121.21	31.00	235.14
Enwin Utilities Ltd.	0.54	27.95	5.60	49.82	12.74	96.64
Erie Thames Powerlines Corp.	0.07	3.48	0.70	6.20	1.59	12.03
Espanola Regional Hydro Distribution Corp.	0.02	0.78	0.16	1.39	0.36	2.71
Essex Powerlines Corp.	0.11	5.81	1.16	10.35	2.65	20.08
Festival Hydro Inc.	0.11	5.51	1.10	9.82	2.51	19.06
Fort Albany Power Corp.	0.01	0.38	0.08	0.68	0.17	1.32
Fort Frances Power Corp.	0.02	0.90	0.18	1.60	0.41	3.10
Greater Sudbury Hydro Inc.	0.25	13.09	2.62	23.33	5.97	45.25
Grimsby Power Inc.	0.04	2.04	0.41	3.63	0.93	7.05
Guelph Hydro Electric Systems Inc.	0.27	13.98	2.80	24.93	6.38	48.36
Haldimand County Hydro Inc.	0.15	8.02	1.61	14.30	3.66	27.74
Halton Hills Hydro Inc.	0.11	5.57	1.12	9.93	2.54	19.27
Horizon Utilities Corp.	0.99	51.31	10.28	91.46	23.39	177.43
Hydro Hawkesbury Inc.	0.01	0.71	0.14	1.26	0.32	2.44
Hearst Power Distribution Company Ltd.	0.01	0.53	0.11	0.94	0.24	1.82
Hydro 2000 Inc.	0.00	0.20	0.04	0.36	0.09	0.69
Hydro One Brampton Networks Inc.	0.69	35.83	7.18	63.86	16.33	123.88
Hydro One Networks Inc.	11.80	611.17	122.41	1,089.38	278.62	2,113.38
Hydro One Remote Communities Inc.	0.13	6.82	1.37	12.15	3.11	23.57
Hydro Ottawa Ltd.	1.63	84.57	16.94	150.73	38.55	292.42
Innisfil Hydro Distribution Systems Ltd.	0.09	4.45	0.89	7.93	2.03	15.38
Kashechewan Power Corp.	0.01	0.52	0.11	0.94	0.24	1.82
Kenora Hydro Electric Corporation Ltd.	0.02	1.26	0.25	2.25	0.58	4.36
Kingston Hydro Corp.	0.12	5.99	1.20	10.68	2.73	20.72
Kitchener-Wilmot Hydro Inc.	0.37	19.22	3.85	34.26	8.76	66.45
Lakefront Utilities Inc.	0.05	2.53	0.51	4.51	1.15	8.75
Lakeland Power Distribution Ltd.	0.05	2.64	0.53	4.71	1.20	9.14
London Hydro Inc.	0.64	33.00	6.61	58.82	15.04	114.11
Middlesex Power Distribution Corp.	0.04	1.82	0.36	3.24	0.83	6.28

<b>Electricity Distribution System Owner/Operator</b>	<b>Bruce Sharp</b>	<b>CCC</b>	<b>CME</b>	<b>LPMA</b>	<b>VECC</b>	<b>Total</b>
Midland Power Utility Corp.	0.04	1.92	0.38	3.42	0.88	6.64
Milton Hydro Distribution Inc.	0.14	7.03	1.41	12.53	3.20	24.30
Newmarket - Tay Power Distribution Ltd.	0.17	8.99	1.80	16.03	4.10	31.10
Niagara Peninsula Energy Inc.	0.31	15.91	3.19	28.36	7.25	55.01
Niagara-On-The-Lake Hydro Inc.	0.05	2.71	0.54	4.82	1.23	9.35
Norfolk Power Distribution Inc.	0.13	6.56	1.31	11.70	2.99	22.70
North Bay Hydro Distribution Ltd.	0.12	6.06	1.21	10.81	2.76	20.97
Northern Ontario Wires Inc.	0.03	1.50	0.30	2.67	0.68	5.18
Oakville Hydro Electricity Distribution Inc.	0.33	16.91	3.39	30.14	7.71	58.47
Orangeville Hydro Ltd.	0.05	2.70	0.54	4.81	1.23	9.34
Orillia Power Distribution Corp.	0.08	3.97	0.79	7.07	1.81	13.72
Oshawa Puc Networks Inc.	0.22	11.47	2.30	20.45	5.23	39.67
Ottawa River Power Corp.	0.04	2.13	0.43	3.79	0.97	7.35
Parry Sound Power Corp.	0.02	1.02	0.20	1.82	0.47	3.53
Peterborough Distribution Inc.	0.16	8.26	1.66	14.73	3.77	28.57
Powerstream Inc.	1.71	88.73	17.77	158.15	40.45	306.81
Puc Distribution Inc.	0.18	9.09	1.82	16.20	4.14	31.43
Renfrew Hydro Inc.	0.02	0.96	0.19	1.71	0.44	3.32
Rideau St. Lawrence Distribution Inc.	0.02	1.26	0.25	2.24	0.57	4.35
St. Thomas Energy Inc.	0.07	3.69	0.74	6.59	1.68	12.78
Sioux Lookout Hydro Inc.	0.02	1.09	0.22	1.94	0.50	3.77
Thunder Bay Hydro Electricity Distribution Inc.	0.20	10.47	2.10	18.67	4.77	36.21
Tillsonburg Hydro Inc.	0.03	1.63	0.33	2.90	0.74	5.62
Toronto Hydro-Electric System Ltd.	5.38	278.79	55.84	496.94	127.10	964.05
Veridian Connections Inc.	0.52	26.94	5.40	48.02	12.28	93.16
Wasaga Distribution Inc.	0.04	2.26	0.45	4.04	1.03	7.83
Waterloo North Hydro Inc.	0.29	14.90	2.99	26.56	6.79	51.54
Welland Hydro-Electric System Corp.	0.09	4.79	0.96	8.53	2.18	16.55
Wellington North Power Inc.	0.02	1.11	0.22	1.98	0.51	3.84
West Coast Huron Energy Inc.	0.02	1.13	0.23	2.01	0.51	3.90
West Perth Power Inc.	0.01	0.51	0.10	0.92	0.23	1.78
Westario Power Inc.	0.10	4.93	0.99	8.79	2.25	17.04



<b>Electricity Distribution System Owner/Operator</b>	<b>Bruce Sharp</b>	<b>CCC</b>	<b>CME</b>	<b>LPMA</b>	<b>VECC</b>	<b>Total</b>
Whitby Hydro Electric Corp.	0.21	10.75	2.15	19.16	4.90	37.17
Woodstock Hydro Services Inc.	0.08	3.90	0.78	6.95	1.78	13.49
<b>TOTAL</b>	32.39	1,678.05	336.11	2,991.06	765.00	5,802.59

The total costs awarded to each of the eligible participants are as follows (for the reasons set out in the Decision and Order, the Board is not disclosing the amounts payable to each eligible participant by individual licensed suppliers):

<b>Total Costs Awarded</b>	<b>Bruce Sharp</b>	<b>CCC</b>	<b>CME</b>	<b>LPMA</b>	<b>VECC</b>	<b>Total</b>
<b>TOTAL</b>	129.56	6,712.20	1,344.44	11,964.24	3,060.00	23,210.44

## Appendix B

To

June 30, 2011 Decision and Order on Cost Awards (EB-2010-0245)

### Licensed Supplier Payors

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	Universal Energy Corporation
Universal Energy Corporation	
morEnergy Savings Corp.	