

August 3, 2007

VIA ELECTRONIC MAIL AND COURIER

Kirsten Walli
Board Secretary
Ontario Energy Board
27th. Floor
P.O. Box 2319
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Consultation on the Practice Direction on Cost Awards
Board File No. EB-2007-0683**

The Independent Electricity System Operator (the “IESO”) welcomes the opportunity to participate in the Ontario Energy Board (the “Board”) Consultation on the Practice Direction on Cost Awards (the “Direction”).

To assist the Board in determining whether changes should be made to its Direction, we will comment on the eligibility criteria, the adequacy of the tariff, and offer general comments relating to enforcement of the Direction.

Eligibility for Cost Awards

In the IESO’s experience, the existing Direction has ensured that the direct interests of consumers, the public interest, and affected landowners have been adequately represented in proceedings before the Board. As such, we support the existing cost eligibility criteria in section 3.03 of the Direction in that it provides eligibility for cost awards to a party representing one or more of these categories. We do not support the extension of cost eligibility to other persons or the revision of the current list of ineligible parties in section 3.05.

Nevertheless, a number of steps can be taken to improve the transparency of cost awards to groups or associations under the existing Direction. We recommend that any group or association seeking an award of costs be required to demonstrate that it acts on behalf of a genuine membership whose interests would not otherwise be adequately represented

before the Board. To facilitate such a review, any group or association applying for a cost award should be required to include in its application:

- (i) a detailed description of its membership, the frequency with which it meets, how instructions are received from its members, and how information is relayed to its members;
- (ii) the manner in which the group or association is governed; and
- (ii) the sources from which the group or association could or does receive funding.

This information will allow the Board to maintain an appropriate balance between the cost of providing funding and value of enhanced participation. It will also allow the Board to identify potential areas of common interest which may be represented jointly, as well as unique interests requiring separate representation, when determining a cost award under section 5.01 of the Direction.

Tariff Amounts

We support the existing tariff amounts set out in the Direction. Again our experience under the existing tariff has demonstrated that the rates are sufficient for the purposes of having appropriate and necessary intervention to assist the Board in the discharge of its duties.

General Comments

Section 10 of the Direction requires that an eligible party submit “detailed cost claims” supported by time dockets which describe the times, dates and specific activities undertaken in relation to the various procedural steps and issues addressed. Such information is critical because it is only with this level of detail that the Board and other parties can assess the appropriateness of the claim in light of the principles set out in section 5 of the Direction. This information permits an assessment, for example, of whether there had been appropriate coordination and cooperation on specific issues, and whether the activities for which costs are sought contributed to a better understanding of the issues.

It is the IESO’s experience that parties seeking a cost award often fail to provide the information required by section 10 of the Direction. At best, such failures delay the processing of costs claims while additional detail is requested and provided; at worst, the lack of detail prevents a proper assessment of the claim. Neither the Board nor the parties from whom the costs are being sought should be forced to request the information already mandated under the Direction. Rather, the onus should be on the applicant, and the Assessment Officer should be instructed by the Board that only claims which comply with all of its requirements, including section 10, will be accepted for filing.

This will improve both the efficiency and the effectiveness of the process for determining cost awards.

We believe the Board has an important role in safeguarding the public interest and in obtaining value, particularly given that the cost of awards is in the end, borne by consumers. Any changes to the Direction should be assessed on the basis of whether they will assist the Board by requiring parties seeking cost awards to participate in a positive, effective, fair and reasonable manner given the nature and scope of the issues. We submit that the IESO's recommendations outlined in this letter meet that test.

Yours truly,

Original signed by Kim Warren

Kim Warren
Manager, Regulatory Affairs
Independent Electricity System Operator
Kim.Warren@ieso.ca
416-506-2843 (Fax)