



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

DECISION AND ORDER ON COST AWARDS

EB-2016-0089

LAKEFRONT UTILITIES INC.

**Application for electricity distribution rates and other charges
beginning January 1, 2017**

BEFORE: Victoria Christie
Presiding Member

Christine Long
Vice-Chair

February 1, 2017

INTRODUCTION AND SUMMARY

Lakefront Utilities Inc. (Lakefront Utilities) filed a complete cost of service (COS) application with the Ontario Energy Board (OEB) on April 29, 2016 under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B), seeking approval for changes to the rates that Lakefront Utilities charges for electricity distribution, to be effective January 1, 2017.

The OEB granted the Cobourg Taxpayers Association (CTA), Energy Probe Research Foundation (Energy Probe) and the Vulnerable Energy Consumers Coalition (VECC) intervenor status and cost award eligibility.

On December 8, 2016, the OEB issued its Decision and Order, in which it set out the process for intervenors to file their cost claims, for Lakefront Utilities to object to the claims and for intervenors to respond to any objections raised by Lakefront Utilities.

The OEB received cost claims from CTA (\$632.41), Energy Probe (\$17,566.83) and VECC (\$22,903.18).

On December 22, 2016, Lakefront Utilities filed its response and objected to the intervenors cost claims submitting that: ¹

1. Ratepayers should not to be required to fund activities or interventions that do not materially contribute to the Board panel's understanding and resolution of the issues in any given case;
2. Ratepayers should not to be required to fund activities or interventions that become the basis for an intervenor to conduct a broad public campaign, the intent of which may be to influence the outcome of the Board's processes; and
3. Costs should be awarded for, and should encourage, responsible participation in Board proceedings.

Lakefront Utilities submitted that all costs incurred by VECC and Energy Probe associated with the written hearing should be denied. Lakefront Utilities stated that the intervenors unnecessarily lengthened the duration of the proceeding and the arguments regarding the deemed affiliate debt were repetitive as the issue was agreed to in at least five other recent COS applications. Lakefront Utilities further submitted that the issue was an interpretation of OEB policy and not an issue with Lakefront Utilities' COS

¹ Lakefront Utilities' cost claim responses dated December 22, 2016, pg 3 of 6

application. Lakefront Utilities requested that the cost claim for the written hearing portion of the application, for VECC (\$5,146.02) and Energy Probe (\$2,874.44), should be denied.

Lakefront Utilities also objected to CTA's cost claim of \$72 associated with the Freedom of Information (FOI) request to the Town of Cobourg noting that the results of the FOI request were filed after the record in this proceeding had been closed.

In reply, Energy Probe submitted that there clearly was not a broad public campaign to influence the outcome of the OEB's processes, as suggested by Lakefront, and the intervenors participated responsibly in this proceeding. Energy Probe further submitted that in its final decision the OEB found that "it is not clear that the terms and conditions of the promissory note would permit Lakefront Utilities to either negotiate the rate or pay off the debt at will..."² Energy Probe submitted that the reason the issue proceeded to a written hearing was that Lakefront Utilities failed to provide clear evidence that its promissory note was a demand note.

In its reply, VECC agreed with Energy Probe that the request for a written hearing of the remaining issue was justified as the application of the OEB policy with respect to the deemed long-term debt rate is not altogether clear. VECC also noted that existing policies or guidelines can be challenged, scrutinized and modified in their use when reasonable results, in accordance with statutory regulatory responsibilities, are not being obtained by their application.

In its reply, CTA noted that the core of Lakefront Utilities' objection was that the CTA incurred costs to demonstrate that Lakefront Utilities did not disclose sufficient information with respect to discussions between it and the Town of Cobourg and that this did not materially contribute to the OEB panel's understanding and resolution of the issues. CTA regarded this objection as not reflective of their intentions.

Findings

The OEB has reviewed the claims filed by CTA, Energy Probe and VECC to ensure that they are compliant with the OEB's *Practice Direction on Cost Awards*.

The OEB finds that the total CTA and Energy Probe costs (with minor corrections), and a portion of the VECC costs are reasonable. The OEB finds that Lakefront shall reimburse CTA \$604.44, Energy Probe \$17,566.10, and VECC \$20,980.29.

² Energy Probe's cost objection response dated December 28, 2016, pg 4

The OEB finds that in this case it was not inappropriate for the intervenors to question the use of the OEB deemed long-term debt rate for long-term affiliate debt. However, this is a subject that has been raised, and generally decided similarly, in a number of applications in the past. Both VECC and Energy Probe have been party to a number of these cases, and should be familiar with the issues.

There is a significant difference between the number of hours claimed by VECC and Energy Probe. The OEB finds that based on the arguments presented by both parties, the additional hours claimed by VECC are not supported. The allowable hours for costs claimed by VECC for the written hearing submission shall therefore be reduced: for M. Janigan from 12 to 8 hours and for B. Segal-Brown from 10.3 to 5 hours; to be more in line with the hours claimed by Energy Probe. VECC's claim is therefore reduced in total by \$1,922.89.

The OEB allows the CTA's cost claim related to the FOI request. While the FOI information was submitted to the OEB after the record was closed, the CTA did incur this cost in the summer of 2016 when the FOI was made. CTA's claim is reduced by \$27.97 to correct a train ticket calculation error and to align meal claims with the travel directive.

The Energy Probe claim is reduced by \$0.73 to correct HST and hotel calculation errors.

THE ONTARIO ENERGY BOARD ORDERS THAT:

Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Lakefront Utilities shall immediately pay the following amounts to the intervenors for their costs:

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| • Cobourg Taxpayers Association | \$604.44 |
| • Energy Probe Research Foundation | \$17,566.10 |
| • Vulnerable Energy Consumers Coalition | \$20,980.29 |

Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Lakefront Utilities shall pay the OEB's costs of and incidental to, this proceeding immediately upon receipt of the OEB's invoice.

DATED at Toronto February 1, 2017

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary