



Ontario  
Energy  
Board | Commission  
de l'énergie  
de l'Ontario

BY EMAIL and WEB POSTING

March 31, 2022

**To:** All Regulated Entities  
All Interested Parties

**Re: Framework for Review of Intervenor Processes and Cost Awards  
EB-2022-0011**

As part of our continued modernization journey, the OEB seeks to enhance the efficiency and effectiveness of our adjudicative processes. We extend an invitation to all stakeholders to provide input on potential changes to improve external participation in adjudication.

The OEB has developed a **Framework for Review of Intervenor Processes and Cost Awards** (Framework), which identifies potential initiatives to enhance the OEB's adjudicative process, particularly the role of intervenors within it, and seeks feedback from stakeholders on which ideas should be pursued and if so, how they could be refined. The OEB is also open to hearing from stakeholders on any additional ideas.

The OEB recognizes the significant benefit that intervenors bring to proceedings and policy discussions at the OEB. This initiative is intended to ensure that the cost of the interventions – both in terms of direct funding through cost awards and the costs associated with additional workload to applicants and the OEB – is commensurate with the value that is brought to the OEB's proceedings. This is balanced with the legal requirements of procedural fairness and the right to be heard.

The first step in this work was the Jurisdictional Review of Intervenor Processes and Cost Awards, which was completed and issued in December 2021.<sup>1</sup> Staff engaged key stakeholders on this review and discussed the draft Framework at a meeting in

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<sup>1</sup> [Jurisdictional Review of Intervenor Processes and Cost Awards, December 1, 2021](#)

November 2021 with frequent intervenors and again at the January 2022 meeting of the Adjudicative Modernization Committee. The OEB has reflected on this initial feedback in preparing the document being issued today for stakeholder comment.

The Framework identifies a three-pronged approach to improve intervenor processes and cost awards:

1. The first prong is to clarify expectations on the evidence to be filed for applications which should focus intervenors' reviews and reduce costs
2. The second prong is to amend the *Rules of Practice and Procedure (Rules) and Practice Direction on Cost Awards (Practice Direction)* (and potentially other Practice Directions), or provide alternative guidance documents, to provide clarity for intervenors, applicants or the Registrar on matters such as intervenor status and cost awards
3. The third prong is to enhance the OEB's active adjudication to allow for application-specific scope and intervention decisions

The OEB is looking for comments and feedback from stakeholders on the issues as well as on potential changes and several questions as per Appendix B of the Framework. Concurrent with the consideration of comments from stakeholders, the OEB is proceeding with initiatives for active adjudication and will consider pilot projects to improve the efficiency and effectiveness of our adjudication processes.

### **Invitation to Comment and Cost Awards**

Stakeholders are encouraged to provide their views on the issues and address the questions identified by the OEB. Comments should be submitted by April 21, 2022 as per the instructions set out in the Appendix to this letter.

Cost awards will be available under Section 30 of the *Ontario Energy Board Act, 1998* to eligible participants. Parties interested in requesting cost eligibility should indicate their intent by filing a letter with the OEB by April 7, 2022 in accordance with the filing instructions set out in the Appendix.

Any questions relating to this letter should be directed to Michael Millar at [Michael.Millar@oeb.ca](mailto:Michael.Millar@oeb.ca) or at 416-440-8111. The OEB's toll-free number is 1-888-632-6273.

Together we remain committed to providing an effective and efficient adjudicative process while being deliberately mindful of our responsibility to maintain independent decision-making. A great deal of our Top Quartile Regulator work is being accomplished

with input from stakeholders and we are appreciative of your continued efforts to engage with us along the way.

Yours truly,



Susanna Zagar  
Chief Executive Officer



Lynne Anderson  
Chief Commissioner

Attachment: Appendix – Instructions for Submitting Comments

## Appendix - Instructions for Submitting Comments

Stakeholders are responsible for ensuring that any documents they file with the OEB **do not include personal information** (as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*), unless filed in accordance with rule 9A of the OEB's [Rules of Practice and Procedure](#).

Please quote file number, **EB-2022-0011**, for all materials filed and submit them in searchable/unrestricted PDF format with a digital signature through the [OEB's online filing portal](#).

- Filings should clearly state the sender's name, postal address, telephone number and e-mail address
- Please use the document naming conventions and document submission standards outlined in the [Regulatory Electronic Submission System \(RESS\) Document Guidelines](#) found at the [Filing Systems page](#) on the OEB's website
- Stakeholders are encouraged to use RESS. Those who have not yet [set up an account](#), or require assistance using the online filing portal can contact [registrar@oeb.ca](mailto:registrar@oeb.ca) for assistance
- Cost claims are filed through the OEB's online filing portal. Please visit the [File documents online page](#) of the OEB's website for more information. All participants shall download a copy of their submitted cost claim and serve it on all required parties as per the [Practice Direction on Cost Awards](#).

All communications should be directed to the attention of the Registrar at the address below and be received by end of business, 4:45 p.m., on the required date.

Email: [registrar@oeb.ca](mailto:registrar@oeb.ca)

Tel: 1-877-632-2727 (Toll free)

### Cost Award Eligibility

The OEB will determine eligibility for costs in accordance with its [Practice Direction on Cost Awards](#) (Practice Direction). Any person intending to request an award of costs must file with the OEB a written submission to that effect by April 7, 2022 delivered to the Registrar at [registrar@oeb.ca](mailto:registrar@oeb.ca). The submission must identify the following:

- The nature of the person's interest in the review

- The grounds on which the person believes that they are eligible for an award of costs (addressing the OEB's cost eligibility criteria as set out in section 3 of the OEB's Practice Direction)
- An explanation of any other funding to which the person has access
- The name and credentials of any lawyer, analyst or consultant that the person intends to retain, if known

All requests for cost eligibility will be posted on the OEB's website.

Costs awarded will be recovered from all licensed electricity and gas distributors, electricity transmitters, Ontario Power Generation (OPG) and the Independent Electricity System Operator (IESO) based on the OEB's Cost Assessment Model.

Licensed electricity and gas distributors, electricity transmitters, OPG and the IESO will have an opportunity to object to any of the requests for cost award eligibility. Objections must be filed with the OEB by April 14, 2022 and will be posted on the OEB's website. The OEB will then issue a final determination on cost eligibility.

### **Eligible Activities**

For the purpose of commenting on the issues, potential changes and questions identified in the Framework, eligible parties would be eligible for up to eight hours.

### **Cost Awards**

The OEB will apply the principles set out in section 5 of its Practice Direction when awarding costs. The maximum hourly rates set out in the OEB's Cost Awards Tariff will be applied. The OEB expects that groups representing the same interests or class of persons will make every effort to communicate and coordinate their participation in this process.

The OEB will use the process set out in section 12 of its Practice Direction to implement the payment of the cost awards. Therefore, the OEB will act as a clearing house for all payments of cost awards in this process. For more information, please refer to the OEB's Practice Direction.