

ONTARIO ENERGY BOARD

Report Back to the Minister

Intervenors and Regulatory Efficiency

September 27, 2024



**Ontario
Energy
Board**

INTRODUCTION

Adjudication is at the core of how the Ontario Energy Board (OEB) regulates utilities and protects customers' interests with respect to prices and the adequacy, reliability, and quality of services.

The OEB is an adjudicative tribunal founded on a quasi-judicial adversarial model. Therefore, external participation in OEB adjudicative proceedings, including those by regular intervenors, is an important part of how the OEB hears applications and makes its decisions. While OEB staff represent and advocate in the broad public interest, persons with a “substantial interest” in an application are also entitled to participate. Since these processes are generally funded through electricity and natural gas rates, the OEB also has a responsibility to undertake adjudication efficiently and effectively.

The importance of efficiency and effectiveness was highlighted in the Minister's November 29, 2023, [Letter of Direction](#), which encouraged the OEB to “continue reviewing the current intervenor processes and to identify opportunities to improve regulatory efficiency and consequently reduce regulatory burden including consideration around a designated consumer advocate and capping intervenor costs.”

Since then, the OEB has leveraged findings from its [Intervenor Action Plan](#), undertaken consultations with intervenors and regulated entities, and retained an expert consultant on regulatory processes. As a result of this work, the OEB has determined that, aside from some targeted adjustments, the OEB's intervenor framework is functioning well. It enables parties with substantial interest to be heard in a cost-effective and efficient manner. In particular, intervenor costs are carefully controlled through an advanced intervenor application and budgeting process for any external evidence, as well as a final review by the adjudication panel of an intervenor's contribution to the hearing before costs are awarded. A 10-point action plan developed by the OEB will further improve the OEB's adjudicative process, reduce regulatory burden and duplication in appropriate areas, and lower costs.

INTERVENORS AND ADJUDICATION

Intervenors are individuals or groups who have permission to actively participate in a hearing before the OEB because they have a substantial interest in the proceeding. Those with a substantial interest - defined as a material interest that is within the scope of the proceeding – have the right to be heard. For example, a person that represents the direct interests of consumers in a service regulated by the OEB, who provides a

policy perspective relevant to the OEB's mandate and the proceeding or has an interest in land that is affected by the proceeding, has the right to participate. Participation in a hearing can include asking questions of an applicant (called 'interrogatories'), filing evidence, and making submissions.

Intervenors can represent various customer groups such as low-income residential consumers, Indigenous communities, school boards, and large customers. Some intervenors represent special interests such as environmental groups, or the views of a particular industry. In these ways, intervenors often represent more focused interests, while OEB staff advocate in the broad public interest.

Eligible parties can be granted cost awards to compensate them for time spent preparing and participating in a proceeding, as well as for reasonable expenses. Applicants typically cover the costs of intervenor participation, as determined to be prudently incurred by a panel or delegated authority. This is because other parties' interests stem from the choices made by applicants in submitting their application. Covering these costs supports intervenor involvement and ensures that the OEB hears a variety of perspectives. On average, the OEB has approved total reimbursements to intervenors of \$4.4 million per year over the past five years for their contributions to both adjudicative and policy activities. The OEB regulates in excess of \$13 billion in utility revenues per year, in addition to hearing facility and other types of applications.

Efforts to find efficiencies in the adjudicative process must be balanced with the OEB's obligation to ensure procedural fairness and the right to be heard. Failure to find this balance correctly heightens the risk of appeal or judicial review, which can add time and cost to all parties to resolve matters within the OEB's jurisdiction.

REVIEW PROCESS

To inform its plan, the OEB sought input through expert advice and consultations with the energy sector.

Expert Advice - InterGroup

The OEB engaged InterGroup Consultants. InterGroup is an independent, multi-disciplinary firm with expertise in rate regulation, including providing expert advice and support to utilities, regulators, customer intervenor groups, First Nations, and municipalities. InterGroup undertook jurisdictional research on:

- The appropriateness of a consumer advocate model for Ontario
- Limits or a “cap” on intervenor costs
- The scale of intervenor costs and processes for approval, and
- Other ideas to enhance the efficiency and effectiveness of the adjudicative process.

InterGroup examined eight jurisdictions in Canada, five jurisdictions in the United States, as well as Australia and the United Kingdom. InterGroup’s research and recommendations are summarized in four documents (attached), including a summary report.

Stakeholder Consultations

The OEB held two stakeholder meetings in support of this work.

In June 2024, a special meeting of the OEB’s [Adjudicative Modernization Committee](#) (AMC) was held, which sought members’ feedback on InterGroup’s early findings.

AMC provides advice to the OEB and serves as a forum for informal discussions with industry stakeholders on matters related to adjudication process and policy. AMC consists of representatives from electricity and natural gas distributors, generators, and utility legal counsel. Two regular intervenors representing consumer interests also participate in AMC.

The discussion with AMC revealed differing perspectives among its members:

- Utility AMC members stated that there are opportunities to better coordinate amongst intervenors, particularly on interrogatories. They also suggested leveraging technology to help make the interrogatory process more efficient.
- Intervenor members discussed the challenges of anticipating the dynamics of large, complex proceedings, including providing budgets. They provided feedback on the consequences of limiting the number of interrogatories, such as lengthening settlement discussions and oral examinations during the hearing. They suggested not only looking at the costs for intervenors, but also the value provided by their participation.
- Both utilities and intervenors discussed opportunities for active case management by the OEB and shared feedback on some of the challenges seen with consumer advocates in other jurisdictions.

In July 2024, a wider stakeholder workshop was held with 37 attendees representing 17 utilities and 14 intervenors. The goal of the workshop was to receive feedback on InterGroup's research and preliminary recommendations. The OEB heard:

- Utilities view that there are opportunities to limit the number of intervenors involved in large regulatory proceedings, especially when intervenors represent similar interests, and control the number of interrogatories they receive.
- Intervenor groups view that there is already significant coordination between intervenors, and that increasing the amount of coordination could add time and cost.
- Both utilities and intervenors do not believe a consumer advocate model is necessary. They cautioned that implementing a consumer advocate will not result in cost savings unless accompanied by significant reductions in the number of total intervenors, which would decrease the diversity of views available to decision-makers.
- Both utilities and intervenors were opposed to capping intervenor costs on the premise it could affect substantive legal rights and have unintended consequences.

OBSERVATIONS

The observations that follow were informed by input obtained during the review process.

Intervenor costs are approximately 0.03% of the revenues of regulated utilities, on an annual basis. Ontario's costs for intervenor participation in OEB proceedings are lower on both a per customer and per capita basis when compared to other jurisdictions and have been stable or declining over the last 13 years. Challenges to utilities' applications have saved an average of \$23 million per year in electricity distribution rate applications alone, relative to the rate increases requested by utilities. Intervenors also support other customer outcomes, such as providing input on customer service rule changes and utility performance requirements.

Regular intervention by expert intervenors can support positive outcomes. Energy regulation is a complex, technical area where institutional knowledge can support more efficient adjudication. For example, a successful settlement conference process results in OEB decisions that are in the public interest and are accepted by the parties, while at the same time achieving savings in time and money to all participants. Settlement conferences allow parties to settle as many issues as possible, avoiding the need for

oral hearings and submissions. Intervenors play a critical role in achieving settlement agreements. Coupled with OEB staff, having a diverse set of intervenors provides decision-makers with reassurance that the settlement proposal has broad support and is in the public interest. In recent years, the number of settlement agreements achieved has increased, particularly for major rate applications.

The requirement of section 4.4 of the *Ontario Energy Board Act, 1998*, which obliges the OEB to establish processes by which electricity and natural gas sector participants and any other persons who have an interest in the electricity or natural gas industries may provide advice and recommendations for consideration by the Board, are also addressed by the OEB's intervenor framework.¹

Consumer Advocate Model

A consumer advocate is a person or organization that has a mandate to represent consumers broadly, or a particular group of consumers that includes residential consumers in utility regulatory processes. An advocate has institutional legitimacy to represent consumer interests in regulatory processes through a regulatory or legislative mandate. Consumer advocates are usually established in other jurisdictions to ensure effective representation of consumers, for consumer education and outreach, or to improve regulatory efficiency and reduce duplication. Frequently, the consumer advocate has a funding source separate from the regulator.

InterGroup found that, in Ontario, consumers' interests are effectively represented. Intervenors provide focused perspectives and consideration for decision makers, while OEB staff advocate for the broader public interest. A consumer advocate could limit the diversity of perspectives available for the OEB to consider.

Adding a consumer advocate would increase costs and create potential duplication, without any apparent improvement to efficiency or benefit to the public interest. A formal consumer advocate would be contrary to red tape reduction efforts and efficient regulation. In addition, the unique perspectives provided by intervenors outweigh the costs of their participation.

In summary, InterGroup's review demonstrates that the introduction of a consumer advocate model would be of limited value to consumers in Ontario.

¹ See [Ontario Energy Board Act, 1998](#), s 4.4

Opportunities for Efficiency

There are opportunities to bring greater efficiency to intervenor processes while still balancing substantive legal rights through incremental reforms, such as:

- Requiring cooperation between intervenors with similar interests and funding the equivalent of only one intervenor per category to reduce costs and regulatory burden on utilities.
- Having commissioners take a more hands-on approach to managing the costs and participation of intervenors throughout the regulatory process.
- Narrowing intervenor participation in cases where the OEB's role is more limited and there is government direction for the project.
- Reducing duplication in the adjudication process like when intervenors ask similar questions, which necessitates additional effort for utilities during an already labour-intensive process.

Opportunities for efficiency are particularly evident in the case of smaller utilities, where intervenor costs have the potential to represent a sizeable portion of a utility's revenue requirement.

Notwithstanding the premise of continuous improvement regarding the efficiency of the hearing process, InterGroup did not observe—and stakeholder consultations did not reveal—that the OEB's intervenor framework or remuneration policy is causing unnecessary issues in these proceedings.

When investigating opportunities for efficiency, the OEB also considered applicant costs. Applicants are not currently subject to the same cost award tariff or review process as intervenors, and significant costs are incurred by applicants at ratepayer expense to justify rate changes. For example, in the five largest electricity rate applications filed since 2018, applicants incurred an average of \$6,000,000 per application in legal and consulting costs. The average cost for intervenors for legal and consulting costs in those same applications was roughly \$756,000. Although the OEB reviews applicant costs, they currently do not receive the same scrutiny as intervenor cost awards, which are subjected to a separate standalone hearing after the issuance of the OEB's main decision on each case. Therefore, the OEB is of the view that greater scrutiny of applicant costs could also produce cost savings for ratepayers.

ACTION PLAN

While the OEB's current intervenor framework effectively allows parties with substantial interests to be heard in an efficient and cost-effective manner, the OEB intends to implement the following actions to enhance adjudicative excellence, lower costs for consumers, and reduce regulatory burden.

1. Limiting the scope and number of intervenors in priority facility projects

The Ontario government is investing billions of dollars into new priority infrastructure to support jobs and growth. With these policy goals in mind, the Registrar and assigned panel will ensure that the scope of regulatory proceedings for government-directed electricity and natural gas projects is commensurate with the OEB's review. This will ensure that only parties with a substantial interest in that clearly defined scope are granted intervenor status. This is expected to increase the speed and lower the cost of facility application reviews, helping to build infrastructure faster.

As a starting point, the OEB has issued new filing requirements for leave to construct exemption applications regarding the relocation or reconstruction of a hydrocarbon line project, as referenced in Ontario Regulation 328/03. The OEB will also consider the scope of its review for any future transmission projects that are procured under contract with the IESO.

2. Establishing budgets for intervenors participating in certain applications

The OEB is piloting budgets of \$20,000 per intervenor for small utility rate applications to limit costs for these small customer bases. This is approximately 60 hours of work for senior consultants and lawyers. This budget was informed by historical cost award information and is intended to encourage intervenors to manage their activities to stay within the budget. If this budget had been in place over the last four years, ratepayers would have seen savings of over \$115,000. The pilot will allow the OEB to understand possible implications of restricting costs in proceedings.

The OEB will consider whether budgets will be implemented more broadly, including for larger proceedings, following the conclusion of the pilot, which will run to spring of 2025, when applications for 2025 rates are expected to have concluded.

3. Categorizing intervenors by interests and developing approaches for increasing collaboration

The OEB plans to establish the categories of intervenors that typically have a substantial interest in proceedings. Categories could include industrial customers, commercial property owners, environmental interests, and others. More than one intervenor can represent a category of interest. For example, two different industrial customers might have a material interest that is in scope for a utility rate application, so they would both have a substantial interest in the proceeding and a right to participate.

However, to the extent that there is more than one intervenor requesting to represent a certain category of interest, the Registrar and assigned panel will require these intervenors to work together to limit costs and reduce duplication. They will be expected to coordinate interrogatories and cross examinations. Each intervenor will still be permitted to submit their own argument at the conclusion of the hearing. At the end of the proceeding, these intervenors will be expected to report on how they coordinated their efforts. The Registrar and assigned panel may also consider limiting cost awards to the equivalent of one intervenor for each category. This initiative could result in changes to the information provided by parties on the OEB's intervenor application form.

4. Exploring options to minimize duplication in interrogatories

Although being able to ask questions is a necessary part of understanding a utility's request and ensuring a rigorous review for ratepayers' benefit, the OEB will explore the use of technology and other process changes to reduce duplication and the overall number of interrogatories from parties.

OEB staff will investigate technology options that can allow interrogatories to be shared and grouped by issue/evidence as they are developed, before being provided to applicants. This will provide an opportunity for interrogatories to be distilled and rationalized.

OEB staff and commissioners will also consider other process changes to augment the use of technology.

Decision makers will also consider limits on the number of interrogatories in certain proceedings.

5. Providing alternate approaches to engage individual customers outside of often technical and complex adjudicative proceedings

Individual customers are currently permitted to participate in adjudicative proceedings. However, the complexity of applications before the OEB and a limited understanding of the hearing process can impact their ability to participate efficiently and effectively.

Moving forward, individuals looking to intervene in the OEB's regulatory process will be screened against specific criteria. Individuals will be permitted to become intervenors only if they raise a unique issue not already addressed by another consumer group participating in the proceeding, have expertise that the panel could find helpful, are a landowner whose property is affected by the application, or are an Indigenous group raising issues of Aboriginal or treaty rights. Those granted intervention status would then be provided support by OEB staff to help increase their understanding of the adjudicative process.

If an individual does not meet the screening criteria, they would be provided other opportunities to share their perspective on the application, such as through a letter of comment, working with an intervenor group that aligns with their interests, or other form of engagement.

6. Enhancing reporting, tracking and analysis of utility costs

The OEB will enhance its collection and scrutiny of utility application costs, using the cost award tariff as a benchmark, to ensure that legal and consultant costs paid for by ratepayers are appropriate. In circumstances in which an applicant's costs for an application are to be paid by ratepayers, the OEB will ensure that the costs are identified and available for assessment by the parties in the proceeding.

7. Enhancing annual reporting

The OEB will adopt key performance indicators (KPIs) and report annually on the costs of intervenors, the savings provided by OEB staff and intervenor participation in the regulatory process, and utility application costs. This reporting will provide transparency into the costs and benefits of the regulatory framework in Ontario and the impacts of implementing this action plan.

8. Continuing to actively adjudicate regulatory proceedings

The OEB achieves cost and process efficiencies in regulatory proceedings through active management of its review process, based on the specific circumstances of the case. The OEB establishes the scope of each proceeding, ensures that parties remain focused on the matters under consideration, determines what parties can participate in the process and who is eligible to receive costs. Sometimes, an intervenor's participation is subject to decisions about the proceeding's scope. At the end of the proceeding, the assigned panel thoroughly reviews each cost claim to determine what costs were reasonable and what costs should be disallowed. All these actions can result in cost savings for ratepayers and will be continued.

In addition, OEB staff will consider taking on a more active role through the course of a proceeding to help commissioners ensure efficient and cost-effective adjudication.

9. Continuing savings, efficiencies, and reduced regulatory burden for small utilities

Recognizing the unique circumstances of small utilities, the OEB has implemented several changes to increase process efficiency and reduce costs, while still ensuring that panels have sufficient information to make a reasoned decision. These have included setting budgets for participating intervenors, establishing new processes that strive to reduce interrogatories, and limiting the information required to be filed by applicants. Both OEB staff and commissioners will continue pursuing opportunities such as these that can result in cost savings for ratepayers and reduced regulatory burden for utilities.

The OEB is currently piloting a new approach for processing applications for very small utilities and will learn from this experience before determining any permanent changes.

10. Maintaining predictable costs

The OEB's cost award tariff has not been updated since 2007 and intervenor costs have been declining on both a real and nominal basis over this time. The extent to which the OEB's tariff differs from other jurisdictions was described in the report from InterGroup. To ensure the OEB's cost award tariff aligns with other jurisdictions and the value provided by intervenors within the current

regulatory framework is not eroded, the OEB will also take this opportunity to adjust the cost award tariff. The OEB anticipates that efficiencies through other initiatives will offset any changes in the tariff. The OEB will conduct a benchmarking review every five years to ensure the OEB's tariff aligns with industry standards.

Recommended by InterGroup but not included in the OEB's 10-point action plan is the implementation of interim and advanced cost awards.

The OEB plans to consider implementing advanced cost awards as it looks at opportunities to enhance participation by Indigenous communities in its adjudicative process. The OEB may also consider extending advanced cost awards to other parties at that time. Interim cost awards are already common in lengthy proceedings, and the OEB intends to continue with this practice. The OEB will consider whether establishing a clearer protocol around interim cost awards would be helpful in the future.

CONCLUSION

Cost control supports the maintenance of a financially viable energy industry. Representation of consumer interests is a cornerstone of effective adjudication. The OEB, through this review, sought to balance both principles. In doing so, the OEB has developed a 10-point action plan to respond to the Minister's request and increase the efficiency of the adjudicative process.

The OEB expects to expeditiously implement these actions to provide value and savings for ratepayers. Some of these activities, such as establishing intervenor categories and exploring new technology to coordinate interrogatories, will require some time to implement. Others, such as proceeding with the budget pilot can begin immediately. The OEB will keep the Minister and Ministry informed of its progress through existing reporting protocols.

Ontario Energy Board Intervenor Action Plan

Summary Report



InterGroup

CONSULTANTS

Prepared for the Ontario Energy Board

September 2024

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1.0 INTRODUCTION

InterGroup was retained by the Ontario Energy Board (OEB) to research and make recommendations related to implementing a designated consumer advocate (CA) and capping intervenor costs. The report is intended to respond to the Minister of Energy's November 2023 letter of direction, in particular:

In 2021, the Top Quartile Regulator Report identified that "regulators need access to external expertise and a spectrum of perspectives." The value of intervenors, however, is significantly diminished when the remuneration structure incentivizes the creation of issues or duplicates effort. Effective case management can mitigate this risk, but additional controls are necessary. In 2021-22, Ontario's 5.3 million electricity and natural gas customers paid \$4.4 million to fund the Ontario Energy Board's intervenor process. I encourage the OEB to continue its work reviewing the current intervenor processes and to identify opportunities to improve regulatory efficiency and consequently reduce regulatory burden. This should include, but is not limited to, considerations around a designated consumer advocate and capping intervenor costs.¹

In framing this review, discussions with the OEB and other stakeholders raised questions around how efficiency should be defined (for example, cost versus effectiveness). For the purposes of this review, InterGroup focused on efficiency in terms of the costs of the OEB's intervenor processes in adjudicative processes with an understanding that costs can be linked to the length of proceedings and the volume of information that must be prepared and reviewed. A number of stakeholders also noted that efforts to reduce costs would also have implications for the effectiveness of the OEB's processes. InterGroup agrees these are important considerations and the potential impacts on effectiveness are discussed where possible with each of the recommendations.

While this review focuses on costs related to the OEB's intervenor processes, as highlighted in the Minister's letter of direction, applicant costs and the OEB's own costs also ultimately impact the costs of the regulatory process to consumers. Process changes that reduce duplication and focus issue lists may also reduce applicant costs and the OEB's costs for proceedings.

The research builds on work previously undertaken by the OEB including the Framework for Review of Intervenor Processes and Cost Awards and recent amendments to the OEB's Rules of Practice and Procedure and Practice Direction on Cost Awards. As such, additional topics beyond the questions of implementing a consumer advocate and capping intervenor costs were considered. This report is organized to respond to the following key questions:

1. Should Ontario adopt a consumer advocate model to reduce costs and improve regulatory efficiency?

¹ Minister of Energy letter dated November 29, 2023. Available: <https://www.oeb.ca/sites/default/files/letter-of-direction-from-the-Minister-of-Energy-20231129.pdf> Accessed May 15, 2024.

2. Should intervenor costs be capped to reduce the cost of interventions?
3. Can the OEB improve its intervenor approval and cost award policy to manage costs?
4. What other policies and procedures could the OEB consider that improve process efficiency and reduce costs?
5. Is the OEB's current scale for intervenor costs consistent with other jurisdictions?
6. Is the OEB's approach to reviewing applicant costs for regulatory proceedings consistent with other jurisdictions?

This summary report describes the key findings from the research related to these questions and makes recommendations for the OEB to consider. Additional supporting material is provided in:

- APPENDIX A: Milestone 1 - Preliminary Considerations and Recommendations on a Designated Consumer Advocate and Capping Intervenor Costs
 - Attachment 1 – Milestone 1 Summary Tables
- APPENDIX B: Milestone 2 - Preliminary Considerations and Recommendations on Intervenor Cost Award Tariffs and Processes to Improve Efficiency and Effectiveness
 - Attachment 2 – Milestone 2 Summary Tables
- APPENDIX C: Milestone 3 - Preliminary Considerations and Recommendations on Processes Related to the Application for and Approval of Cost Awards
 - Attachment 3 – Milestone 3 Summary Tables

This report is intended to provide analysis and recommendations for the OEB to consider. The recommendations are made by InterGroup with the understanding that the OEB can choose whether and how to implement some or all of the recommendations.

1.1 SUMMARY OF RECOMMENDATIONS

Consumer Advocate

InterGroup does not recommend that the OEB consider implementing a formal consumer advocate (CA). Other opportunities to achieve regulatory efficiency objectives and potential cost savings in Ontario could involve using existing or expanded tools in the rules of practice and procedure to manage intervenor costs or reduce duplication of effort, in a manner that would not undermine effective customer representation. Jurisdictions with both formal and informal CAs use these tools to help reduce costs and effort, to focus issues, and to reduce duplication. Recommendations for other procedural tools the OEB could consider are discussed further in Sections 5 and 6 of this report.

Capping Intervenor Costs

More than 50% of costs awarded in the sample period in Ontario related to 6 out of 170 proceedings. The largest proceedings in Ontario have tended to have a number of different intervenors receiving cost awards. Based on this, if there is interest in managing total intervenor costs or increasing collaboration and reducing duplication, efforts could focus on the largest proceedings. InterGroup recommends the OEB consider procedural or policy changes that could strengthen and support the culture of active case management and may contribute to more efficient processes. These are described in more detail in Section 6 of this report. However, as these larger proceedings often have a substantial volume of information to review and extensive issue lists, it does not seem practical to establish hard caps on interventions for budgets in these proceedings.

The OEB is currently piloting an intervenor budget project for small utilities (i.e., those with fewer than 30,000 customers). This may be a reasonable and efficient way to manage costs for those scales of proceedings. InterGroup recommends the OEB review the results of the pilot project and consider expanding its use to more types of proceedings.

Intervenor Approval and Cost Award Policy

Improving collaboration and reducing duplication

In InterGroup's view, the overall culture of active adjudication is a key ingredient to improving collaboration and reducing duplication. The OEB is already attentive to this, but further improvements could be assisted by some potential process changes or practices, including:

- Revisions to the intervenor application form to require more information on the specific customers or customer classes being represented, and more detailed information on the issues intervenors propose to canvass. The OEB could also consider allowing interventions subject to their issues being included in final issue lists.
- Specifically directing certain parties with similar interests or issues in a procedural order to collaborate or present a joint intervention. For example, in Manitoba, the Public Utilities Board considers whether a potential intervenor represents a substantial number of

ratepayers that are not otherwise being represented on issues that are within the scope of a hearing. At times, the Manitoba Public Utilities Board has denied intervenor status for some parties and directed them to communicate their concerns with the intervenors who are already representing those issues.²

- Directing individuals with narrow or small interests to either collaborate with another intervenor or participate through other means, such as submitting a letter of comment.
- Requiring specific information in the final cost award application that details efforts made by parties to collaborate. For example, indicating specific actions they took to reduce duplication such as sharing their draft information requests with other parties to ensure they were not canvassing the same information.

Each of these tools emphasizes the need for intervenors to collaborate and avoid duplication.

Requiring budget submissions

InterGroup recommends the OEB consider expanding the use of budgets. This could provide a number of benefits:

- Providing an early indication of the potential scale of costs for a proceeding.
- Allowing the OEB an opportunity to signal to intervenors at an early stage where they should seek to narrow the scope of their intervention or collaborate with other parties.
- Establishing a benchmark to evaluate the performance of a party seeking costs, to help evaluate whether they contributed usefully to the understanding of the issues that were the basis for their initial budget.

Budgets could be updated throughout the proceeding as processes and issues become clarified. For example, Quebec requires justification for any cost overruns over 3% and in Manitoba there is an expectation that budgets will be updated if the scope of issues or budget needs increase.

Advance funding and interim funding

The OEB does not have formal processes in place in their Rules of Practice and Procedure or Practice Direction on Cost Awards for managing the provision of advance or interim funding. Although interim funding has occasionally been made available, there is no specific application process in place at this time like that used in other jurisdictions. For example, British Columbia has established rules for the provision of interim cost awards and requires intervenors seeking an interim cost award to complete an Interim Cost Award Application Form.³

² The Manitoba Public Utilities Board denied intervenor status for a Mr. Finkle, stating that "... the Board considers, for purposes of regulatory efficiency, whether the proposed intervenor represents a substantial number of ratepayers that are not otherwise represented on issues that are within the scope of this hearing" and that "... the issues are better raised through the Consumers Coalition, which represents the interests of residential ratepayers".

Source: Manitoba Public Utilities Board, Order No. 130/22, Pages 15 and 16. Available from: <https://www.pubmanitoba.ca/v1/proceedings-decisions/orders/pubs/22-orders/130-22.pdf>

³ BCUC Rules of Practice and Procedure for Participant Cost Awards, Section 38.01.

InterGroup recommends the OEB consider implementing formal application processes for both advanced funding and interim funding. This could involve updates to its Rules of Practice and Procedure or Practice Direction on Cost Awards or providing a placeholder for the consideration of interim funding applications in the case schedules for longer proceedings. InterGroup's experience in other jurisdictions is that formalizing access to interim funding and/or advance funding can help reduce barriers to participation for some participants, for example Indigenous organizations or communities with limited core funding. Eligibility could be limited to lengthy proceedings or for intervenors who require financial assistance for their participation in a proceeding. Additional provisions could be made for Indigenous communities or individual landowners.

Allowing advance funding would also facilitate receiving early indications of proposed budgets and provide an opportunity to comment on the scale of the proposed budgets and reinforce the need for collaboration.

Approval of final cost awards

The OEB already has the ability to reduce cost awards if they are not satisfied sufficient effort was made to collaborate and reduce duplication. Implementing some or all of the recommendations in this section may help clarify expectations and identify issues before significant costs have been incurred that might later be subject to disallowances.

Policies and Procedures to Improve Efficiency

The OEB has committed to active adjudication⁴ which it defines as the enhanced approach used by the OEB to proactively establish and control adjudicative processes that are efficient, effective and procedurally fair and ensures that the information being put on the record of each proceeding is relevant and of material value to the decision-maker, while ensuring that procedural fairness is respected. Continuing to focus on a culture of active adjudication is an essential ingredient to improving efficiency. Active adjudication must involve a number of tools. The OEB already has many such tools available to it. Some modifications that could be considered were outlined in Section 5 of this report. Additional options InterGroup has observed in other jurisdictions that the OEB could consider are described below.

Limits on Information Requests (IR) and Motions for Further and Better Responses

In Alberta, the Alberta Utilities Commission (AUC) may impose limits on the number of interrogatory requests per intervenor in a proceeding.⁵ The limits typically do not apply to the number of information requests the AUC itself can ask. In InterGroup's experience, the limit on information requests provides extra incentive for intervenors to collaborate and ensure they are not asking duplicative questions.

⁴ Ontario Energy Board Action Plan, In Response to Stakeholder Comments on the Framework for Review of Intervenor Processes and Cost Awards, p.4.

⁵ See for example AUC proceeding 28174 which states a limit for the number of IRs for each intervenor. AUC, Proceeding 28174-X0251, p. 4. Available from: https://www2.auc.ab.ca/Proceeding28174/ProceedingDocuments/28174_X0251_2023-05-25%20AUC%20letter%20-%20Process%20schedule%20and%20response%20to%20CCA%20request%20for%20blackout%20periods_000255.pdf

In Manitoba, for some applications, the Public Utilities Board files information requests to the applicant prior to intervenors.⁶ In the Centra Gas 2019/20 General Rate Application the Manitoba Public Utilities Board (PUB) limited first round intervenor information requests to issues not raised in information requests asked by the Board.⁷

In Alberta, where the applicant cannot respond to an IR, the AUC typically expects applicants to reach out to the party requesting information to reach an agreement on the information that can be provided.⁸ Similarly, prior to filing any motions for further or better responses, intervenors must communicate with the applicant to try resolving their issue before requesting the matter be settled by the Commissioners.⁹ This occurs informally in Ontario, as intervenors reach out to the applicants to resolve issues before involving the Commissioners. The OEB could consider making this a formal requirement, similar to the rule established by the AUC, through a Procedural Order or a rule of practice or procedure.

Limiting Evidence and Argument during Written Proceedings

In Alberta the development of the evidentiary record in a rates proceeding is conducted through a written process unless otherwise directed by the Commission.¹⁰ However for argument, the AUC requires argument to be delivered orally, unless otherwise directed by the Commission. A person or party must demonstrate to the Commission that written argument will permit the proceeding to be resolved in a more fair or efficient manner for the commission to accept written argument.¹¹ For a proceeding which involves written argument and reply argument, the AUC may impose a page limit.¹² Similarly, for proceedings with oral argument and reply argument, parties may be directed to submit a written summary of their argument which is subject to page limits.¹³ The independent committee the AUC appointed to assist in improving the efficiency of rates proceedings recommended the Commission adopt an assertive approach to management of oral argument including utilization of time limits¹⁴, topics which it will hear during argument, requiring parties to

⁶ Manitoba Public Utilities Board, Centra Gas 2019/20 General Rate Application, Order No. 24/19, Appendix B Timetable. February 20, 2019. Available from: <https://www.pubmanitoba.ca/v1/proceedings-decisions/orders/pubs/2019-orders/24-19.pdf>

⁷ Manitoba Public Utilities Board, Centra Gas 2019/20 General Rate Application, Order No. 24/19, Hearing Process and Timetable, p. 23. February 20, 2019.

⁸ AUC, Proceeding 28174-X0251, Section 19 p. 5.

⁹ AUC, Rules of Practice and Procedure Rule 001, Section 28.2. Available from: <https://www.auc.ab.ca/rules/rule001/>

¹⁰ AUC, Rules of Practice and Procedure Rule 001, Section 36. Available from: <https://www.auc.ab.ca/rules/rule001/>

¹¹ AUC, Rules of Practice and Procedure Rule 001, Section 48.2. Available from: <https://www.auc.ab.ca/rules/rule001/>

¹² AUC directs the UCA to refile its argument and argument reply. EPCOR 2023-2025 Non-Energy RRT Application, Proceeding 28457-X0141, Section 1, 4, and 6. Available from:

https://www2.auc.ab.ca/Proceeding28457/ProceedingDocuments/28457_X0141_2024-03-27%20AUC%20letter%20-%20Direction%20for%20the%20UCA%20to%20refile%20its%20argument%20and%20reply_000154.pdf

¹³ AUC, Alberta Electric System Operator, Application for Updates to Rate Demand Opportunity Service, Proceeding 28989-X0095, Section 19. Available from: https://www2.auc.ab.ca/Proceeding28989/ProceedingDocuments/28989_X0095_2024-07-15%20AUC%20letter%20-%20Ruling%20on%20request%20to%20permit%20interveners%20to%20file%20evidence%20and%20process%20for%20oral%20argument_000105.pdf

¹⁴ Hearing schedule with specific time limits for oral argument. AUC, Alberta Electric System Operator, Bulk and Regional Rate Design. Proceeding 26911-X1106, p. 6. Available from:

https://www2.auc.ab.ca/Proceeding26911/ProceedingDocuments/26911_X1106_2022-06-08%20AUC%20letter%20-%20Virtual%20hearing%20schedule%20and%20other%20hearing%20matters_001456.pdf

not restate the evidentiary record, and encouraging parties to present argument and reply jointly to avoid duplication.^{15,16}

Continued Focus on Use of Settlements

Settlement processes can support the objective of achieving greater regulatory efficiency and effectiveness. The OEB's current rules of practice state the purpose of settlement conferences is to settle all issues referred to in the proceeding, or to settle as many issues as possible.¹⁷

During settlement negotiations, OEB staff typically play a role as active observers ensuring that all relevant information is considered, presenting options, and offering advice on the strengths and weaknesses of proposals. In some cases, OEB commissioners may provide for staff to be a party to the settlement conference and to any settlement proposal.¹⁸

Intervenor Fee Tariffs

InterGroup notes the OEB has not updated its intervenor cost award tariffs since 2007.¹⁹ Most other jurisdictions with published cost award tariffs have updated them in the last five years. Based on the review of tariffs in other jurisdictions, InterGroup makes the following recommendations for the OEB to consider:

- The OEB could consider making annual changes to the tariff indexed to inflation with an updated benchmarking review completed every five years.
- The OEB could consider prioritizing increases to the tariff for legal counsel by completing a benchmarking review as the current rates are below the Canadian average and other jurisdictions typically have higher rates for legal counsel than consultants.
- The OEB could consider adding an expert witness category for consultants to the cost award tariff.

Applicant Costs

Based on InterGroup's jurisdictional review, there is no uniform approach to reviewing and approving proceeding related costs for applicants. The OEB's current process provides the necessary information and opportunity to review the reasonableness of applicant costs. Therefore, InterGroup does not see a strong indication of a need for the OEB to adjust its current practice for reviewing applicant costs.

¹⁵ Report of the Procedures and Processes Review Committee. Page 38. August 2020.

¹⁶ Encourages parties to not restate the evidentiary record and to present argument and reply jointly. AUC, FortisAlberta 2022 Phase II DTA. Proceeding 25916-X0204, p. 1. Available from: https://www2.auc.ab.ca/Proceeding25916/ProceedingDocuments/25916_X0204_2021-03-22%20AUC%20letter%20-%20Protocol%20for%20virtual%20hearing%20for%20oral%20argument%20and%20reply%20argument_000232.pdf

¹⁷ OEB, Practice Direction on Settlement Conferences, p.3. Available from: https://www.oeb.ca/oeb/Documents/Regulatory/Practice_Direction_Settlement_Conferences.pdf

¹⁸ OEB, Practice Direction on Settlement Conferences, p.6-7.

¹⁹ Ontario Energy Board, Practice Direction on Cost Awards, Appendix "A", Cost Award Tariff. November 16, 2007. Available from: <https://www.rds.oeb.ca/CMWebDrawer/Record/20606/File/document>

2.0 APPROACH AND METHODS

2.1 SOURCES OF INFORMATION

The jurisdictional review was based on desktop review of information from 15 jurisdictions:

1. Canadian jurisdictions: Newfoundland and Labrador, Nova Scotia, New Brunswick, Quebec, Manitoba, Alberta, British Columbia.
2. American jurisdictions: Michigan, Ohio, Oregon, Wisconsin, California, New York.
3. Other jurisdictions: United Kingdom, Australia.

Jurisdictions were selected based on the availability of public information and included a number of jurisdictions with a formal consumer advocate. Additional information on the jurisdictional comparisons is provided in the appendices.

Ontario intervenor cost award data was provided by the OEB. Comparison cost award data from other jurisdictions was sourced from publicly available decisions and reports. References to sources for publicly available information are provided throughout the report.

The summary report and recommendations were informed by engagement sessions held on June 25, 2024, with the Adjudicative Modernization Committee (AMC) and a broader stakeholder session held on July 29, 2024.

2.2 CAUTIONS AND LIMITATIONS

In conducting the jurisdictional review, InterGroup understands that each jurisdiction has differences in the structure of their energy markets, their legal and regulatory frameworks, labour markets and the size of their customer and population base. As a result, direct comparisons across jurisdictions are difficult.

Further, different jurisdictions have their own cultures and conventions. Some of these differences are informed by whether the regulator is serving primarily an adjudicative function, or a more inquisitorial role. As a result, processes and tools adopted in one jurisdiction may not suit the culture or convention of another jurisdiction.

Finally, the review was limited to review of publicly available information. In some cases, brief conversations were conducted with stakeholders in other jurisdictions to confirm information or fill a gap.

3.0 CONSUMER ADVOCATE

This section summarizes the findings and recommendations related to the question of whether Ontario should adopt a consumer advocate model to reduce costs and improve regulatory efficiency. Additional details on the research findings are provided in Appendix A.

3.1 DEFINITION OF A CONSUMER ADVOCATE

For the purposes of this research, InterGroup's working definition of a consumer advocate (CA) is a person or organization that:

1. Has a mandate to represent consumers broadly, or a particular group of consumers that includes residential consumers, in utility regulatory processes. Some consumer advocates included in the review have mandates that include small businesses or all consumers, but groups solely focused on representing businesses or industry were excluded.
2. The organization has established legitimacy to represent consumer interests in regulatory processes through:
 - a. A legislative mandate;
 - b. Specific regulator policy; or
 - c. A history of representing broad consumer interests over time in multiple regulatory proceedings.
3. Takes formal positions in regulatory proceedings on behalf of consumers, including full participation in all aspects of the proceeding process such as issue scoping, discovery, providing expert evidence, settlement negotiations, cross examination at oral hearings, and submission of argument.

InterGroup's research identified two main categories of CAs:

1. Formal CA: the consumer advocate is created or enabled by legislation (e.g. NS, Nfld., NB, AB, MI, CA, OR, NY, OH, UK, AU).
2. Informal CA: The regulator established a CA through its own policy or initiative (e.g. BC), or the consumer advocate role has been established through a history of participation in proceedings before the commission (e.g. MB, QC, WI).

InterGroup included the informal CA models in the review to provide context and contrast how a consumer advocacy function is implemented in the absence of a specifically legislated role.

3.2 POLICY OBJECTIVES FOR A CONSUMER ADVOCATE

Research for this assignment identified three main policy objectives for a formal CA:

1. Ensuring effective representation of consumer interests in utility proceedings

2. Improving regulatory efficiency and reducing duplication.
3. Serving a consumer education and outreach need.

3.2.1 Ensuring Effective Representation

Ensuring effective representation for consumers was the most commonly stated policy objective for jurisdictions that had implemented a formal CA model. For example, The Citizens Utility Board of Wisconsin was created to benefit the residents of the state by ensuring “effective and democratic representation” of farmers and individual residential utility consumers.²⁰ In Oregon, the Citizens Utility Board was created to provide an effective advocate to ensure that public policies around utility services would reflect the needs and interests of consumers.²¹ This policy objective for a CA typically included at least two different elements:

1. Supporting fact seeking and information gathering, i.e. ensuring the regulator has sufficient information before it to make a reasoned decision.
2. Advocating for outcomes on behalf of consumers including taking positions on issues, submitting argument and acting as parties in negotiated settlements.

In Ontario, there are a number of existing intervenors who perform a consumer representation function in regulatory proceedings, including taking positions on issues in argument and participating in settlement negotiations. OEB staff can supplement these roles by calling expert witnesses and making submissions that advocate for specific outcomes or findings. OEB staff can also participate in settlement negotiations, usually as ‘active observers’, but in some cases the Board can provide for staff to be parties to settlement proposals.

Based on these findings, in InterGroup’s view Ontario’s existing regulatory processes seem to provide for effective representation of consumer interests through a combination of established intervenors and OEB staff. There does not appear to be a gap in consumer representation that would require a formal CA model to address.

3.2.2 Improving Regulatory Efficiency

Some jurisdictions also cited improving regulatory efficiency as a policy objective in the mandate for a formal CA. For example, in Alberta, in 2007 the Minister of Energy cited that the benefits of a centrally established organization (the Utilities Consumer Advocate (UCA)) to consolidate arguments formerly made by multiple intervenors, reduce the total number of intervenors, and the time and cost to conduct hearings.²² However, InterGroup notes that since 2007, in addition to the UCA, the Consumers’ Coalition of Alberta, comprised of the Alberta Consumers’ Association and

²⁰ Wisconsin Statute 199.02, Citizens Utility Board of Wisconsin, Wisconsin. Available from: <https://docs.legis.wisconsin.gov/statutes/statutes/199>

²¹ The Oregon Revised Statutes, Vol. 19(57), Section 774.020 – Citizens’ Utility Board. Available from: https://www.oregonlegislature.gov/bills_laws/ors/ors774.html

²² Mel Knight (Minister of Energy), Bill 46 – Alberta utilities Commission Act, Second Reading, Page 2006. November 15, 2007. Available: https://docs.assembly.ab.ca/LADDAR_files/docs/hansards/han/legislature_26/session_3/20071115_1300_01_han.pdf. Accessed August 15, 2024.

the Alberta Council on Aging, have intervened in a number of proceedings before Alberta Utilities Commission (AUC) and received cost awards for their interventions.²³ Further, in 2020, the AUC appointed an independent expert committee to assist in improving the efficiency of rates proceedings. The Committee made a number of procedural recommendations, many of which were later implemented by the AUC.²⁴ Many of the procedural changes adopted by the AUC to improve efficiency could be implemented in Ontario without the implementation of a formal CA.

In the United Kingdom, Consumer Futures, a government public body which represented consumers of energy and postal services, as well as water consumers in some areas,²⁵ transferred its functions to Citizens Advice, Citizens Advice Scotland, and General Consumer Council for Northern Ireland.²⁶ These are charitable organizations that receive partial funding from the government.²⁷ This transfer was part of a broader reform with two of its primary goals being to simplify the arrangements for consumer representation and advice, by reducing the number of organizations involved and to provide consumer protection services in a more cost-effective manner.^{28,29}

Implementing a formal CA would require additional funding. Typically, formal CAs in other jurisdictions are not funded through an intervenor cost award process, but some other model. Achieving overall cost reductions would only be possible if the CA materially and substantively replaced or consolidated a number of intervenors that currently participate in OEB proceedings and receive cost awards.

Regulatory tribunals, including the OEB, must ensure their processes respect the principles of procedural fairness and natural justice. Procedural fairness generally requires that anyone materially affected by a tribunal's decision must have the opportunity to present their views to an unbiased decision maker.³⁰ The jurisdictional review indicated that in jurisdictions where a formal consumer advocate has been created, other parties representing consumer interests continue to

²³ See for example AUC Decision 28998-D01-2024. Available:
[https://www2.auc.ab.ca/Proceeding28998/ProceedingDocuments/28998_X\[\]_Decision%2028998-D01-2024_000018.pdf#search=cost%20award%202024](https://www2.auc.ab.ca/Proceeding28998/ProceedingDocuments/28998_X[]_Decision%2028998-D01-2024_000018.pdf#search=cost%20award%202024) Accessed August 15, 2024.

²⁴ Appendix IV – Recommendations of the UAC Committee on Procedures and Processes, Report of the AUC Procedures and Processes Review Committee. August 14, 2020. Available from: https://media.auc.ab.ca/prd-wp-uploads/regulatory_documents/Reference/2020-10-22-AUCReviewCommitteeReport.pdf

²⁵ A stronger voice for consumers, Citizens Advice, p. 2. March 2015. Available from:
https://assets.ctfassets.net/mfz4nbqura3g/1yHuklxN5kTdcY8OsLUgKw/64aadac9a85428696c732656823bdd7d/Consumer_20Futures_20work_20programme_20201516.pdf

²⁶ Consumer Futures, Organisations, Government of the UK. Available from:
<https://www.gov.uk/government/organisations/consumer-focus> Accessed August 19, 2024.

²⁷ Citizens Advice Annual Report 2022/23, p. 63. Available from:
https://assets.ctfassets.net/mfz4nbqura3g/1CvI8xMxxf8Qzm8uI2NKbF/ad0eec22a4379960bac66ca4ed5a84a4/Citizens_Advice_Annual_Report_2022-2023.pdf

²⁸ Update on consumer protection landscape reforms, National Audit Office, Section 1.4, p. 6. April 2014 Available from:
<https://www.nao.org.uk/wp-content/uploads/2014/04/Update-on-consumer-protection-landscape-reforms1.pdf>

²⁹ Consumer Futures transition to the Citizens Advice service – Frequently asked questions. Available from:
https://www.citizensadvice.org.uk/global/migrated_documents/corporate/cf-transition-faqs.pdf

³⁰ Procedural Fairness / Right to be Heard, EB-2022-0011, Framework for Review Of Intervenor Processes And Cost Awards, Ontario Energy Board, Page 8. March 2022.

be able to participate, and in some cases, such as Alberta and California³¹, remain eligible to receive cost awards.

In InterGroup's view, it is not apparent that increased efficiency or reduced costs would arise from implementing a formal consumer advocate model. There would be material new costs as well as administrative issues to address in developing the model. To the extent CA costs are justified at least in part as a replacement for existing intervenors, this could only be achieved by limiting the costs awarded to existing intervenors which would reduce the diversity of customer representation.

3.2.3 Consumer Education and Outreach

Some jurisdictions include a consumer education and outreach function in the mandate of a CA. These jurisdictions include the Citizens Utility Board in Oregon,³² the Citizens Utility Board of Wisconsin,³³ the Utilities Consumer Advocate in Alberta,³⁴ the Ohio Consumers Counsel,³⁵ and Citizens Advice in the UK.³⁶ The OEB's mandate includes "to inform consumers and protect their interests" but does not specifically indicate a mandate to educate.³⁷ The OEB provides consumer information on topics including understanding and managing bills, choosing energy plans, and bill assistance programs. Utilities in Ontario are also required to engage with customers and include an overview of customer expectations and preferences when developing a rate application.³⁸

Given this Ontario-specific framework, in InterGroup's view there is limited relevance to the customer education function in assessing whether to adopt a formal CA model.

3.3 BENEFITS OF CURRENT INTERVENOR MODEL IN ONTARIO

During discussions with the OEB and stakeholders in engagement sessions, a number of benefits of Ontario's current regulatory framework, including the intervenor funding model, were highlighted. First, it was noted that Ontario's regulatory framework has typically resulted in reductions to revenue requirements, to the benefit of customers. These savings typically persist over the rate term of the applications. Table 3-1 summarizes the annual reductions in revenue requirements in electricity distribution cost of service applications from 2009 to 2023. The

³¹ Examples in California include the Utility Consumer's Action Network (<https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M344/K045/344045890.PDF>), The Utility Reform Network (<https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M432/K752/432752626.PDF>), and the Consumer Federation of California (<https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M328/K703/328703156.PDF>).

³² Oregon Citizens' Utility Board Our Work – Energy. Available from: <https://oregoncub.org/our-work/energy/>

³³ Wisconsin Statute 199.02, Citizens Utility Board of Wisconsin, Wisconsin. Available from:

<https://docs.legis.wisconsin.gov/statutes/statutes/199>

³⁴ Billing issues & concerns, Alberta Utilities Commission. Accessed August 19, 2024. Available from:

<https://www.auc.ab.ca/billing-issues-and-concerns/>

³⁵ Highlights, Ohio Consumer Counsel Annual Report 2023. Available from: <https://www.occ.ohio.gov/content/occ-annual-report-2023>

³⁶ Citizens' Advice Annual Report 2022/23, p. 23. Available from:

https://assets.ctfassets.net/mfz4nbqura3g/1CvI8xMxxf8Qzm8uI2NKbF/ad0eec22a4379960bac66ca4ed5a84a4/Citizens_Advice_Annual_Report_2022-2023.pdf

³⁷ Ontario Energy Board Act, 1998, S.O 1998, c. 15 Schedule B, Section 1(1). Available from:

<https://www.ontario.ca/laws/statute/98o15>

³⁸ Ontario Energy Board Handbook for Utility Rate Applications – Customer Engagement, p.11. Available from:

<https://www.oeb.ca/sites/default/files/uploads/documents/regulatorycodes/2019-01/Handbook-Utility-Rate-Applications-20161013.pdf>

information in Table 3-1 indicates only the annual savings, not the total savings over the term of the application.

Table 3-1: OEB Cost of Service Applications - Applied for and Approved Revenue Requirements, \$Millions

Year	Applied For Revenue Requirements	Approved Revenue Requirements	Variance
2009	\$413.1	\$394.0	-\$19.1
2010	\$1,984.6	\$1,958.3	-\$26.4
2011	\$885.8	\$817.0	-\$68.8
2012	\$285.2	\$269.9	-\$15.4
2013	\$587.6	\$545.9	-\$41.8
2014	\$223.4	\$219.4	-\$4.0
2015	\$2,343.6	\$2,254.5	-\$89.1
2016	\$319.8	\$310.2	-\$9.6
2017	\$377.3	\$358.3	-\$19.0
2018	\$1,564.9	\$1,527.8	-\$37.1
2019	\$49.4	\$48.0	-\$1.4
2020	\$950.5	\$894.8	-\$55.6
2021	\$377.5	\$364.6	-\$12.9
2022	\$147.7	\$143.1	-\$4.6
2023	\$1,748.4	\$1,806.7	\$58.3
Total	\$12,258.7	\$11,912.5	-\$346.2
Average	\$817.2	\$794.2	-\$23.1

Interventions also provide a venue for customers to address non-financial issues and concerns such as potential changes to customer service rules or quality of service. Ontario's cohort of experienced intervenors provide a diverse range of perspectives for the OEB to consider. The complement of experienced intervenors means that the learning curve for each new proceeding is truncated, helping support regulatory and timeline efficiency.

Finally, one of the OEB's key process efficiency priorities - negotiated settlements - are facilitated by the participation of knowledgeable intervenors. The current Ontario model supports the readiness of the customer representatives to participate actively and effectively in negotiated settlement processes. Other regulators have acknowledged this benefit in their consideration of settlement agreements. For example, in a 2024 Decision approving a partial negotiated settlement agreement (NSA), the AUC noted the intervenor signatories to the NSA (the Utilities Consumer Advocate and the Consumers' Coalition of Alberta) have participated in several past applications and represent a cross-section of residential, small business and farm ratepayers. The involvement of sophisticated participants is supportive of a finding that the NSA is in the public interest.³⁹

3.4 RECOMMENDATION ON THE IMPLEMENTATION OF A CONSUMER ADVOCATE IN ONTARIO

The question of whether a CA model (either a formal model, or an informal model) is necessary or potentially beneficial in Ontario requires assessment of the objectives and trade-offs of implementing such a model.

Based on InterGroup's review, it appears the current regulatory framework in Ontario, including both OEB staff and the intervenors funded through the cost award process, is able to effectively achieve the consumer representation outcomes that a CA may help facilitate in other jurisdictions. Therefore, it does not appear there is a gap in consumer representation in Ontario that requires a CA model to address.

With respect to using a CA to achieve regulatory efficiency objectives, two considerations have been identified during this review:

1. Establishing a CA is not a one-stop solution to all regulatory efficiency issues; for example, Alberta has a formal CA but this has not fully eliminated other intervenors representing smaller consumer interests from participating in proceedings and receiving cost awards. Further, the AUC has recently implemented other procedural changes to improve efficiency that do not require a CA to implement, and the creation of a CA did not provide a full solution to regulatory efficiency so as to eliminate the need to find further process improvements.

³⁹ Paragraph 31. AUC Decision 28457-D02-2024. Available: https://www2.auc.ab.ca/Proceeding28457/ProceedingDocuments/28457_XF_28457-D02-2024%20EEA%202023-2024%20Non-Energy%20RRT_000169.pdf Accessed August 15, 2024.

2. Given there would be costs associated with adding a CA in Ontario, to achieve cost reductions there would need to be material identifiable process savings or reductions elsewhere in the regulatory process. Most notably, this would occur if the CA replaced or consolidated a set of intervenors in a proceeding, on at least a certain scope of issues. These cost savings could only be achieved by reducing or eliminating cost awards for certain participants which would likely result in a decrease in the diversity of perspectives available for the OEB to consider. Procedural fairness considerations would require that parties with a substantial interest in the proceeding still have a way to participate, though they may not receive cost awards. There could also be implications for the ability to facilitate negotiated settlements.

Based on this review, InterGroup does not recommend that the OEB consider implementing a formal CA. Other opportunities to achieve regulatory efficiency objectives and potentially cost savings in Ontario could involve using existing or expanded tools in the rules of practice and procedure to manage intervenor costs or reduce duplication of effort, in a manner that would not seriously undermine effective customer representation. Jurisdictions with both formal and informal CAs use these tools to help reduce costs and effort, to focus issues, and to reduce duplication. Recommendations for other procedural tools the OEB could consider are discussed further in Sections 5 and 6 of this report.

4.0 CAPPING INTERVENOR COSTS

This section summarizes the findings and recommendations related to the question of whether the Ontario Energy Board should cap intervenor costs to reduce cost awards. Additional details on the research findings are provided in Appendix C.

4.1 REVIEW OF ONTARIO INTERVENOR COST AWARDS

As a first step, InterGroup reviewed the recent history of intervenor cost awards in Ontario. The review included data for 757 interventions over 170 proceedings from 2020/21 to 2023/24 where costs were awarded.^{40,41,42} Figure 4-1 summarizes the cost awards for each year, while Figure 4-2 shows the distribution of cost awards by proceeding for the same period.

Figure 4-1 and Figure 4-2 include all costs awarded in the Enbridge Gas Inc. 2024 Rebasing (EB-2022-0200) proceeding:

- \$1.8 million awarded in the 2023/24 fiscal year as interim costs; and
- \$1.8 million awarded in the 2024/25 fiscal year

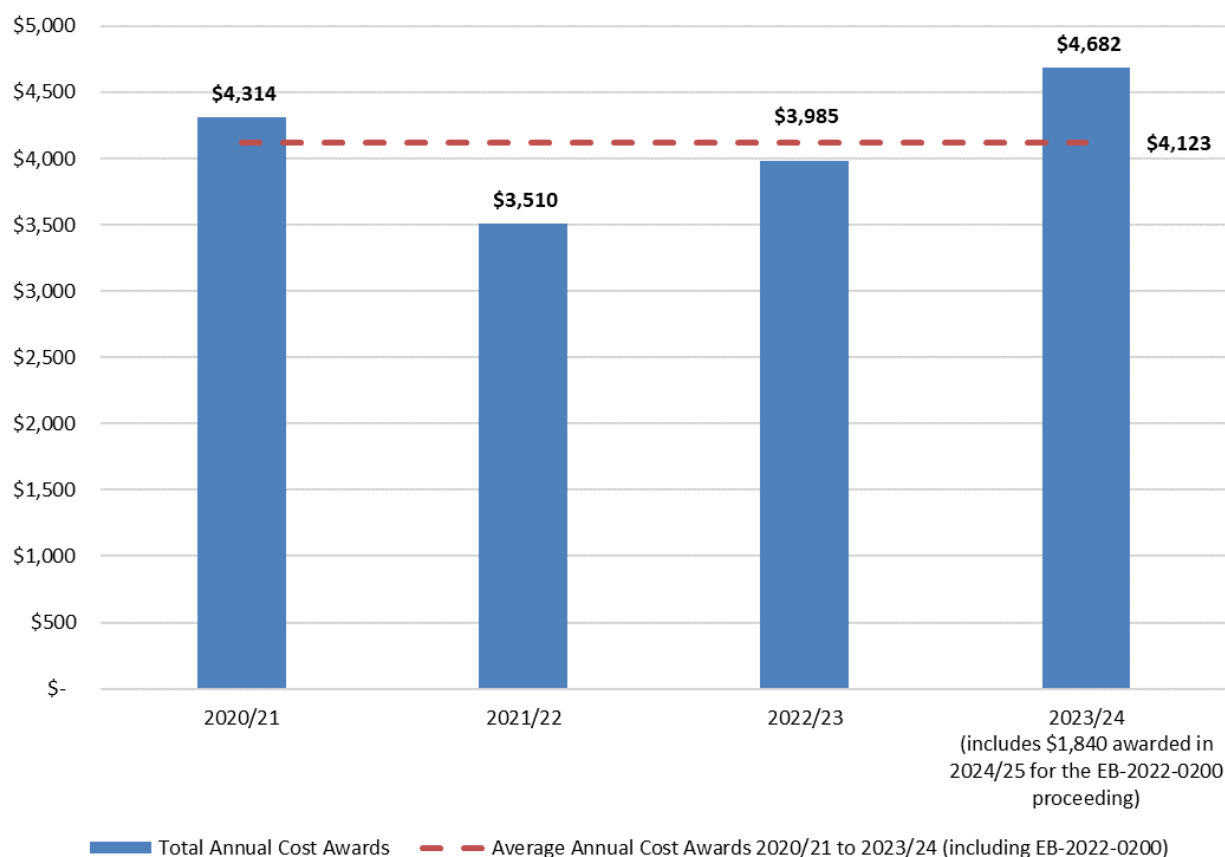
The total awards for this proceeding were \$3.6 million. The costs awarded in the 2024/25 fiscal year for EB-2022-0200 were largely incurred in the 2023/24 fiscal year and are included as 2023/24 cost awards for completeness of this proceeding. Excluding the final EB-2022-0200 proceeding cost award, total costs awarded in the 2023/24 fiscal year were \$2.8 million.

⁴⁰ OEB intervenor costs include costs incurred by intervenors and third-party experts. The review is centered on analyzing the efficiency and effectiveness of the OEB's adjudicative process. Therefore, only adjudicative proceedings are included in the analysis of intervenor cost awards. A total of 34 policy and stakeholder consultations totaling \$2,584,000 (\$452,000 in 2020/21, \$907,000 in 2021/22, \$760,000 in 2022/23, and \$466,000 in 2023/24) were excluded. Their exclusion does not affect the conclusions of the review.

⁴¹ The cost awards for 2023/24 include \$1,840,000 awarded in the Enbridge Gas Inc. Rebasing (EB-2022-0200) proceeding in 2024/25. This is included for completeness of this proceeding.

⁴² The Minister of Energy's November 2023 letter of direction states, "In 2021-22, Ontario's 5.3 million electricity and natural gas customers paid \$4.4 million to fund the Ontario Energy Board's intervenor process". Figure 4-1 shows total cost awards in 2021-22 at \$3.5 million, as it excludes \$907,000 in cost awards related to non-adjudicative policy and stakeholder consultations. Together, these costs total the \$4.4 million in 2021-22 referenced in the letter of direction. From 2019/20 to 2023/24, the average cost awards provided by the OEB, including non-adjudicative policy and stakeholder consultations, was \$4.4 million.

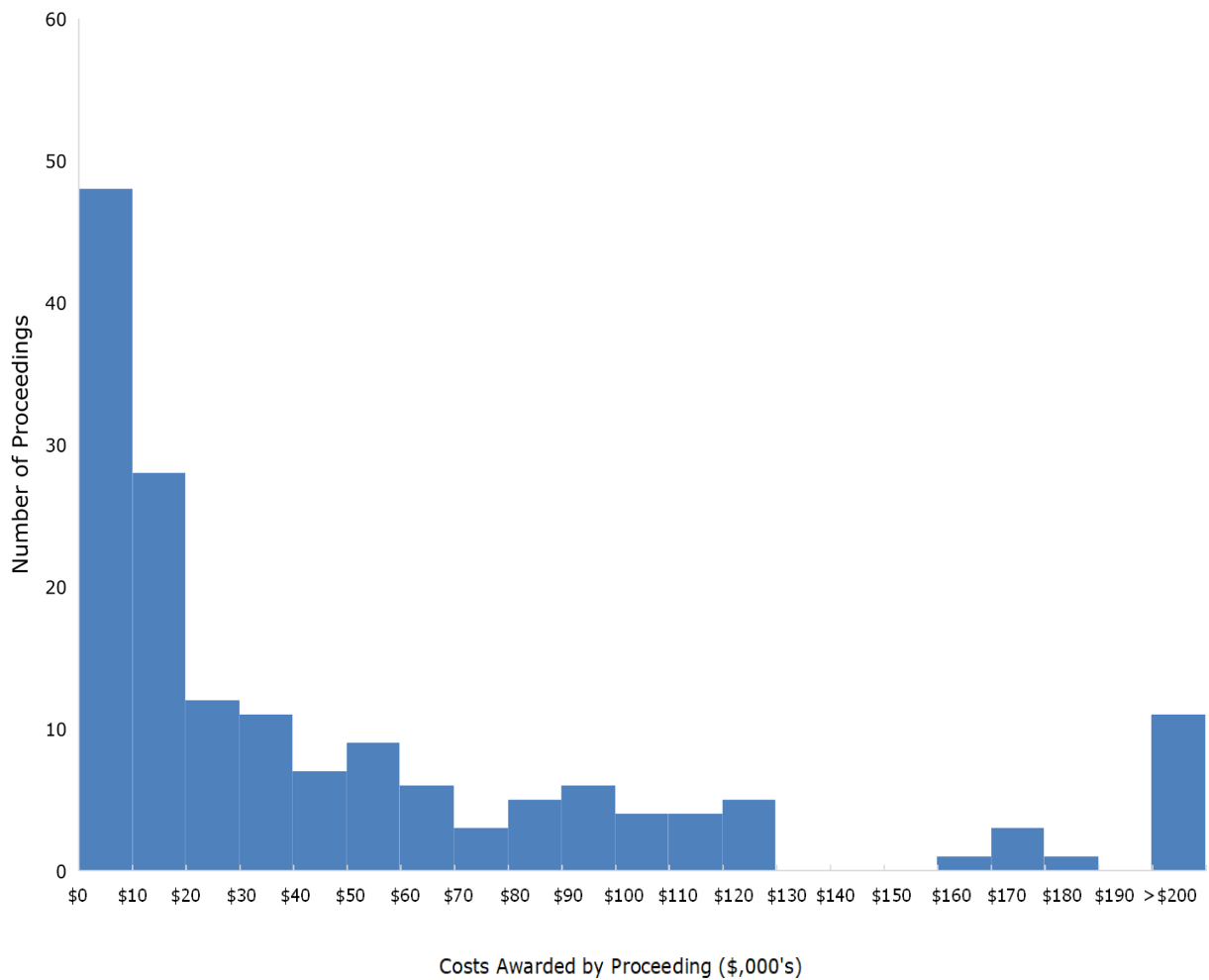
Figure 4-1: OEB Intervenor Cost Awards 2020/21–2023/24 – including final costs awarded for EB-2022-0200 in 2024/25 (\$000s)^{43,44}



⁴³ The excluded policy and stakeholder consultations were \$452,000 in 2020/21, \$907,000 in 2021/22, \$760,000 in 2022/23, and \$466,000 in 2023/24, totaling \$2.58 million over the four-year period. The 2023/24 fiscal year includes \$1,840,000 awarded in the Enbridge Gas Inc. (EB-2022-0200) proceeding in 2024/25. This is included for completeness of this proceeding. Without the final cost award for EB-2022-0200, total costs awarded in 2023/24 amount to \$2.84 million.

⁴⁴ There were three proceedings which had interim and final cost awards spanning multiple years. The Enbridge Gas Inc. Federal Carbon Pricing Program Application (EB-2019-0247) had cost awards of \$20,000 in 2020/21 and \$38,000 in 2021/22 (totaling \$58,000); Hydro One Networks Inc. Rates, Revenue Requirement, and Charge Determinants 2023-2027 (EB-2021-0110) had cost awards of \$6,000 in 2021/22, \$638,000 in 2022/23, and \$367,000 in 2022/23 (totaling \$1.01 million); and Enbridge Gas Inc. 2024-2028 Rates Proceeding (Phase I) (EB-2022-0200) had cost awards of \$1.80 million in 2023/24 and \$1.84 million in 2024/25 (totaling \$3.64 million).

Figure 4-2: Distribution of OEB Intervenor Cost Awards by Proceeding 2020/21–2023/24 – including final costs awarded for EB-2022-0200 in 2024/25 (\$000s)



This information indicates that the total intervenor cost awards for adjudicative proceedings have ranged from \$3.5 million in 2021/22 to \$4.7 million in 2023/24, averaging \$4.1 million over the period. Costs reflected in the 2023/24 fiscal year in Figure 4-1 include the final costs awarded for Enbridge Gas Inc. 2024 Rebasing (EB-2022-0200) proceeding in 2024/25. When excluding the final costs awarded for the Enbridge 2024 Rebasing proceeding, costs in 2023/24 amount to \$2.8 million. Cost awards for most proceedings are less than \$100,000 with a small number of large proceedings contributing a high percentage of the total costs. The six largest proceedings accounted for 50% of the total intervenor cost awards over the period examined from 2020/21 to 2023/24.

4.2 COMPARISON WITH OTHER JURISDICTIONS

To understand how Ontario's intervenor cost awards compare to other jurisdictions in Canada, InterGroup reviewed publicly available intervenor cost award data from British Columbia, Alberta and Manitoba.⁴⁵ Table 4-1 compares the average annual intervenor cost awards in each jurisdiction as well as the average cost per customer and per capita. Table 4-2 compares the average claims per proceeding and per cent of total claim awarded per proceeding.

⁴⁵ Cost award data was reviewed for 2021 through 2023 for British Columbia and Alberta and for 2019 through 2023 for Manitoba. Data for British Columbia cost awards were sourced from the British Columbia Utilities Commission website. British Columbia cost award data excludes BCUC-initiated inquiries (comparable to OEB policy and stakeholder consultations), insurance-related proceedings, and proceedings related to gas/diesel fuel prices. Cost award data for Alberta was provided by the Alberta Utilities Commission (AUC), with details of the cost awards retrieved from the cost award decisions on the AUC website. The AUC provides cost awards to both applicants and intervenors. Applicant costs were excluded from this analysis. Data from the Manitoba Public Utilities Board were sourced from cost award decision on the Manitoba PUB's website.

Table 4-1: Average Annual Intervenor Cost Awards per Customer and Per Capita⁴⁶

Proceeding	Average Annual Intervenor Costs Awarded (\$ Millions)	Number of Customers (Millions)	Average Annual Costs per Customer (\$)	Population ⁴⁷ (Millions)	Average Annual Cost Award per Capita (\$)
Ontario ⁴⁸	\$4.1	9.3 ⁴⁹	\$0.4	15.6	\$0.3
British Columbia ⁵⁰	\$2.4	-	-	5.5	\$0.4
Alberta ⁵¹	\$3.9	3.2 ⁵²	\$1.2	4.7	\$0.8
Manitoba ⁵³	\$0.7	0.9 ⁵⁴	\$0.7	1.5	\$0.5

Table 4-2: Average Intervenor Cost Claims and Awards per Proceeding⁵⁵

Jurisdiction	Average Claims Per Proceeding	Average Awards Per Proceeding	% Awarded per Proceeding
Ontario	\$104,000	\$100,000	97%
British Columbia	\$91,000	\$87,000	97%
Alberta	\$201,000	\$168,000	84%
Manitoba	\$381,000	\$369,000	97%

⁴⁶ Only includes proceedings where costs were awarded. Many proceedings do not result in cost awards.

⁴⁷ Statistics Canada, Table: 17-10-0005-01, Population estimates on July 1, by age and gender, 2023. February 21, 2024. Available from: <https://www150.statcan.gc.ca/t1/tb1/en/cv.action?pid=1710000501>

⁴⁸ Cost award data provided by the OEB. Includes cost awards issued in 2020/21–2023/24 as well as final 2024/25 Enbridge proceeding cost award (EB-2022-0200).

⁴⁹ Ontario Energy Board, Annual Report 2022-2023, Page 30. Available from: <https://www.oeb.ca/sites/default/files/OEB-Annual-Report-2022-2023-EN.pdf>

⁵⁰ Cost award data retrieved from the BCUC website. Includes cost awards issued 2021-2023. Source: <https://www.ordersdecisions.bcuc.com/bcuc/en/nav.do>

⁵¹ List of cost award proceedings provided by the AUC. Cost award data retrieved from the AUC's eFiling System. Includes cost awards issued 2021-2023. Source: https://www2.auc.ab.ca/_layouts/15/auc.efiling.portal/login.aspx

⁵² Alberta Utilities Commission, Financing AUC operations. Available from:

https://www.auc.ab.ca/regulatory_documents/financing-auc-operations/. Accessed July 9, 2024.

⁵³ Cost award data retrieved from the MB PUB website. Includes cost awards issued 2019-2023. Available from:

<https://www.pubmanitoba.ca/v1/proceedings-decisions/orders/>

⁵⁴ Manitoba Hydro, About us. Available from: <https://www.hydro.mb.ca/corporate/>. Accessed July 9, 2024.

⁵⁵ Only includes proceedings where costs were awarded.

Table 4-1 shows Ontario had the lowest average annual cost awards per customer (\$0.4 per customer) followed by Manitoba (\$0.7 per customer) and Alberta (\$1.2 per customer). Customer data was not available for British Columbia.

Ontario also had the lowest average cost award per capita (\$0.3 per capita) compared to Manitoba and British Columbia (\$0.4 per capita) and Alberta (\$0.8 per capita). It should be noted that the Alberta figures exclude the costs of the Utilities Consumer Advocate, which does not receive cost awards and is funded through other mechanisms directed by the provincial government.⁵⁶

Table 4-2 shows that the OEB on average approves 97% of the total costs claimed, similar to Manitoba and British Columbia. Alberta approves a lower percentage of total costs claimed, at 84%.

The British Columbia Utility Commission's (BCUC) Rules of Practice and Procedure for Participant Cost Awards states "The BCUC may establish a cap on all, or on part of, a cost award available in a proceeding to any or all participants."⁵⁷ In Wisconsin, regulators have established total annual budget caps for intervenors.⁵⁸

4.3 OEB INTERVENOR BUDGET PILOT PROJECT

The OEB announced it will be piloting a budget for intervenors in cost of service applications for 2025 electricity distribution rate applications.⁵⁹ The pilot project sets a budget for intervenor costs (\$20,000 per intervenor) for cost of service applications for very small and small utilities (those with fewer than 30,000 customers). The budget was chosen based on historical cost of service proceedings for small applicants.

The budget aims to encourage intervenors to manage their activities within the allocated budget. The pilot will help the OEB understand the potential implications of restricting cost awards and will inform applicants about the likely costs of interventions.⁶⁰ For the pilot:

- Filing requirements for intervenor hours are still expected to be submitted;
- There is no guarantee that the full budget will be recovered;
- Any claims for costs above \$20,000 must be accompanied by further justification;

⁵⁶ See Section 148 of the Electric Utilities Act (https://kings-printer.alberta.ca/1266.cfm?page=E05P1.cfm&leg_type=Acts&isbncln=9780779846368) and Section 28.1(8) of the Gas Utilities Act (https://kings-printer.alberta.ca/1266.cfm?page=G05.cfm&leg_type=Acts&isbncln=9780779848003).

⁵⁷ British Columbia Utilities Commission, New Rules of Practice and Procedure for Participant Cost Awards, G-178-22. June 30, 2022. Available from: <https://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/521128/index.do>

⁵⁸ State of Wisconsin, 2023 Senate Bill 70, Act 19, 20.155(1)(g), p. 24. July 5, 2023. Available from: <https://docs.legis.wisconsin.gov/2023/related/acts/19.pdf>

⁵⁹ OEB Filing Requirements for Electricity Distribution Rate Applications for 2025 Rates, p.1. Available from: <https://www.rds.oeb.ca/CMWebDrawer/Record/848506/File/document>

⁶⁰ OEB Filing Requirements for Electricity Distribution Rate Applications for 2025 Rates, p.2.

- Single-issue or limited-issue intervenors are expected to claim amounts well below the \$20,000 budget unless specifically approved by the panel;
- The budget may be amended at the panel's discretion if additional complexities arise; and
- Intervenors are expected to coordinate their activities to avoid duplication.

Between 2020/21 and 2023/24 the budget would have applied to 14 cost of service proceedings for small/very small utilities with a total of 31 interventions. Out of those 31 interventions, 13 had cost claims over \$20,000. The total amount claimed from these proceedings without the budget in place was \$606,000, with the budget in place this could have been reduced to \$490,000, for potential savings of \$116,000.

4.4 RECOMMENDATION ON CAPPING INTERVENOR COSTS IN ONTARIO

Based on InterGroup's review, it does not appear Ontario has unusually large total cost awards or cost awards on a per customer or per capita basis.

More than 50% of costs awarded in the sample period in Ontario related to 6 out of 170 proceedings. The largest proceedings in Ontario have tended to have a number of different intervenors receiving cost awards. Based on this, if there is interest in managing total intervenor costs or increasing collaboration and reducing duplication, efforts could focus on the largest proceedings. InterGroup recommends the OEB consider procedural or policy changes that could strengthen and support the culture of active case management and may contribute to more efficient processes. These are described in more detail in Section 6 of this report. However, as these larger proceedings often have a substantial volume of information to review and extensive issue lists, it does not seem practical to establish hard caps on interventions for budgets in these proceedings.

For smaller applications, the budget approach currently being piloted may be a reasonable and efficient way to manage costs for those scales of proceedings. InterGroup recommends the OEB review the results of the pilot project and consider expanding its use to more types of proceedings.

5.0 INTERVENOR APPROVAL AND COST AWARD POLICY

This section summarizes findings and recommendations related to the question of whether the OEB can improve its intervenor approval and cost award policy to help manage costs. Additional details on the research findings are provided in Appendix C.

5.1 COST AWARD POLICIES AND PROCEDURES

This section describes the processes for intervenors to apply for and receive awards of costs. While other parties may be eligible (e.g. applicants or landowners), the cost award processes are typically accessed by intervenors.

5.1.1 Eligibility for Intervenor Status

In Ontario a party must demonstrate they have a substantial interest in the proceeding to be granted intervenor status.⁶¹ The OEB requires intervenors who participate in three or more adjudicative proceedings in a year to file a standardized “Frequent Intervenor Form” that contains information about the party’s mandate and objectives, the constituency and membership they represent, the types of programs or activities by which they carry out their mandate, their governance structure, and their reporting mechanism.⁶²

Many other jurisdictions have a similar requirement to demonstrate a substantial interest in the proceeding. Some other jurisdictions, including British Columbia and Wisconsin, also consider whether the party has the ability to offer relevant experience or contribute to the proper disposition of issues as alternative eligibility criteria for intervenor status.^{63,64}

5.1.2 Intervenor Application Forms

The OEB’s intervenor application form requires applicants to identify issues from the issues list that they expect will be the subject of their intervention. Applicants also have the opportunity to contribute to the issues list by identifying any issues that they believe are relevant and material to the proceeding that are not currently included.⁶⁵ The OEB also requires intervenors to indicate if they will be applying for a cost award on the application form.

⁶¹ Rules of Practice and Procedure, Ontario Energy Board, Rule 22.02. Available from: https://www.oeb.ca/sites/default/files/uploads/documents/regulatorycodes/2024-03/OEB_Rules-Practice-and-Procedure_20240306.pdf

⁶² Rules of Practice and Procedure, Ontario Energy Board, Rule 22.07.

⁶³ Rules of Practice and Procedure, British Columbia Utilities Commission, Rules 9.04 and 9.08. Available from: https://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/521582/index.do#_Toc131403724

⁶⁴ Procedure and Practice, Public Service Commission, Wisconsin State Legislature, PSC 2.21. Available from: https://docs.legis.wisconsin.gov/code/admin_code/psc/2

⁶⁵ OEB Intervention Form. Retrieved August 14, 2024. Available from: <https://www.oeb.ca/html/intervenor/apply/>

Many other jurisdictions reviewed by InterGroup have similar requirements. Quebec requires intervenors to include conclusions sought or recommendations proposed in the application for intervenor status.⁶⁶

5.1.3 Intervenor Budgets

The OEB requires intervenors to submit a budget for their intervention if the intervenor intends to file evidence and seek a recovery of costs.⁶⁷ The budget requires the estimated costs for the expert in connection with the proposed evidence.⁶⁸ The OEB's rules of practice do not provide specific directions to include costs for lawyers, non-expert consultants, or other costs in the budget.

Some jurisdictions, including Quebec, Manitoba, and California require budgets to be submitted at the beginning of a proceeding.^{69,70,71} In Manitoba, the budget must include costs for legal, expert, consultant, analysts, and other fees and the Board can provide comment on intervenor budgets.^{72,73} Intervenor budgets are also expected to update budgets throughout the proceeding when they expect material differences from the initial estimates provided to the Public Utilities Board.

5.1.4 Coordination Among Intervenor

The OEB requires intervenors to indicate how they will make reasonable efforts to coordinate their intervention with any other intervenors with similar interests. Many other jurisdictions have similar requirements for intervenors to collaborate in order to coordinate the intervention with other intervenors.⁷⁴ In Manitoba, the Public Utilities Board may order intervenors to present a joint intervention.⁷⁵

⁶⁶ Rules of Procedure of the Régie de l'énergie, Rules 16 and 19.

⁶⁷ Ontario Energy Board Rules of Practice and Procedure, Section 13.03.

⁶⁸ See for example Evidence submission and budget. Ontario Energy Board Advanced Regulatory Document Search, Case Number EB-2022-0167. Available from: <https://www.rds.oeb.ca/CMWebDrawer/Record/757008/File/document>

⁶⁹ (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l'énergie, Rule 11. Available from: https://www.regie-energie.qc.ca/storage/app/media/la-regie/lois-reglements-documents-administratifs/interventions-frais-intervenants/Regie_GuidePaiementFrais2020_janvier2020.pdf

⁷⁰ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 27.

⁷¹ California Rules of Practice and Procedure. California Code of Regulations Title 20, Division 1, Chapter 1, Section 17.1(c). Available from: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/rules-of-practice-and-procedure-may-2021.pdf>

⁷² Manitoba PUB Template for Intervenor Cost Estimate Cost Award Applications. Available from: <http://www.pubmanitoba.ca/v1/proceedings-decisions/appl-current/pubs/2019-centra-gra/int-costs-form-centra-gra-sample.pdf>

⁷³ Manitoba PUB Intervenor Costs Policy, Section 9.2.6 and 9.2.7.

⁷⁴ For example, in the BC Hydro 2024 Rate Design proceeding, The British Columbia Utilities Commission directed several municipalities to participate as one intervenor group with participation limited to specific topics. Four renewable energy organizations were also directed to participate as one group and limited to specific topics and similarly for the Zone II Ratepayers Group and Gitga'at First Nation. BCUC BC Hydro 2024 Rate Design – Intervenor Registration and Scope of Participation, Exhibit A-3, p. 2. Available from: https://docs.bcuc.com/documents/proceedings/2024/doc_78401_a-3-intervener-registration-participation-scope.pdf

⁷⁵ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 4. Available from: http://www.pubmanitoba.ca/pdf/pandp/rules_pandp_mar07.pdf

5.1.5 Interim and Advanced Cost Awards

The OEB's rules of practice do not specify a process for awarding interim cost awards (i.e. to recover costs or a portion of costs incurred to date), but the OEB has in practice approved interim cost awards for longer proceedings. A number of other jurisdictions also allow interim cost awards for longer proceedings. In Alberta and British Columbia intervenors must demonstrate financial need to be eligible for interim cost awards.^{76 77}

The OEB's rules of practice do not include a provision for advanced cost award (i.e. forecast or budgeted costs for participating in a proceeding). Other jurisdictions, including Alberta and Manitoba allow advanced funding but require budgets to support the advanced funding request.

5.1.6 Final Cost Awards

The OEB's practice direction on cost awards set out a number of factors it may consider in determining the final amount of a cost award, including whether the party demonstrated through its participation and documented in its cost claim that it has:

- a. participated responsibly in the process;
- b. contributed to a better understanding by the Board of one or more of the issues in the process; complied with the Board's orders, rules, codes, guidelines, filing requirements and Rule 22.07 of the Board's Rules of Practice and Procedure with respect to frequent intervenors, and any directions of the Board;
- c. made reasonable efforts to combine its intervention with that of one or more similarly interested parties, and to co-operate with all other parties;
- d. made reasonable efforts to ensure that its participation in the process, including its evidence, interrogatories and cross-examination, was not unduly repetitive and was focused on relevant and material issues;
- e. engaged in any conduct that tended to lengthen the process unnecessarily; or
- f. engaged in any conduct which the Board considers inappropriate or irresponsible.⁷⁸

Many jurisdictions have similar criteria specified in their rules of practice related to the final decision on awarding costs.

⁷⁶ BCUC Rules of Practice and Procedure for Participant Cost Awards, Section 38.01.

⁷⁷ AUC Rules of Local Intervenor Costs, Section 4(3c). Available from: <https://www.auc.ab.ca/rules/rule009/>

⁷⁸ Section 5. OEB Practice Direction on Cost Awards.

5.2 RECOMMENDATIONS ON INTERVENOR APPROVAL AND COST AWARDS

The OEB has a comprehensive set of rules and processes for administering cost awards that are largely consistent with those used in other jurisdictions. Some jurisdictions have additional practices that the OEB could consider implementing to provide additional tools for managing intervenor costs and regulatory efficiency.

Improving collaboration and reducing duplication

Most jurisdictions have rules that intervenors should collaborate to avoid duplication. Some jurisdictions provide more specific direction for intervenors to work with another party.⁷⁹ For example, in Manitoba, the Public Utilities Board may order intervenors to present a joint intervention.⁸⁰

In InterGroup's view, the overall culture of active adjudication is a key ingredient to improving collaboration and reducing duplication. The OEB is already attentive to this, but further improvements could be assisted by some potential process changes or practices, including:

- Revisions to the intervenor application form to require more information on the specific customers or customer classes being represented, and more detailed information on the issues intervenors propose to canvass. The OEB could also consider allowing interventions subject to their issues being included in final issue lists.
- Specifically directing certain parties with similar interests or issues in a procedural order to collaborate or present a joint intervention. For example, in Manitoba, the Public Utilities Board considers whether a potential intervenor represents a substantial number of ratepayers that are not otherwise being represented on issues that are within the scope of a hearing. At times, the Manitoba Public Utilities Board has denied intervenor status for some parties and directed them to communicate their concerns with the intervenors who are already representing those issues.⁸¹
- Directing individuals with narrow or small interests to either collaborate with another intervenor or participate through other means, such as submitting a letter of comment.

⁷⁹ For example, in the BC Hydro 2024 Rate Design proceeding, multiple municipalities were directed to participate as one intervenor group with participation limited to specific topics. Four renewable energy organizations were also directed to participate as one group and limited to specific topics and similarly for the Zone II Ratepayers Group and Gitga'at First Nation. BCUC BC Hydro 2024 Rate Design – Intervenor Registration and Scope of Participation, Exhibit A-3, p. 2. Available from: https://docs.bcuc.com/documents/proceedings/2024/doc_78401_a-3-intervener-registration-participation-scope.pdf

⁸⁰ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 4. Available from: http://www.pubmanitoba.ca/pdf/pandp/rules_pandp_mar07.pdf

⁸¹ The Manitoba Public Utilities Board denied intervenor status for a Mr. Finkle, stating that "... the Board considers, for purposes of regulatory efficiency, whether the proposed intervenor represents a substantial number of ratepayers that are not otherwise represented on issues that are within the scope of this hearing" and that "... the issues are better raised through the Consumers Coalition, which represents the interests of residential ratepayers". Source: Manitoba Public Utilities Board, Order No. 130/22, Pages 15 and 16. Available from: <https://www.pubmanitoba.ca/v1/proceedings-decisions/orders/pubs/22-orders/130-22.pdf>

- Requiring specific information in the final cost award application that details efforts made by parties to collaborate. For example, indicating specific actions they took to reduce duplication such as sharing their draft information requests with other parties to ensure they were not canvassing the same information.

Each of these tools emphasizes the need for intervenors to collaborate and avoid duplication.

Requiring budget submissions

Some jurisdictions require parties who will be seeking cost awards to provide budgets for their intervention for all costs (e.g. lawyers, consultants) and a list of the issues they intend to address at the beginning of a proceeding. InterGroup recommends the OEB consider expanding the use of budgets. This could provide a number of benefits:

- Providing an early indication to the OEB of the potential scale of costs that may be requested for a proceeding.
- Allowing the OEB an opportunity to signal to intervenors at an early stage where they should seek to narrow the scope of their intervention or collaborate with other parties.
- Establishing a benchmark to evaluate the performance of a party seeking costs, to help evaluate whether they contributed usefully to the understanding of the issues that were the basis for their initial budget.

The OEB may need to require budgets to be updated throughout the proceeding as processes and issues become clarified, in the event these updates lead to changes in the intervenors expected final cost claim. For example, Quebec requires justification for any cost overruns over 3% and in Manitoba there is an expectation that budgets will be updated if the scope of issues or budget needs increase.

Advance funding and interim funding

The OEB does not have formal processes in place in their Rules of Practice and Procedure or Practice Direction on Cost Awards for managing the provision of advance or interim funding. Although interim funding has occasionally been made available, there is no specific application process in place at this time like that used in other jurisdictions. For example, British Columbia has established rules for the provision of interim cost awards and requires intervenors seeking an interim cost award to complete an Interim Cost Award Application Form.⁸²

InterGroup recommends the OEB consider implementing formal application processes for both advanced funding and interim funding. This could involve updates to its Rules of Practice and Procedure or Practice Direction on Cost Awards or providing a placeholder for the consideration of interim funding applications in the schedules for longer proceedings. InterGroup's experience in other jurisdictions is that formalizing access to interim funding and/or advance funding can help

⁸² BCUC Rules of Practice and Procedure for Participant Cost Awards, Section 38.01.

reduce barriers to participation for some participants, for example Indigenous organizations or communities with limited core funding. Eligibility could be limited to lengthy proceedings or for intervenors who require financial assistance for their participation in a proceeding. Additional provisions could be made for Indigenous communities or individual landowners.

Allowing advance funding would also facilitate receiving early indications of proposed budgets and provide an opportunity to comment on the scale of the proposed budgets and reinforce the need for collaboration.

Approval of final cost awards

The OEB already has the ability to reduce cost awards if they are not satisfied sufficient effort was made to collaborate and reduce duplication. However, in practice InterGroup notes that it can be challenging to disallow costs that have already been incurred by intervenors. Implementing some or all of the recommendations in this section may help clarify expectations and identify issues before significant costs have been incurred that might later be subject to disallowances.

6.0 POLICIES AND PROCEDURES TO IMPROVE EFFICIENCY

This section summarizes and provides recommendations in response to the question of whether there are other policies and procedures the OEB could consider to improve process efficiency and reduce costs.

The Minister of Energy's November 2023 letter of direction⁸³ states the OEB should "continue its work reviewing the current intervenor processes and to identify opportunities to improve regulatory efficiency and consequently reduce regulatory burden. This should include, but is not limited to, consideration around a designated consumer advocate and capping intervenor costs."

The Minister's letter does not specify what is meant by "efficiency". Efficiency could suggest a number of potential objectives, including:

- Reducing costs of the regulatory process;
- Streamlining timelines for regulatory processes;
- Reducing duplication; and
- Promoting collaboration.

All of these can be reasonable objectives for a regulator but must be balanced with ensuring regulatory processes are effective, transparent and procedurally fair to all parties.

Information reviewed in Section 4 of this report indicates the OEB's costs for intervenor cost awards are slightly lower on a per capita and per customer basis compared to other jurisdictions. Many regulators have, from time to time, undertaken reviews of their processes to improve efficiency. In 2023, the BCUC launched an initiative with the intent to increase regulatory efficiency and improve participation in the regulatory process.⁸⁴ The process resulted in a list of efficiencies that proposed certain changes to the BCUC's rules, policies, or guidelines but also suggested using the existing rules, policies, and guidelines of the BCUC to implement efficiencies within its own processes.⁸⁵

In 2020, the Alberta Utilities Commission (AUC) appointed an independent committee to assist in improving the efficiency of rates proceedings. The committee members provided a report that

⁸³ Minister of Energy letter dated November 29, 2023. Available: <https://www.oeb.ca/sites/default/files/letter-of-direction-from-the-Minister-of-Energy-20231129.pdf> Accessed May 15, 2024.

⁸⁴ BCUC, Improving Regulatory Efficiency in BCUC Process, Rules, and Guidelines, Exhibit A2-1. August 11, 2023. Available from: https://docs.bcuc.com/documents/proceedings/2023/doc_73411_a21bcucstaffsubmissionimprovingefficiency.pdf

⁸⁵ BCUC, Regulatory Efficiency Initiative, Final List of Efficiencies. December 22, 2023. Available from: https://docs.bcuc.com/documents/other/2023/doc_75555_bcuc-regulatory-efficiency-initiative-final.pdf

made a number of recommendations but noted that the AUC is the master of its procedures and processes. The committee made an overarching recommendation:

That the Alberta Utilities Commission apply an overarching, assertive case management approach to the development and implementation of the Commission's procedures and processes and the implementation of the Committee's specific recommendations.⁸⁶

The OEB has similarly committed to active adjudication⁸⁷ which it defines as the enhanced approach used by the OEB to proactively establish and control adjudicative processes that are efficient, effective and procedurally fair and ensures that the information being put on the record of each proceeding is relevant and of material value to the decision-maker, while ensuring that procedural fairness is respected. Continuing to focus on a culture of active adjudication is an essential ingredient to improving efficiency. Active adjudication must involve a number of tools. The OEB already has many such tools available to it. Some modifications that could be considered were outlined in Section 5 of this report. Additional options InterGroup has observed in other jurisdictions that the OEB could consider are described below.

Limits on Information Requests (IR) and Motions for Further and Better Responses

In Alberta, the AUC may impose limits on the number of interrogatory requests per intervenor in a proceeding.⁸⁸ The limits typically do not apply to the number of information requests the AUC itself can ask. In InterGroup's experience, the limit on information requests provides extra incentive for intervenors to collaborate and ensure they are not asking duplicative questions.

In Manitoba, for some applications, the Public Utilities Board files information requests to the applicant prior to intervenors.⁸⁹ In the Centra Gas 2019/20 General Rate Application, the Manitoba Public Utilities Board limited first round intervenor information requests to issues not raised in information requests asked by the Board.⁹⁰

In Alberta, where the applicant cannot respond to an IR, the AUC typically expects applicants to reach out to the party requesting information to reach an agreement on the information that can be provided.⁹¹ Similarly, prior to filing any motions for further or better responses, intervenors

⁸⁶ Report of the Procedures and Processes Review Committee. Page 2. August 2020. Available from: https://media.auc.ab.ca/prd-wp-uploads/regulatory_documents/Reference/2020-10-22-AUCReviewCommitteeReport.pdf

⁸⁷ Ontario Energy Board Action Plan, In Response to Stakeholder Comments on the Framework for Review of Intervenor Processes and Cost Awards, p.4.

⁸⁸ See for example AUC proceeding 28174 which states a limit for the number of IRs for each intervenor. AUC, Proceeding 28174-X0251, p. 4. Available from: https://www2.auc.ab.ca/Proceeding28174/ProceedingDocuments/28174_X0251_2023-05-25%20AUC%20letter%20-%20Process%20schedule%20and%20response%20to%20CCA%20request%20for%20blackout%20periods_000255.pdf

⁸⁹ Manitoba Public Utilities Board, Centra Gas 2019/20 General Rate Application, Order No. 24/19, Appendix B Timetable. February 20, 2019. Available from: <https://www.pubmanitoba.ca/v1/proceedings-decisions/orders/pubs/2019-orders/24-19.pdf>

⁹⁰ Manitoba Public Utilities Board, Centra Gas 2019/20 General Rate Application, Order No. 24/19, Hearing Process and Timetable, p. 23. February 20, 2019.

⁹¹ AUC, Proceeding 28174-X0251, Section 19 p. 5.

must communicate with the applicant to try resolving their issue before requesting the matter be settled by the Commission.⁹² This also occurs informally in Ontario, as intervenors reach out to the applicants to resolve issues before involving the Panel. The OEB could consider making this a formal requirement, similar to the rule established by the AUC, through a Procedural Order or a rule of practice or procedure.

Limiting Evidence and Argument during Written Proceedings

In Alberta the development of the evidentiary record in a rates proceeding is conducted through a written process unless otherwise directed by the Commission.⁹³ However for argument, the AUC requires argument to be delivered orally, unless otherwise directed by the Commission. A person or party must demonstrate to the Commission that written argument will permit the proceeding to be resolved in a more fair or efficient manner for the commission to accept written argument.⁹⁴ For a proceeding which involves written argument and reply argument, the AUC may impose a page limit.⁹⁵ Similarly, for proceedings with oral argument and reply argument, parties may be directed to submit a written summary of their argument which is subject to page limits.⁹⁶ The independent committee the AUC appointed to assist in improving the efficiency of rates proceedings recommended the Commission adopt an assertive approach to management of oral argument including utilization of time limits⁹⁷, topics which it will hear during argument, requiring parties to not restate the evidentiary record, and encouraging parties to present argument and reply jointly to avoid duplication.^{98,99}

In BC, the BCUC has reduced final cost awards where in its view an intervenor did not use resources in a cost-effective manner. Examples of actions leading to cost award reductions have included filling a large number of IRs which are duplicative of other parties IRs, lengthy evidence which

⁹² AUC, Rules of Practice and Procedure Rule 001, Section 28.2. Available from: <https://www.auc.ab.ca/rules/rule001/>

⁹³ AUC, Rules of Practice and Procedure Rule 001, Section 36. Available from: <https://www.auc.ab.ca/rules/rule001/>

⁹⁴ AUC, Rules of Practice and Procedure Rule 001, Section 48.2. Available from: <https://www.auc.ab.ca/rules/rule001/>

⁹⁵ AUC directs the UCA to refile its argument and argument reply. EPCOR 2023-2025 Non-Energy RRT Application, Proceeding 28457-X0141, Section 1, 4, and 6. Available from:

https://www2.auc.ab.ca/Proceeding28457/ProceedingDocuments/28457_X0141_2024-03-27%20AUC%20letter%20-%20Direction%20for%20the%20UCA%20to%20refile%20its%20argument%20and%20reply_000154.pdf

⁹⁶ AUC, Alberta Electric System Operator, Application for Updates to Rate Demand Opportunity Service, Proceeding 28989-X0095, Section 19. Available from: https://www2.auc.ab.ca/Proceeding28989/ProceedingDocuments/28989_X0095_2024-07-15%20AUC%20letter%20-%20Ruling%20on%20request%20to%20permit%20interveners%20to%20file%20evidence%20and%20process%20for%20oral%20argument_000105.pdf

⁹⁷ Hearing schedule with specific time limits for oral argument. AUC, Alberta Electric System Operator, Bulk and Regional Rate Design. Proceeding 26911-X1106, p. 6. Available from:

https://www2.auc.ab.ca/Proceeding26911/ProceedingDocuments/26911_X1106_2022-06-08%20AUC%20letter%20-%20Virtual%20hearing%20schedule%20and%20other%20hearing%20matters_001456.pdf

⁹⁸ Report of the Procedures and Processes Review Committee. Page 38. August 2020.

⁹⁹ Encourages parties to not restate the evidentiary record and to present argument and reply jointly. AUC, FortisAlberta 2022 Phase II DTA. Proceeding 25916-X0204, p. 1. Available from:

https://www2.auc.ab.ca/Proceeding25916/ProceedingDocuments/25916_X0204_2021-03-22%20AUC%20letter%20-%20Protocol%20for%20virtual%20hearing%20for%20oral%20argument%20and%20reply%20argument_000232.pdf

could have been summarized in a more concise manner, and final argument that contains duplicative information and unnecessary restating of evidence.¹⁰⁰

In Ohio, the Commission may direct parties to limit briefs to one or more specific issues or impose other requirements or limitations concerning the length or form of briefs.¹⁰¹

In Oregon, the Commission may require a party to file a brief, or to present oral arguments instead of or in addition to briefs.¹⁰² The Administrative Law Judge will determine the length of each party's oral argument to the Commission and the order of presentation.¹⁰³ The Administrative Law Judge also has the authority to limit a party's presentation of evidence or factual arguments to ensure the timely development of the hearing record.¹⁰⁴

Continued Focus on Use of Settlements

Settlement processes can support the objective of achieving greater regulatory efficiency and effectiveness. The OEB's current rules of practice state the purpose of settlement conferences is to settle all issues referred to in the proceeding, or to settle as many issues as possible.¹⁰⁵

During settlement negotiations, OEB staff typically play a role as active observers ensuring that all relevant information is considered, presenting options, and offering advice on the strengths and weaknesses of proposals. In some cases, OEB commissioners may provide for staff to be a party to the settlement conference and to any settlement proposal.¹⁰⁶

¹⁰⁰ BCUC BC Hydro 2021 IRP, Order No. F-27-24, Section 2.1, p. 6. Available from: <https://www.ordersdecisions.bcuc.com/bcuc/orders/en/522288/1/document.do>

¹⁰¹ Ohio Administrative Code, Rule 4901-1-31(A and B). Available from: <https://codes.ohio.gov/ohio-administrative-code/rule-4901-1-31>

¹⁰² Oregon Revised Statutes, Public Utility Commission, Chapter 860-001-0650. Available from: <https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=4027>

¹⁰³ Oregon Revised Statutes, Public Utility Commission, Chapter 860-001-0660(5).

¹⁰⁴ Oregon Revised Statutes, Public Utility Commission, Chapter 860-001-0310(2)(b).

¹⁰⁵ OEB, Practice Direction on Settlement Conferences, p.3. Available from:

https://www.oeb.ca/oeb/Documents/Regulatory/Practice_Direction_Settlement_Conferences.pdf

¹⁰⁶ OEB, Practice Direction on Settlement Conferences, p.6-7.

7.0 INTERVENOR FEE TARIFFS

This section summarizes the findings and recommendation related to the question of whether the current scale for intervenor costs in Ontario is consistent with other jurisdictions. Additional details on the research findings are provided in Appendix B.

InterGroup reviewed information from jurisdictions with published tariffs from Quebec, Ontario, Manitoba, Alberta, British Columbia and California for consultants and legal counsel. These jurisdictions provide cost awards to intervenors based on a standardized tariff and actual hours worked on an intervention. InterGroup notes that markets for professional services vary by jurisdiction for a number of reasons. Consultants may work across many jurisdictions but charge different rates based on local market conditions. As a result, making comparisons across jurisdictions can be difficult and it may be reasonable for different jurisdictions to have different tariffs based on local markets. Table 7-1 compares the current tariffs for consultants and Table 7-2 compares the tariffs for legal counsel.

Table 7-1: Intervenor Cost Award Tariffs: Consultants

Years of Experience	Canadian Average	ON	QC	MB ¹⁰⁷	AB	BC	Average of All Jurisdictions	California ^{108,109} (\$CAD)
Last Updated	-	2007	2020	2024	2024	2016	-	2022
Case Managers / Coordinators	\$110	\$170	\$80	-	-	\$75	\$110	-
1	\$141	\$170	\$135	\$118	\$160	\$120	\$158	\$244
6	\$186	\$230	\$160	\$165	\$210	\$165	\$209	\$322
11	\$248	\$290	\$195	\$204	\$315	\$235	\$264	\$345
>20	\$293	\$330	\$240	\$288	\$370	\$235	\$305	\$368
Expert Witnesses	\$285	-	\$300	-	-	\$270	\$285	-

¹⁰⁷ Manitoba does not have a "Consultant" category in their cost award tariff guide, the "Accountant" category is used instead.

¹⁰⁸ California does not have a "Consultant" category in their cost award tariff guide, the "Economist" category is used instead.

¹⁰⁹ Median salaries from the hourly rate chart are used. The currency conversion rate used is 1.3254, the average Bank of Canada exchange rate for 2022. Available from: https://www.bankofcanada.ca/rates/exchange/currency-converter/?lookupPage=lookup_currency_converter_2017.php&startRange=2017-01-01&rangeType=range&selectToFrom=from&convert=1.00&seriesTo%5B%5D=FXUSDCAD&seriesFrom=Canadian+dollar&rangeValue=&dFrom=2022-01-01&dTo=2023-12-31&submit_button=Convert

Table 7-2: Intervenor Cost Award Tariffs: Legal Counsel

Years of Experience	Canadian Average	ON	QC	MB	AB	BC	Average of All Jurisdictions	California ¹¹⁰ (\$CAD)
Last Updated	-	2007	2020	2024	2024	2016	-	2022
Articling Students	\$120	\$100	\$80	-	\$190	\$110	\$120	-
1	\$196	\$170	\$135	\$118	\$315	\$240	\$216	\$320
6	\$253	\$230	\$200	\$170	\$380	\$285	\$305	\$567
11	\$303	\$290	\$250	\$225	\$430	\$320	\$366	\$681
>20	\$359	\$330	\$300	\$340	\$475	\$350	\$438	\$830

InterGroup notes the OEB has not updated its intervenor cost award tariffs since 2007.¹¹¹ Most other jurisdictions with published cost award tariffs have updated them in the last five years. The Manitoba Public Utilities Board has committed to reviewing their cost award tariff rates every five years, as well as reviewing the need for inflationary increases each year.¹¹² In California, cost award tariffs are adjusted annually based on the U.S. Bureau of Labour Statistics Employment Cost Index.¹¹³

The OEB’s tariffs for consultants are above the Canadian average. Quebec and British Columbia have a separate expert witness category with rates above the normal cost award tariff rates for consultants in those jurisdictions. However, the expert witness tariff in both Quebec and British Columbia is below the maximum rate for consultants in Ontario.

Intervenor cost award tariffs for legal counsel in Ontario are below the Canadian average. In Ontario, cost award tariffs for legal counsel are the same as those of consultants. Most jurisdictions set cost award tariffs for legal counsel higher than cost award tariffs for consultants. During engagement sessions for this project, stakeholders commented that some intervenor groups mostly use consultants rather than lawyers.

¹¹⁰ Median salaries from the hourly rate chart are used. The currency conversion rate used is 1.3254, the average Bank of Canada exchange rate for 2022. Available from: https://www.bankofcanada.ca/rates/exchange/currency-converter/?lookupPage=lookup_currency_converter_2017.php&startRange=2017-01-01&rangeType=range&selectToFrom=from&convert=1.00&seriesTo%5B%5D=FXUSDCAD&seriesFrom=Canadian+dollar&rangeValue=&dFrom=2022-01-01&dTo=2023-12-31&submit_button=Convert

¹¹¹ Ontario Energy Board, Practice Direction on Cost Awards, Appendix “A”, Cost Award Tariff. November 16, 2007. Available from: <https://www.rds.oeb.ca/CMWebDrawer/Record/20606/File/document>

¹¹² Manitoba Public Utilities Board, Annual Report 2022/23, Internal PUB priorities, Priority 7, Page 21. Available from: <https://www.pubmanitoba.ca/v1/about-pub/pubs/e-version2022-23pub-annualreport-bilingual.pdf>

¹¹³ Public Utilities Commission of the State of California, Resolution ALJ-393, Escalation Methodology, Page 4. December 22, 2020. Available from: <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M356/K381/356381459.PDF>

Based on the review of tariffs in other jurisdictions, InterGroup makes the following recommendations for the OEB to consider:

- The OEB could consider making annual changes to the tariff indexed to inflation with an updated benchmarking review completed every five years.
- The OEB could consider prioritizing increases to the tariff for legal counsel by completing a benchmarking review as the current rates are below the Canadian average and other jurisdictions typically have higher rates for legal counsel than consultants.
- The OEB could consider adding an expert witness category for consultants to the cost award tariff.

8.0 APPLICANT COSTS

This section summarizes the findings and recommendations related to the question of whether the OEB's approach to reviewing applicant costs for regulatory proceedings is consistent with other jurisdictions in Canada. Additional details on the research findings are provided in Appendix C.

The OEB's filing requirements for cost of service applications for electricity distributors require applicants to provide a breakdown of the actual and anticipated regulatory costs, for the current application. The applicant must provide information supporting the incremental level of the costs associated with the preparation and review of the current application and over what period the costs are proposed to be recovered.^{114,115} The costs are typically amortized over the term of the application. The OEB does not require applicants to use the same fee tariffs for external legal counsel or consultants; or to maintain a formal deferral account for regulatory costs.

In Alberta, applicants must make a specific application for a cost award to recover regulatory costs.¹¹⁶ The AUC reviews costs for intervenors and the applicant on a similar basis, and determines who is to pay for the costs and how costs are to be collected (e.g., hearing cost reserve account).¹¹⁷ All parties (including applicants) who are eligible for cost awards must adhere to the common AUC tariff, unless authorized to claim costs in excess of the tariffs published in the scale of costs.¹¹⁸

In BC, applicants can be eligible to receive cost awards although public utilities and BC regulated entities are not generally eligible for a cost award.¹¹⁹ In BC, some applicants recover hearing costs through a regulatory deferral account¹²⁰ and others include forecast costs in the operating budget.¹²¹ In Manitoba¹²² and Newfoundland,¹²³ applicants recover hearing costs through a regulatory deferral account over a specified amortization period.

¹¹⁴ Ontario Energy Board, Filing Requirements for Electricity Distribution Rate Applications – 2022 Edition for 2023 Rate Applications, Chapter 2 Cost of Service, Page 32. Available from: <https://www.oeb.ca/sites/default/files/OEB-Filing-Reqs-Chapter-2-2023-20220418.pdf>

¹¹⁵ E.g. Algoma Power, EB-2019-0019, 2020 Cost of Service, Exhibit 4 – Operating Expenses, Table 15 – OEB Appendix 2-M Regulatory Costs. Available from: <https://www.algomapower.com/sites/algomapower.com/files/2021-05/API%20Exhibit%204%20Operating%20Expenses%2020190603.pdf>

¹¹⁶ AUC Rules on Costs in Utility Rates Proceedings, Section 3(1).

¹¹⁷ AUC Decision 26986-D01-2022, Section 5(45). Available from: [https://www2.auc.ab.ca/Proceeding26985/ProceedingDocuments/26985_X\[1\] Decision%2026985-D01-2022_000012.pdf](https://www2.auc.ab.ca/Proceeding26985/ProceedingDocuments/26985_X[1] Decision%2026985-D01-2022_000012.pdf)

¹¹⁸ AUC Rules on Costs in Utility Rates Proceedings, Section 5(3).

¹¹⁹ BCUC Rules of Practice and Procedure for Participant Cost Awards, Sections 33.01, 33.02.

¹²⁰ 2025 Multi-year Rate Plan Application deferral account. BCUC FortisBC Inc. 2024 Annual Review of Rates, Order G-191-23, Section 11 Schedule 11, p. 104. Available from: https://www.cdn.fortisbc.com/libraries/docs/default-source/about-us-documents/regulatory-affairs-documents/electric-utility/230804-fbc-annual-review-2024-rates-application-ff.pdf?sfvrsn=cad2f298_1

¹²¹ BCUC, BC Hydro 2023/25 RRA, Chapter 5F, p. 787, Table 5F-11. Available from:

https://docs.bcuc.com/documents/proceedings/2021/doc_64005_b-2-bch-f23-f25-rra-public.pdf

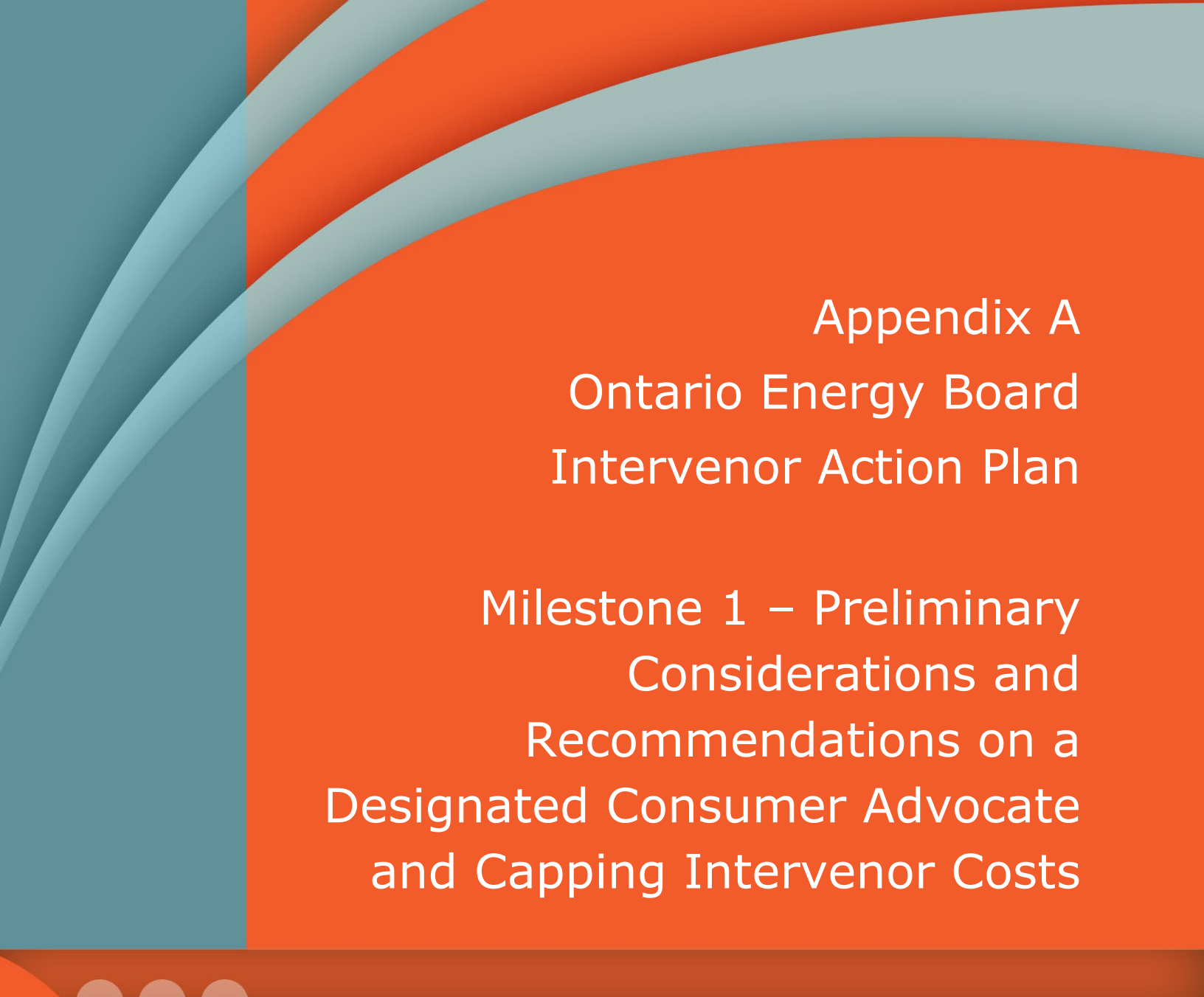
¹²² Manitoba Hydro 2023/24 & 2024/25 GRA, Appendix 4.3, p.35. Available from:

https://www.hydro.mb.ca/docs/regulatory_affairs/pdf/electric/gra_2023_2025/full_general_rate_application_2023_24_and_2024_25.pdf

¹²³ Newfoundland Power's 2022/23 GRA, p. 50. Available from:

<http://www.pub.nf.ca/applications/NP2022GRA/apps/From%20NP%20-%202022-2023%20General%20Rate%20Application%20-%20Amended%20Application%20-%202021--12-07.PDF>

Based on InterGroup’s review, there is no uniform approach to reviewing and approving proceeding related costs for applicants. The OEB’s current process provides the necessary information and opportunity to review the reasonableness of applicant costs. Therefore, InterGroup does not see a strong indication of a need for the OEB to adjust its current practice for reviewing applicant costs.



Appendix A
Ontario Energy Board
Intervenor Action Plan

Milestone 1 – Preliminary
Considerations and
Recommendations on a
Designated Consumer Advocate
and Capping Intervenor Costs



InterGroup

CONSULTANTS

Prepared for the Ontario Energy Board

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1.0 INTRODUCTION

InterGroup was retained by the Ontario Energy Board (OEB) to research and make recommendations related to implementing a designated consumer advocate and capping intervenor costs. The report is intended to respond to the Minister of Energy's November 2023 letter of direction, in particular:

In 2021, the Top Quartile Regulator Report identified that "regulators need access to external expertise and a spectrum of perspectives." The value of intervenors, however, is significantly diminished when the remuneration structure incentivizes the creation of issues or duplicates effort. Effective case management can mitigate this risk, but additional controls are necessary. In 2021-22, Ontario's 5.3 million electricity and natural gas customers paid \$4.4 million to fund the Ontario Energy Board's intervenor process. I encourage the OEB to continue its work reviewing the current intervenor processes and to identify opportunities to improve regulatory efficiency and consequently reduce regulatory burden. This should include, but is not limited to, considerations around a designated consumer advocate and capping intervenor costs.¹

The research builds on work previously undertaken by the OEB including the Framework for Review of Intervenor Processes and Cost Awards and recent amendments to the OEB's Rule of Practice and Procedure and Practice Direction on Cost Awards. The research includes information collected by InterGroup during a review of practices in 15 other jurisdictions. The assignment is organized into three packages.

This report presents initial findings, summarizes considerations based on the research and provides initial recommendations related to the first work package and in particular two questions:

1. What consumer advocate (CA) models exist in other jurisdictions and how do they compare to Ontario?
2. What policies and procedures exist in other jurisdictions for capping intervenor costs and how do they compare to current practice in Ontario?

Subsequent work packages will examine processes related to applications for and approval of cost awards, average cost awards for different scales of proceedings, intervenor fee tariffs, advances of funding, encouraging collaboration among intervenors and other potential process efficiency improvements. Detailed information on CA models and policies and procedures for capping intervenor costs are summarized in Attachment 1.

¹ Minister of Energy letter dated November 29, 2023. Available: <https://www.oeb.ca/sites/default/files/letter-of-direction-from-the-Minister-of-Energy-20231129.pdf> Accessed May 15, 2024.

2.0 SUMMARY OF OBSERVATIONS AND RECOMMENDATIONS

Based on the research completed for this assignment, InterGroup makes the following observations and recommendations regarding consumer advocate (CA) models and capping intervenor costs:

2.1 CONSUMER ADVOCATE MODELS

Observations:

1. A frequently cited policy objective in jurisdictions with a formal CA is to ensure effective representation of consumers. The OEB staff already do a substantial amount of fact seeking and information gathering (e.g., ask information requests, conduct examination) and advocating for outcomes in the interest of consumers (e.g., make submissions). It does not appear there is a gap in consumer representation in Ontario that requires a CA model to address.
2. Some CAs were established with an objective to improve regulatory efficiency by reducing the number of parties in a proceeding. There are a variety of other mechanisms available to the OEB to improve regulatory efficiency.²
3. Some CAs have a mandate to promote consumer education and outreach. The OEB currently provides consumer information on a variety of topics such as choosing energy plans and understanding and managing bills. Utilities in Ontario also have consumer education and outreach roles.
4. There would be costs associated with adding a CA in Ontario. Achieving cost reductions would require reducing the number and/or scope of other intervenors, which would reduce the diversity of views presented to the OEB. Procedural fairness considerations would likely require that parties with a substantial interest in the outcome of a proceeding maintain an avenue to participate.

Recommendations:

1. Based on this review, InterGroup does not recommend that the OEB consider implementing a formal Consumer Advocate.
2. Regulatory efficiency objectives may be achievable with greater focus on using the existing tools available to the OEB and possibly implementing additional tools or processes. InterGroup recommends the OEB consider such options which could include:
 - a) Continued focus on active management of the intervenor cohort including reinforcing the need for parties to collaborate on areas of similar interest, consider allowing

² Ontario Energy Board Action Plan, In Response to Stakeholder Comments on the Framework for Review of Intervenor Processes and Cost Awards. Available: <https://www.oeb.ca/sites/default/files/Intervenor-Framework-Action-Plan-Report-20220922.pdf>

interventions subject to their issues being included in final issue lists, or encouraging alternative participation methods.

- b) Expanding the use of budgets for all intervenors who intend to seek cost awards (including estimated costs for legal fees, experts and other costs) related to the issue list for the proceeding. This would provide an early indication of the potential scale of costs for a proceeding. These submissions should occur before discovery rounds.
- c) Ongoing management of budgets throughout the proceeding including updating budgets at key stages.

2.2 CAPPING INTERVENOR COSTS

Observations:

1. The OEB's practice direction on cost awards provides discretion in what the OEB commissioners may consider in awarding costs but there is no explicit language on capping cost awards for a proceeding or for individual intervenors. Some other jurisdictions have more explicit rules of practice that permit capping of costs per proceeding or per intervenor.
2. The OEB is currently piloting an intervenor budget program for cost of service applications for utilities with fewer than 30,000 customers. The pilot will limit budgets to \$20,000 per intervenor, with language around the possibility of amending the budget if there are additional complexities.
3. The OEB provides direction to parties to collaborate to avoid duplication. The OEB indicates on its intervenor application form that they expect intervenors to coordinate with other intervenors of similar interests. The rules of practice and procedure also notes that the OEB may require parties³ or experts⁴ to work together throughout a proceeding where there are multiple requests to file evidence on similar issues.

Recommendations:

1. Review the results of the pilot project on establishing budgets for small cost of service proceedings and consider continuing or expanding the approach for other types of proceedings.
2. Early budget filing by intervenors could indicate when intervenor cost expectations are high and help to manage costs. The OEB could also require all intervenors to submit budgets and update them as needed.

³ Ontario Energy Board Rules of Practice and Procedure, Section 13.06. Available from: https://www.oeb.ca/sites/default/files/uploads/documents/regulatorycodes/2024-03/OEB_Rules-Practice-and-Procedure_20240306.pdf

⁴ Ontario Energy Board Rules of Practice and Procedure, Section 13A.04.

3. The OEB's ongoing efficiency improvements in policies and procedures will likely help to manage intervenor costs. InterGroup recommends that the OEB continue to focus on the use of settlements. Other jurisdictions have adopted changes such as limiting information requests, which in InterGroup's experience provides extra incentive for intervenors to collaborate and ensure they are not asking duplicative questions.
4. The OEB appears to have the necessary tools to cap intervenor costs but could adopt explicit language in its rules to indicate that it can implement cost award limits and signal a more stringent application of this practice.

3.0 CONSUMER ADVOCATE MODELS

InterGroup's review of Consumer Advocate (CA) models focused on how consumer interests are represented in utility regulatory proceedings (including revenue requirement applications, facilities applications and other types of proceedings) in different jurisdictions. The following criteria were used to identify CA models for review:

1. The organization has a mandate to represent consumers broadly, or a particular group of consumers that includes residential consumers, in utility regulatory processes. Some consumer advocates included in the review have mandates that include small businesses or all consumers, but groups solely focused on representing businesses or industry were excluded.

Groups that may tangentially represent residential interests but have an organizational goal that is not primarily related to protecting consumer interests were excluded (e.g., a primary goal to represent environmental interests, Indigenous consumers, labour unions, municipal governments, or low-income consumers.)

2. The organization has established legitimacy through one of the following:
 - a) A legislative mandate;
 - b) Specific regulator policy; or
 - c) A history of representing broad consumer interests over time in multiple regulatory proceedings.
3. Takes formal positions in proceedings on behalf of consumers, including full participation in all aspects of the proceeding process such as issue scoping, discovery, providing expert evidence, settlement negotiations, cross examination at oral hearings, and submission of argument.

InterGroup's research identified two main categories of CAs:

1. Formal CA: the consumer advocate is created or enabled by legislation (e.g., NS, Nfld., NB, AB, MI, CA, OR, NY, OH, UK, AU).

2. Informal CA: The regulator established a CA through its own policy or initiative (e.g., BC), or the consumer advocate role has been established through a history of participation in proceedings before the commission (e.g., MB, QC, WI).

In considering the implications of the different CA models, it should be noted that regulators strike differing balances between the two formal roles of a quasi-judicial commission:

1. Adjudicating between parties appearing before the Commission.
2. Conducting an inquiry into the public interest.

The regulator may place more or less emphasis on these distinct roles in different proceedings. For example, for small utilities the regulator may be primarily focused on conducting inquiry where there is not otherwise substantial consumer representation. For the largest and most complicated utility proceedings, the regulator's role may have far more emphasis on the adjudication function.

Cases more focused on the inquiry role may or may not require a formal CA so long as the interests of the different groups of consumers can be made known to the Commission through other means. For example, the regulator may rely more heavily on public consultation, on the ability of parties who elect to participate (even if none explicitly represents the broad residential interest) and on the input of regulator staff who may take a more active role representing the consumer interest, rather than their traditional role to help explore issues in the broad public interest.

Cases that lean more heavily on the adjudicative role require representation of key customer classes to ensure their interests are represented, and to allow for effective processes including negotiated settlements and taking positions in argument which the Commission will weigh. For these reasons, it is critical to have the different customer classes represented. For example, a negotiated settlement could not be reached in the public interest if the utility is solely negotiating with industrial customers without any other consumer groups represented.

Final recommendations on CA options may ultimately turn on which role (or which types of processes) the OEB is seeking to enhance.

Establishing a CA in Ontario would also involve addressing several implementation requirements, including:

1. CA governance structures, including necessary qualifications, appointment processes (including provisions to revoke an appointment), and accountability and reporting frameworks.
2. How operating costs for the CA are budgeted, funded, and managed. Consumer advocate budgets in the jurisdictions reviewed for this work range from \$0.3 million to \$0.7 million per

year in smaller jurisdictions without a material public education mandate^{5,6}, and up to \$6.7 million⁷ in larger jurisdictions where the mandate of the consumer advocate includes other functions such as consumer education. This is within the range or higher than current intervenor costs in Ontario. There may also be complexities and limitations on establishing a consumer advocate related to hiring and retaining staff. If CA budgets do not permit staff salaries that are competitive with other opportunities in the industry, there could be challenges with retaining key staff who might be viewed as having desirable skills by utilities or the OEB.

3. The specific mandate for the CA, such as which customer groups are to be represented, the role of the CA in engaging with customers (e.g., when would customers be expected to engage with the CA directly versus the OEB?) and any limits on the mandate of the CA (for example, would they have the mandate to appeal Commission or government decisions?).
4. Procedural fairness considerations would require that parties other than the CA still have the opportunity to participate in proceedings where they have a substantial interest. Other parties might have reduced or limited access to cost awards, but limiting cost awards for other parties could limit the diversity of parties and perspectives that are important for fully considering the public interest in proceedings.

If a key policy objective for establishing a CA in Ontario is to reduce costs and improve efficiency, in practice this can likely only be achieved by reducing or eliminating the cost awards given to other parties who currently represent similar interests in proceedings.⁸ This trade-off must be assessed to ensure public interest representation is improved or at least not materially diminished. It would also be important to ensure the CA model does not result in increased process costs related to additional information requests, hearing time, and other procedural costs.

3.1 OBJECTIVES OF CONSUMER ADVOCATE MODELS

InterGroup's research identified three core objectives for implementing a CA model:

1. Ensuring effective representation of consumer interests in utility proceedings, this objective has at least two different elements:
 - a) Fact seeking and information gathering, i.e., ensure the regulator has sufficient information to make a reasoned decision.
 - b) Advocate for outcomes on behalf of consumers by taking positions, submitting argument and acting as parties in negotiated settlements.

⁵ Newfoundland and Labrador Board of Commissioners of Public Utilities Annual Report, 2022, p. 6. Available from: <https://www.gov.nl.ca/jps/files/PUBAnnualReport2021-22.pdf>

⁶ New Brunswick Energy & Utilities Board Annual Report 2021-2022, Audited Financial Statements – 2022, p 12. Available from: https://www.legnb.ca/content/house_business/60/1/bills/Annual%20Report%202021-2022,%20New%20Brunswick%20Energy%20and%20Utilities%20Board.pdf

⁷ Chapter 6, Financial Information, Office of the Utilities Consumer Advocate, Annual Report 2022-2023. Available from: <https://ucahelps.alberta.ca/documents/UCA%20Annual%20Report%202022-23.pdf>

⁸ Rules around procedural fairness prevents the OEB from allowing parties with a substantial interest from participating.

2. Improving regulatory efficiency and reducing duplication.
3. Serving a consumer education and outreach need.

Table 1 summarizes InterGroup’s initial observations and considerations on how each of these objectives are served in three situations:

1. In Ontario, with its present complement of OEB Staff and intervenors;
2. In jurisdictions with a formal CA; and
3. In jurisdictions with an informal CA.

Table 1: Considerations Related to Consumer Advocate Models

		Ontario	Formal Consumer Advocates (established through legislation)	Informal Consumer Advocates (established through regulator policy or past practice)
Ensure effective representation of consumers	Fact seeking and information gathering	<p>OEB staff do a substantial amount of this work in major proceedings, as a supplement to traditional intervenors.</p> <p>OEB staff can ask information requests, call expert witnesses as needed, and conduct examination of company and intervenor witnesses.</p>	<p>Formal CAs are typically full participants in proceedings, participating in discovery and sponsoring expert evidence.</p> <p>Board/commission staff, particularly in larger jurisdictions, can also contribute to discovery and other elements of the proceeding.</p>	<p>Board/commission staff in larger jurisdictions contribute substantially to this role.</p> <p>In smaller jurisdictions where the regulator has fewer staff resources, the CA may take on more of this role.</p>

Table 1: Considerations Related to Consumer Advocate Models

		Ontario	Formal Consumer Advocates (established through legislation)	Informal Consumer Advocates (established through regulator policy or past practice)
Ensure effective representation of consumers	Advocate for outcomes in the interest of consumers	<p>OEB staff can make submissions that advocate for specific outcomes or findings.⁹</p> <p>During settlement negotiations, staff typically play a role as active observers ensuring that all relevant information is considered, presenting options, and offering advice on the strengths and weaknesses of proposals. In some cases, OEB commissioners may provide for staff to be a party to the settlement conference and to any settlement proposal.¹⁰</p> <p>There are several intervenor groups that canvass issues and take positions that may benefit small consumers including the Consumer Council of Canada, Vulnerable Energy Consumer Coalition, School Energy Coalition, and Energy Probe Research Foundation. These intervenors do not always participate in the same proceedings. Intervenors representing larger commercial and industrial customers may also have similar interests, to smaller customers, particularly in revenue requirement proceedings.</p>	<p>Commission staff typically do not submit argument or act as parties in negotiated settlement processes.</p> <p>Formal consumer advocates typically submit argument and act as parties in negotiated settlement processes.</p>	<p>Commission staff typically do not submit argument or act as parties in negotiated settlement processes.</p> <p>Informal consumer advocates typically submit argument and act as parties in negotiated settlement processes.</p>

⁹ See for example Ontario Energy Board Staff Submission, Enbridge Gas 2024 Rates Application, Page 2. Available: <https://www.rds.oeb.ca/CMWebDrawer/Record/814564/File/document>

¹⁰ Summarized from the OEB’s practice direction on settlement conferences. Available: https://www.oeb.ca/oeb/_Documents/Regulatory/Practice_Direction/Settlement_Conferences.pdf Accessed May 15, 2024.

Table 1: Considerations Related to Consumer Advocate Models

	Ontario	Formal Consumer Advocates (established through legislation)	Informal Consumer Advocates (established through regulator policy or past practice)
Improve regulatory efficiency and reduce duplication	<p>The OEB completed a review of its intervenor processes and cost awards in September 2022.¹¹</p> <p>The OEB identified 11 projects to help improve the application process including standard issues lists, cost award guidance, data collection, rules around expert evidence, commissioner training, intervention by individual intervenors, and engagement with Indigenous participants.¹²</p> <p>The OEB has a number of tools available to improve efficiency. For example, the OEB asks parties in Procedural Order No. 1 to work together to avoid duplication, and the OEB can deny evidence requests if there is duplication, to improve efficiency.</p>	<p>One of the objectives cited in establishing a consumer advocate in Alberta was to reduce the total number of intervenors representing the same or similar arguments, helping to reduce time and costs.¹³</p> <p>Jurisdictions with formal CAS typically have fewer intervening parties representing small consumers.^{14,15} However, there are typically provisions for other parties to participate (e.g., industrial customers) though they may not be eligible for cost awards. Alberta still provides cost awards to at least one party who frequently intervenes to represent small consumer interests.</p>	<p>Regulators in Manitoba and British Columbia have rules that intervenors with similar interests must make efforts to present a joint intervention.^{16,17}</p> <p>The BCUC considers whether a participant joined with other groups with similar interests to reduce costs when reviewing cost award applications.¹⁸</p> <p>In Manitoba, there is a long history of a Consumer’s Coalition intervening as the small customer representative. The membership of this coalition has changed over time but has consistently included the Consumer’s Association of Manitoba as a lead member. Other parties seeking to intervene who had interests related to small customers have been directed to consult with and ideally coordinate with the Consumer’s Coalition, and in some cases were informed they would not be approved to sponsor additional expert evidence.¹⁹</p>

¹² Ontario Energy Board Action Plan, In Response to Stakeholder Comments on the Framework for Review of Intervenor Processes and Cost Awards. Available: <https://www.oeb.ca/sites/default/files/Intervenor-Framework-Action-Plan-Report-20220922.pdf>

¹³ Mel Knight (Minister of Energy), Bill 46 – Alberta utilities Commission Act, Second Reading, Page 2006. November 15, 2007. Available: https://docs.assembly.ab.ca/LADDAR_files/docs/hansards/han/legislature_26/session_3/20071115_1300_01_han.pdf

¹⁴ E. g. Newfoundland Power Inc. 2025-2026 General Rate Application, No. P.U. 5(2024), p. 4. Available from: [http://www.pub.nl.ca/PU/orders/2024/P.U.%205\(2024\).PDF](http://www.pub.nl.ca/PU/orders/2024/P.U.%205(2024).PDF)

¹⁵ E.g. NSP Maritime Link Inc. 2017 Interim Cost Assessment, MO7718. Available from: https://www.canlii.org/en/ns/nsuarb/doc/2017/2017nsuarb149/2017nsuarb149.html#_Toc492629060

¹⁶ British Columbia Utilities Commission Rules of Practice and Procedure, Participation in a Proceeding, 10.03. Available:

<https://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/521582/index.do?q=G-72-23> Accessed May 16, 2024.

¹⁷ PUB Manitoba, The Public Utilities Board Rules of Practice and Procedure. 27(5), 43(b), 44(c), & 46(3). Available from: http://www.pubmanitoba.ca/pdf/pandp/rules_pandp_mar07.pdf

¹⁸ British Columbia Utilities Commission, A Policy on Participant Funding, Criteria to Establish Awards, 1(v). Available from:

https://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/113128/index.do?site_preference=normal

¹⁹ See for example, PUB Manitoba, Procedural Order in Respect of Manitoba Hydro’s Cost of Service Methodology Review, Page 24. Available: <http://www.pubmanitoba.ca/v1/proceedings-decisions/orders/pubs/26-16.pdf>

Table 1: Considerations Related to Consumer Advocate Models

	Ontario	Formal Consumer Advocates (established through legislation)	Informal Consumer Advocates (established through regulator policy or past practice)
Promotes consumer education and outreach	<p>The OEB’s mandate includes “to inform consumers and protect their interests” but does not specifically indicate a mandate to educate²⁰. The OEB provides consumer information on topics including understanding and managing bills²¹, choosing energy plans,²² bill assistance programs²³, consumer protection²⁴, and net metering.²⁵</p> <p>In Ontario, utilities are required to engage customers and include an overview of customer needs, preferences, and expectations when developing an application.²⁶</p>	<p>The consumer advocate in Alberta is mandated to educate consumers about electricity, natural gas, and water utilities issues.²⁷</p> <p>Other consumer advocates may undertake consumer education activities even where it is not explicitly mandated in the legislation. For example, the Oregon Citizens’ Utility Board publishes articles on utility basics and host events to discuss utility issues and hear from the public.^{28,29}</p>	<p>Many informal consumer advocates include consumer education as part of their mandate but do not provide the level of resources that some formal advocates do (e.g., AB).</p> <p>The need for consumer education services may not be as great in jurisdictions with fewer contract or rate options.</p>

²⁰ Ontario Energy Board Act, 1998, S.O 1998, c. 15 Schedule B, Section 1(1). Available from: <https://www.ontario.ca/laws/statute/98o15>

²¹ Understanding your electricity bill. Available from: <https://www.oeb.ca/consumer-information-and-protection/electricity-rates/understanding-your-electricity-bill>

²² Choosing your electricity price plan. Available from: <https://www.oeb.ca/consumer-information-and-protection/electricity-rates/choosing-your-electricity-price-plan>

²³ Low-income Energy Assistance Program. Available from: <https://www.oeb.ca/consumer-information-and-protection/bill-assistance-programs/low-income-energy-assistance-program>

²⁴ We’re here to help. Available from: <https://www.oeb.ca/consumer-information-and-protection/oeps-consumer-protection-role/were-here-help>

²⁵ Net metering. Available from: <https://www.oeb.ca/consumer-information-and-protection/net-metering>

²⁶ Ontario Energy Board Handbook for Utility Rate Applications – Customer Engagement, p.11. Available from: <https://www.oeb.ca/sites/default/files/uploads/documents/regulatorycodes/2019-01/Handbook-Utility-Rate-Applications-20161013.pdf>

²⁷ Alberta Government Organization Act, Schedule 13.1 Office of the Utilities Consumer Advocate, 3(c). April 1, 2024. Available: https://kings-printer.alberta.ca/1266.cfm?page=G10.cfm&leg_type=Acts&isbncln=9780779780303&display=html

²⁸ Discusses Consumer education programs. Oregon Citizens’ Utility Board Our Work – Energy. Available: <https://oregoncub.org/our-work/energy/>

²⁹ Discusses the benefits of using an electric heat pump, including incentives available to the public. Allen. 2024. Switching to an Electric Heat Pump. Available from: <https://oregoncub.org/news/blog/switching-to-an-electric-heat-pump/2953/>

3.2 RECOMMENDATIONS ON THE IMPLEMENTATION OF A CONSUMER ADVOCATE IN ONTARIO

The question of whether a CA model (either a formal model, or an informal model) is necessary or potentially beneficial in Ontario requires assessment of the objectives and trade-offs of implementing such a model.

It is apparent that CA models are not a necessity to achieve efficient and effective regulatory processes. Consumer representation objectives that are a primary objective of many CA models can also be achieved by active Board staff combined with effective representation by competent intervenors. Both of these currently appear to exist in Ontario. OEB staff participate in the public hearing process by testing evidence and making submissions on what findings they believe are in the public interest.³⁰ This may include the OEB submitting evidence,³¹ contributing to a draft issues list,³² and in some cases acting as a party in settlement negotiations.³³

For this reason, it appears the OEB is largely able to effectively achieve the consumer representation outcomes that a CA may help facilitate in other jurisdictions. Therefore it does not appear there is a gap in consumer representation in Ontario that requires a CA model to address.

With respect to using a CA to achieve regulatory efficiency objectives, two considerations have been identified during this review:

1. Establishing a CA is not a one-stop solution to all regulatory efficiency issues; for example, Alberta has a formal CA but this has not fully eliminated other intervenors representing smaller consumer interests from participating in proceedings and receiving cost awards. Further, the AUC is in the midst of a major efficiency improvement initiative focused on process changes such as limiting the number of information requests, strict use of issue lists, establishing materiality thresholds for examination of costs and variances for different sizes of utilities and prioritizing settlements to reduce the number of issues the Commissioners must rule on in a proceeding.³⁴ The creation of a CA did not provide a full solution to regulatory efficiency so as to eliminate the need to find further process improvements.
2. Given there would be costs associated with adding a CA in Ontario, to achieve cost reductions there would need to be material identifiable process savings or reductions elsewhere in the regulatory process. Most notably, this would occur if the CA replaced or consolidated a set of intervenors in a proceeding, on at least a certain scope of issues. These cost savings could only be achieved by reducing or eliminating cost awards for certain participants which would likely

³⁰ Ontario Energy Board Roles and Responsibilities of Commissioners and OEB Staff in Public Hearings, p.4. Available from: <https://www.oeb.ca/sites/default/files/roles-responsibilities-public-hearings.pdf>

³¹ Ontario Energy Board Rules of Practice and Procedure, Section 13A.05(b).

³² Ontario Energy Board Rules of Practice and Procedure, Section 28.04 and 28.09.

³³ Summarized from the OEB's practice direction on settlement conferences. Available:

https://www.oeb.ca/oeb/Documents/Regulatory/Practice_Direction/Settlement_Conferences.pdf Accessed May 15, 2024.

³⁴ Alberta Utility Commission Report of the AUC Procedures and Processes Review Committee, August 14, 2020, p. 7. Available from: <https://media.www.auc.ab.ca/prd-wp-uploads/2021/12/2020-10-22-AUCReviewCommitteeReport-1.pdf>

result in a decrease in the diversity of perspectives available for the OEB to consider. Procedural fairness considerations would require that parties with a substantial interest in the proceeding still have a way to participate, though they may not receive cost awards. There could also be implications for the ability to facilitate negotiated settlements.

Based on this review, InterGroup does not recommend that the OEB consider implementing a formal Consumer Advocate. Other opportunities to achieve regulatory efficiency objectives and potentially cost savings in Ontario could involve using existing or expanded tools in the rules of practice and procedure to manage intervenor costs or reduce duplication of effort, in a manner that would not seriously undermine effective customer representation. Jurisdictions with both formal and informal CAs use these tools to help reduce costs and effort, to focus issues, and to reduce duplication.

Lessons from some informal CA models indicate there may be benefits the OEB can pursue to help cultivate a sort of “hybrid” informal CA from among the present suite of capable intervenors. The most straight-forward approach to achieving the key benefits would be consistent with the OEB’s recent efficiency initiatives³⁵ to manage the intervenor cohorts. This approach is also used in Manitoba – focused on active, early, and ongoing formal management of the intervenor cohort by the regulator.

Active management of intervenor cohort. The OEB already has a number of tools available to manage the number and scope of interventions and a commitment to active adjudication³⁶. The OEB could consider reinforcing its focus on using these tools to maximize efficiency and minimize duplication. This would involve decisions early in the proceeding process to focus interventions, including:

1. Continuing to reinforce the need for parties to increase collaboration on areas of similar interests in issues. Parties could still be free to submit their own positions (which may be distinct from each other) in argument at the end of a proceeding. If parties feel they will be unable to cooperate due to adverse interests on a subject, they should indicate that in their intervention request for the OEB to consider.
2. In some cases, the OEB can consider allowing interventions subject to their issues being included in final issue lists, or consider specifically directing certain parties with similar interests or issues in a procedural order to collaborate or present a joint intervention. This already occurs but the OEB could consider expanding the use of these options. The OEB can weigh whether, a) it is satisfied that an issue will be fully canvassed by intervenors, b) the issues an intervenor intends to pursue as a priority for the Commissioners, or c) an intervenor is likely to bring a

³⁵ Ontario Energy Board Action Plan, In Response to Stakeholder Comments on the Framework for Review of Intervenor Processes and Cost Awards, p.10. Available: <https://www.oeb.ca/sites/default/files/Intervenor-Framework-Action-Plan-Report-20220922.pdf>

³⁶ “Active adjudication is the enhanced approach used by the OEB to proactively establish and control adjudicative processes that are efficient, effective and procedurally fair. It ensures that the information being put on the record of each proceeding is relevant and of material value to the decision-maker, while ensuring that procedural fairness is respected.” Ontario Energy Board Action Plan, In Response to Stakeholder Comments on the Framework for Review of Intervenor Processes and Cost Awards, p.4.

unique or valuable perspective that will have a material impact on the Commissioner's final determinations. Intervenor should understand that they will be expected to make intervention requests that fully support their intended intervention.^{37,38}

Other potential improvements could be considered related to increased focus on defining and managing intervenor budgets throughout a proceeding.

Expanding the use of budget submissions. The Manitoba Public Utilities Board model could serve as an example of the level of detail to be provided.³⁹ This would not necessarily reduce total cost awards in and of itself, but instead would provide an earlier opportunity to identify the scale of costs being considered.

Intervenor may find this challenging, given their inability to fully explore the case through discovery before making these formal submissions. Budgets could be updated throughout the proceeding as processes and issues become clarified. An ongoing process that allows for modest changes to intervenor scope and budget as new issues are uncovered, could ameliorate this concern.

Having early access to budgets can allow the OEB to signal to intervenor at an early stage where they should seek to narrow the scope of their intervention or collaborate with other parties. This can help intervenor manage their intervention accordingly, rather than waiting until the end to make determinations as to whether an intervenor over-participated and having only the coarse tool of post-hoc cost denial to indicate this conclusion.

It should also be understood that the acceptance of a budget comes with an expectation on the intervenor to fulfill the scope they indicate they will explore. The Commissioner will not be well-served if intervenor indicate in budgets they will pursue a range of topics, the Commissioner rely on that intervenor to bring fulsome testing and evidence on those subjects, and then the intervenor fails to fulfill that full role.

Ongoing management of budgets throughout the proceeding. Having intervenor update their budgets at key stages of the proceeding (for example following discovery, prior to an oral hearing) could help ensure the Commissioner consider whether changes to scope, particularly those that might increase costs, are reasonable and necessary.

³⁷ For example, in the Manitoba Hydro 2014/15 – 2015/16 GRA, Green Action Centre was granted intervenor status but some issues were determined to be out of scope and not approved for their interventions, including specific budgets and topics for particular intervenor. Manitoba Public Utilities Board, Order No. 18/15, p. 20. Available from: <http://www.pubmanitoba.ca/pdf/15hydro/18-15.pdf>

³⁸ For example, in the BC Hydro 2024 Rate Design proceeding, The British Columbia Utilities Commission directed several municipalities to participate as one intervenor group with participation limited to specific topics. Four renewable energy organizations were also directed to participate as one group and limited to specific topics and similarly for the Zone II Ratepayers Group and Gitga'at First Nation. BCUC BC Hydro 2024 Rate Design – Intervenor Registration and Scope of Participation, Exhibit A-3, p. 2. Available from: https://docs.bcuc.com/documents/proceedings/2024/doc_78401_a-3-intervener-registration-participation-scope.pdf

³⁹ See for example the intervenor cost form template. Available: <http://www.pubmanitoba.ca/v1/about-pub/rules-of-practice-and-procedure.html>. Accessed May 27, 2024.

The Commissioners should strictly ensure intervenors are adhering to the issue list at all stages of the proceeding including information requests, intervenor evidence, and the conduct of cross-examination at an oral hearing. Parties should be made aware that early notification to the Commissioners is required if they will not be able to work within their initial budget.

4.0 CAPPING INTERVENOR COSTS

Regulators have a variety of tools available to them to limit cost awards or manage intervenor costs. Sometimes these tools are explicitly set out in legislation. In other cases, they are set out in rules of practice in the jurisdiction. Some of the tools relate explicitly to establishing caps on total costs for a proceeding or an individual intervenor. Other tools are more focused on reducing effort, decreasing timelines and eliminating duplication, but have the effect of reducing regulatory costs.

InterGroup’s review focused on different tools or methods regulators might use to cap or manage intervenor costs including:

1. Policies to implement hard caps on cost awards either for individual intervenors or in total for a proceeding. This provides a quantifiable limit on the costs that would be awarded in a proceeding.
2. Directions to intervenors to collaborate or avoid duplication. This can help make intervenors collaborate more to ensure they do not incur costs for similar tasks and provide the basis to reduce cost awards if intervenors do not collaborate.
3. Requiring intervenors to provide a budget early in proceedings which can help identify the total anticipated costs at an early stage and provide the Commission an opportunity to consider whether certain proposed tasks or experts are of sufficient value to merit an award of costs.

Table 2 summarizes InterGroup’s initial observations and considerations on how intervenor costs are currently managed in Ontario and in other jurisdictions.

Table 2: Considerations for Capping Intervenor Costs

	Ontario	Other Jurisdictions
Policies to cap cost awards	<p>The OEB’s practice direction on cost awards provides broad discretion in what OEB commissioners may consider in awarding costs but there is no explicit language on capping cost awards for a proceeding or individual intervenors.⁴⁰</p> <p>The OEB is currently piloting an intervenor budget program for cost of service applications for utilities with fewer than 30,000 customers. The pilot will cap budgets at \$20,000 per intervenor (i.e., approximately 60 hours of work at a rate of \$330/hr), with the possibility of amending the budget if there are additional complexities. The objective of the pilot program is to provide the OEB with an understanding of possible implications of restricting costs.</p>	<p>Regulators in BC, MB, and QC have the ability to cap the cost of proceedings. The BCUC’s participant assistance and cost award guidelines states “The BCUC may establish a cap on all, or on part of, a cost award available in a proceeding to any or all participants.”⁴¹</p> <p>In Manitoba, the board has the power to fix proceeding costs at a certain sum.⁴² In Quebec they can set annual funding limits for all cases or a per-case basis.⁴³</p> <p>Michigan⁴⁴, Oregon⁴⁵, and Wisconsin⁴⁶ regulators have total annual budget caps for intervenors.</p>

⁴⁰ Ontario Energy Board Practice Direction on Cost Awards, Section 5.01. Available from: <https://www.oeb.ca/sites/default/files/uploads/documents/regulatorycodes/2023-03/Practice-Direction-on-Cost-Awards-20230401.pdf>

⁴¹ British Columbia Utilities Commission, Rules of Practice and Procedure, Section 32.02. Available from: <https://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/179994/index.do>

⁴² Manitoba Public Utilities Board Act, Costs, 56(1). Available from: https://web2.gov.mb.ca/laws/statutes/ccsm/_pdf.php?cap=p280

⁴³ Québec, Act Respecting The Régie De L’énergie, Section 113. Available from: <https://www.legisquebec.gouv.qc.ca/en/document/cs/r-6.01#se:113>

⁴⁴ Utility Consumer Representation Fund Annual Report – 2022, p. 5. Available from: https://www.michigan.gov/lara/-/media/Project/Websites/lara/about/Legislative-Reports/Statutory-Required-Reports/FY2022/2022-UCPB-Annual-Report_FINAL.pdf?rev=2af936dce74448c0a8659d068c0599ca&hash=65A033E7F3046F5D99231E56D556F492

⁴⁵ Intervenor Funding Agreement. Order No. 23-033, Appendix A, p. 5. Available from: <https://apps.puc.state.or.us/orders/2023ords/23-033.pdf>

⁴⁶ State of Wisconsin, 2023 Senate Bill 70, Act 19, 20.155(1)(g). July 5, 2023. Available from: <https://docs.legis.wisconsin.gov/2023/related/acts/19.pdf>

Table 2: Considerations for Capping Intervenor Costs

	Ontario	Other Jurisdictions
Directions to intervenors to collaborate or avoid duplication	<p>The OEB indicates on its intervenor application form that they expect intervenors to coordinate with other intervenors of similar interest and provides similar instructions in the first procedural order of each proceeding.^{47,48}</p> <p>The OEB may require parties⁴⁹ or experts⁵⁰ to work together throughout a proceeding where there are multiple requests to file evidence on similar issues.</p> <p>The OEB may hold technical conferences to review and clarify an application, intervention, reply, evidence of a party, or matters related to interrogatories.⁵¹ An issues conference may also be held to reach a consensus on the issues list for a proceeding.⁵²</p>	<p>Many regulators have rules indicating they can direct parties to collaborate to avoid duplication of issues (e.g. BC⁵³, MB⁵⁴, OR⁵⁵, and MI⁵⁶).</p>

⁴⁷ Ontario Energy Board Rules of Practice and Procedure, Appendix A – Intervention Form, Question 7.

⁴⁸ Ex. Ontario Energy Board, EB-2022-0200, Procedural Order No. 1. December 16, 2022. Available from: <https://www.rds.oeb.ca/CMWebDrawer/Record/766191/File/document>

⁴⁹ Ontario Energy Board Rules of Practice and Procedure, Section 13.06. Available from: https://www.oeb.ca/sites/default/files/uploads/documents/regulatorycodes/2024-03/OEB_Rules-Practice-and-Procedure_20240306.pdf

⁵⁰ Ontario Energy Board Rules of Practice and Procedure, Section 13A.04.

⁵¹ Ontario Energy Board Rules of Practice and Procedure, Section 25.01.

⁵² Ontario Energy Board Rules of Practice and Procedure, Section 28.05.

⁵³ British Columbia Utilities Commission, Rules of Practice and Procedure, Sections 10.02 and 10.03. Available from: <https://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/521582/index.do>

⁵⁴ Manitoba Public Utilities Board, Rules of Practice and Procedure, Direction on Procedure, 4(2). Available from: http://www.pubmanitoba.ca/pdf/pandp/rules_pandp_mar07.pdf

⁵⁵ Support for Coalition Work. Intervenor Funding Agreement. Order No. 23-033, Appendix A, p. 6. Available from: <https://apps.puc.state.or.us/orders/2023ords/23-033.pdf>

⁵⁶ Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6m(13 and 17c). Available from: [https://www.legislature.mi.gov/\(S\(lgvw2x55gzefle55x5js1c45\)\)/documents/mcl/pdf/mcl-chap460.pdf](https://www.legislature.mi.gov/(S(lgvw2x55gzefle55x5js1c45))/documents/mcl/pdf/mcl-chap460.pdf)

Table 2: Considerations for Capping Intervenor Costs

	Ontario	Other Jurisdictions
Requiring intervenors to provide budget early on in proceedings	<p>In Ontario, a budget is only explicitly required to be submitted if the intervenor intends to file evidence and seek a recovery of costs.⁵⁷ The budget requires the estimated costs for the expert in connection with the proposed evidence and does not provide any guidelines or directions to include costs for lawyers, non-expert consultants, or other costs.^{58,59,60}</p> <p>The OEB does not explicitly require an intervenor to provide a budget submission.</p>	<p>In Manitoba, intervenors submit budgets to be eligible to receive cost awards even if not providing expert testimony.⁶¹ Intervenor budgets include costs for lawyers, experts and other consultants and are submitted prior to the first round of discovery.</p> <p>In Oregon, proposed budgets are submitted to access grant funding and there are caps on the total funding available.⁶²</p> <p>In BC, the rules of practice require intervenors to submit budgets if applying for interim or advance funding but not otherwise.⁶³</p>

4.1 RECOMMENDATIONS FOR CAPPING INTERVENOR COSTS

Based on our review, most regulators have tools available to reduce or limit intervenor costs. Sometimes these tools are stated explicitly as means to limit costs, for example annual pools of available funding; or explicit powers set out in the regulator’s rules of practice to cap costs for individual intervenors. In other cases the tools focus more on reducing timelines, effort and duplication. These are usually not directly stated as providing powers or requirements to limit the costs of intervenors, but often have the effect of reducing proceeding costs. Actions the OEB could take to expand or reinforce the tools available to it to cap or manage intervenor costs include:

1. Review the results of the pilot project on capping budgets for small cost of service proceedings and consider continuing or expanding the caps to other types of proceedings.
2. Requiring intervenors to file a budget early in the proceeding may help identify when intervenor cost expectations are high and indicate a need to manage costs. The OEB currently requires

⁵⁷ Ontario Energy Board Rules of Practice and Procedure, Section 13.03.

⁵⁸ Ontario Energy Board Rules of Practice and Procedure, Appendix A – Intervention Form, question 6, p. II-III.

⁵⁹ Evidence submission and budget. Ontario Energy Board Advanced Regulatory Document Search, Case Number EB-2022-0167. Available from: <https://www.rds.oeb.ca/CMWebDrawer/Record/757008/File/document>

⁶⁰ Ontario Energy Board Rules of Practice and Procedure, Section 13.04.

⁶¹ Manitoba Public Utilities Board, Rules of Practice and Procedure, Intervention, 27(b). Available from: http://www.pubmanitoba.ca/pdf/pandp/rules_pandp_mar07.pdf

⁶² Eligibility, number 4. Intervenor Funding Agreement. Order No. 23-033, Appendix A, p. 5.

⁶³ British Columbia Utilities Commission, Rules of Practice and Procedure, Interim Cost Awards, 37.02(a). Available from: <https://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/521582/index.do>

budgets where intervenors are proposing to provide expert testimony. The requirement for budgets could be expanded.

The OEB could also consider requiring intervenors to update their budgets, particularly in longer proceedings or when the intervenor anticipates its budget may need to increase. This is generally an expectation on intervenors in Manitoba.

Together these tools would help give the OEB improved visibility into the quantum of costs likely to be requested and provide check points where the OEB could review whether certain issues, experts or tasks continue to be required as the proceeding progresses. It would not necessarily reduce the cost awards in a proceeding, but would provide additional visibility and checkpoints on budgets.

3. The OEB's ongoing efforts to review its policies and procedures to improve efficiencies will likely also help manage intervenor costs. InterGroup recommends that the OEB continue to focus on the use of settlements. Other jurisdictions have adopted changes such as limiting information requests, which in InterGroup's experience provides extra incentive for intervenors to collaborate and ensure they are not asking duplicative questions.
4. The OEB appears to have the necessary policies and tools to cap intervenor costs when necessary. However if desired, the OEB could adopt explicit language in its rules of practice to indicate it can limit the cost awards available to individual intervenors or to all intervenors in a particular proceeding, similar to the language in the BCUC's rules of practice. This could help signal to intervenors that the OEB intends to apply these practices more stringently going forward.

Attachment 1: Designated Consumer Advocate and Capping Intervenor Costs Summary Tables

Attachment 1: Designated Consumer Advocate and Capping Intervenor Costs Summary Tables

1.0 JURISDICTIONAL REVIEW METHODOLOGY

The jurisdictional review was based on desktop review of information from 15 jurisdictions:

1. Canadian jurisdictions: Newfoundland and Labrador, Nova Scotia, New Brunswick, Quebec, Manitoba, Alberta, and British Columbia.
2. American jurisdictions: Michigan, Ohio, Oregon, Wisconsin, California, and New York.
3. Other jurisdictions: United Kingdom, and Australia.

Jurisdictions were selected based on the availability of public information and whether they had a person or organization that satisfies InterGroup's working definition of a consumer advocate. This is a consumer advocate is a person or organization that appears before a utility regulator to represent the interests of consumers. A consumer advocate satisfies the following criteria:

1. Has a mandate to represent consumers broadly, or a particular group of consumers that includes residential consumers, in utility regulatory processes. Some consumer advocates included in the review have mandates that include small businesses or all consumers, but groups solely focused on representing businesses or industry were excluded.
2. The organization has established legitimacy to represent consumer interests in regulatory processes through:
 - a) A legislative mandate;
 - b) Specific regulator policy; or
 - c) A history of representing broad consumer interests over time in multiple regulatory proceedings.
3. Takes formal positions in regulatory proceedings on behalf of consumers, including full participation in all aspects of the hearing process such as issue scoping, discovery, providing expert evidence, settlement negotiations, cross examination at oral hearings, and submission of argument.

InterGroup's research identified two main categories of CAs:

1. Formal CA: the consumer advocate is created or enabled by legislation (e.g., NS, Nfld., NB, AB, MI, CA, OR, NY, OH, UK, AU).
2. Informal CA: The regulator established a CA through its own policy or initiative (e.g., BC), or the consumer advocate role has been established through a history of participation in proceedings before the commission (e.g., MB, QC, WI).

InterGroup included the informal CA models in the review to provide context and contrast how a consumer advocacy function is implemented in the absence of a specifically legislated role.

The attachments provide a summary of the existing rules, practices, and mandates in Ontario and other jurisdictions, while also highlighting similar functions of a consumer advocate, rules of practice, or rules of cost in other jurisdictions that the OEB currently performs. Table 1 summarizes information on the regulators for each of the jurisdictions under review including information on the types of regulated utilities, number of utilities, the number of staff, and the budget.

Table 1: Jurisdictional Context

Jurisdiction	Types of Regulated Utilities	Number of Utilities	Number of Staff	Budget
Ontario ^{1,2,3}	Electric, natural gas	>100	101-500	\$50M-\$100M
Alberta ^{4,5,6,7}	Electric, natural gas, water	<20 ⁸	101-500	\$20M-\$50M
British Columbia ^{9,10,11,12}	Electric, natural gas, insurance	<20	26-100	\$20M-\$50M
Manitoba ^{13,14,15}	Electric, natural gas, insurance, water	>100	<25	<\$5M
Québec ^{16,17,18}	Electric, natural gas, petroleum	<20	26-100	\$5M-20M
Newfoundland & Labrador ^{19,20}	Electric, petroleum, insurance	<20	<25	<\$5M

¹ Ontario Energy Board Energy at a Glance 2022-2023, p.2. Available from: <https://www.oeb.ca/sites/default/files/2024-04/Energy-at-a-glance-2022-2023-en.pdf>

² Office of the Auditor General of Ontario - Value-for-Money Audit: Ontario Energy Board November 2022, p. 1. Available from: https://www.auditor.on.ca/en/content/annualreports/arreports/en22/AR_ElectricitySectorOEB_en22.pdf

³ Ontario Energy Board 2022-2023 Annual Report, p. 38. Available from: <https://www.oeb.ca/sites/default/files/OEB-Annual-Report-2022-2023-EN.pdf>

⁴ AUC 2021-2024 Strategic Plan, p. 7. Available from: <https://media.www.auc.ab.ca/prd-wp-uploads/Shared%20Documents/2021-2024StrategicPlan.pdf>

⁵ AUC, RE: 2024-2025 AUC administration fee. April 3, 2024. Available from: https://media.www.auc.ab.ca/prd-wp-uploads/regulatory_documents/AdministrationDocuments/2024/2024-04-03-ChiefExecutiveLetter.pdf

⁶ AUC – Who we regulate. Available from: <https://www.auc.ab.ca/who-we-regulate-directory/>

⁷ Rate regulated and distribution companies are regulated by the AUC. Utilities Consumer Advocate – Retailers and Distributors. Available from: <https://ucahelps.alberta.ca/retailers.aspx>

⁸ Does not include water utilities.

⁹ BCUC Budget Transparency, p.2. Available from: <https://docs.bcuc.com/documents/FactSheets/BCUC-Budget-Transparency.pdf>

¹⁰ BCUC Annual Report 2022/23, p.47. Available from: <https://docs.bcuc.com/documents/AnnualReports/2024/BCUC-F2022-23-Annual-Report.pdf>

¹¹ BCUC – Our Role. Available from: <https://www.bcuc.com/AboutUs/OurRole>

¹² BCUC List of Regulated Entities. Available from: <https://map.bcuc.com/>

¹³ The Public Utilities Board Annual Report 2022/23, p. 5 and 12. Available from: <http://www.pubmanitoba.ca/v1/about-pub/pubs/e-version2022-23pub-annualreport-bilingual.pdf>

¹⁴ The Public Utilities Board – What we do. Available from: <https://www.pubmanitoba.ca/v1/about-pub/what-we-do.html>

¹⁵ Manitoba PUB – Water and Wastewater. Available from: <https://www.pubmanitoba.ca/v1/regulated-utilities/www/water-ww/water-wastewater.html>

¹⁶ Régie de l'énergie, About Régie de l'énergie. Available from: <https://www.regie-energie.qc.ca/fr/la-regie/qui-sommes-nous/about-regie-de-lenergie>

¹⁷ Québec, Estimates and Expenditures of the Departments and Bodies 2022-2023, p. 9-15. Available from: https://www.tresor.gouv.qc.ca/fileadmin/PDF/budget_depenses/22-23/3-Estimates_Expenditures_Dep_Bodies.pdf

¹⁸ See The Régie's powers according to the forms of energy. Régie de l'énergie du Québec – Roles and Mandates. Available from: <https://www.regie-energie.qc.ca/fr/la-regie/qui-sommes-nous/roles-et-mandat>

¹⁹ Newfoundland and Labrador Board of Commissioners of Public Utilities Annual Report, 2021-2022, p. 4 and p. 6. Available from: <https://www.gov.nl.ca/jps/files/PUBAnnualReport2021-22.pdf>

²⁰ Newfoundland and Labrador Board of Commissioners of Public Utilities Mandates and Lines of Business. Available from: <http://www.pub.nl.ca/mandate.php#:~:text=The%20Board%20is%20responsible%20for,provided%20is%20safe%20and%20reliable.>

Table 1: Jurisdictional Context

Jurisdiction	Types of Regulated Utilities	Number of Utilities	Number of Staff	Budget
Nova Scotia ^{21,22,23}	Electric, natural gas, water, petroleum, insurance	51-100	<25	\$5M-20M
New Brunswick ^{24,25}	Electric, natural gas, insurance	<20	<25	<\$5M
Michigan ^{26,27,28,29,30,31}	Electric, natural gas, telecommunications	>100	101-500	\$20M-\$50M
Oregon ^{32,33,34,35,36}	Electric, natural gas, telecommunications, water	>100	101-500	>\$100M
Wisconsin ^{37,38}	Electric, natural gas, telecommunications, water	>100	101-500	\$50M-\$100M

²¹ Nova Scotia Utility and Review Board – About. Available from: <https://nsuarb.novascotia.ca/about/about>

²² Nova Scotia Utility and Review Board Business Plan 2024-2025, p. 7. Available from: <https://nsuarb.novascotia.ca/sites/default/files/NSUARB-FINAL%20Business%20Plan%20-%202024-2025.pdf>

²³ Nova Scotia Utilities Map. Available from: https://nsuarb.novascotia.ca/utility-map?utility_type=1&field_jurisdiction_value=&title=

²⁴ New Brunswick Energy and Utilities Board Annual Report 2022-2023, p. 2, 9, and 24. Available from: <https://www2.qnb.ca/content/dam/qnb/Gateways/ABCs/Annual-reports2/NRED-EUB-2022-2023-annual-report-E.pdf>

²⁵ New Brunswick Energy and Utilities Board - What we do. Available from: <https://nbeub.ca/what-we-do>

²⁶ Michigan Public Service Commission Annual Report 2023, p 4. Available from: https://www.michigan.gov/mpsc/-/media/Project/Websites/mpsc/regulatory/reports/annual/MPSC_2023_Annual_Report.pdf?rev=b84e0b9aedc94d39b4e318bf699f20c1

²⁷ MPSC FY 2024 Appropriations Request, p. 6. Available from: https://www.house.mi.gov/hfa/PDF/LARA/LARA_DIFS_Subcmte_Testimony_MPSC_Presentation_3-7-23.pdf

²⁸ MPSC – About. Available from: <https://www.michigan.gov/mpsc/about>

²⁹ Total Sales of Electric Utilities in Michigan, 2021-2022, p.1. Available from: https://www.michigan.gov/-/media/Project/Websites/mpsc/consumer/electric/electricdata_19.pdf?rev=71b8ed35059e43f29c60cd31ead5bed1

³⁰ Michigan Public Service Commission – Natural Gas and Pipelines. Available from: <https://www.michigan.gov/mpsc/consumer/natural-gas#:~:text=Natural%20gas%20is%20used%20as,for%20seven%20natural%20gas%20utilities.>

³¹ List of telecommunication providers. MPSC, Basic Local Exchange Providers in Michigan. Available from: <https://www.michigan.gov/mpsc/-/media/Project/Websites/mpsc/regulatory/telecom/Provider-Lists/newlocal.pdf?rev=03c7cc2701784f33b1a1e9ece0f686e1>

³² Oregon Public Utilities Commission 2023-2025 Legislatively Adopted Budget, p. 9. Available from: <https://www.oregon.gov/puc/forms/Forms%20and%20Reports/2023-2025-LAB-Final.pdf>

³³ Oregon Public Utilities Commission 2023-2025 Legislatively Adopted Budget, p. 9.

³⁴ OPUC – About Us. Available from: <https://www.oregon.gov/puc/about-us/Pages/default.aspx>

³⁵ Government of Oregon – Oregon Utilities. Available from: <https://www.oregon.gov/energy/energy-oregon/Pages/Oregon-Utilities.aspx#:~:text=Oregon%20is%20served%20by%20three,or%20publicly%20Downed%20electric%20utilities>

³⁶ Oregon Water and Wastewater Utilities. Available from: <https://efc.soq.unc.edu/wp-content/uploads/sites/1172/2021/11/Oregon.pdf>

³⁷ Public Service Commission 2023-2025 Biennial Budget, p.11. Available from: https://docs.legis.wisconsin.gov/misc/lfb/budget/2023_25_biennial_budget/102_summary_of_provisions_2023_act_19_july_2023_entire_document.pdf

³⁸ WPSC – Regulation. Available from: <https://psc.wi.gov/Pages/AboutPSC/Regulation.aspx>

Table 1: Jurisdictional Context

Jurisdiction	Types of Regulated Utilities	Number of Utilities	Number of Staff	Budget
United Kingdom ^{39,40,41,42}	Electric, natural gas	20-50	>500	>£100M
California ^{43,44,45,46}	Electric, natural gas, telecommunications, water	20-50	>500	>\$100M
New York ^{47,48,49,50,51}	Electric, natural gas, steam, telecommunications, water	>100	>500	>\$100M
Ohio ^{52,53,54}	Electric, natural gas, steam, telecommunications, water	>100	101-500	\$50M-\$100M
Australia ^{55,56,57,58}	Electric, natural gas	20-50	101-500	\$20M-\$50M

³⁹ Ofgem Annual Report and Accounts 2022 to 2023, p. 73. Available from: <https://www.ofgem.gov.uk/sites/default/files/2023-07/Ofgem%20ARA%202023.pdf>

⁴⁰ Ofgem Annual Report and Accounts 2022 to 2023, p. 102.

⁴¹ Ofgem – Our role and responsibilities. Available from: <https://www.ofgem.gov.uk/our-role-and-responsibilities>

⁴² Energy Networks Association – Who’s my network operator. Available from: <https://www.energynetworks.org/customers/find-my-network-operator>

⁴³ CPUC 2022 Annual Report, p. 4 and 18. Available from: https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/news-and-outreach/reports/annual-reports/ar2022_web_013123.pdf

⁴⁴ CPUC, Natural Gas and California. Available from: <https://www.cpuc.ca.gov/industries-and-topics/natural-gas/natural-gas-and-california>

⁴⁵ CPUC, Electric Costs. Available from: <https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/electric-costs>

⁴⁶ List of telecommunication companies. CPUC, Utility Contact System Search. Available from: <https://apps.cpuc.ca.gov/apex/f?p=102:1>

⁴⁷ Department of Public Service Annual Report 2022-2023, p. 58. Available from: <https://dps.ny.gov/system/files/documents/2023/07/dps-2022-2023-annual-report-7.13.23.pdf>

⁴⁸ NYPSC – About Us. Available from: <https://dps.ny.gov/about-us>

⁴⁹ Department of Public Service Electric – All Electric Utility Companies. Available from: <https://dps.ny.gov/electric>

⁵⁰ Department of Public Service Natural Gas – All Gas Utility Companies. Available from: <https://dps.ny.gov/natural-gas>

⁵¹ New York State Department of Public service, Telecommunication companies. Available from: <https://www3.dps.ny.gov/T/Telco.nsf/ActiveWeb?OpenView&Count=100>

⁵² LBO Analysis of Executive Budget Proposal – Public Utilities Commission of Ohio, p. 2. Available from: <https://www.lsc.ohio.gov/assets/legislation/135/hb33/in/files/hb33-puc-redbook-as-introduced-135th-general-assembly.pdf>

⁵³ Ohio PUC – About Us. Available from: <https://puco.ohio.gov/about-us>

⁵⁴ Ohio PUC – Regulated Companies. Available from: <https://puco.ohio.gov/documents-and-rules/list>

⁵⁵ Australian Energy Market Commission Annual Report 2022-23, p. 34. Available from: https://www.aemc.gov.au/sites/default/files/2023-12/AEMC_annual_report_2022-23_web_v2.pdf

⁵⁶ Independent Auditor’s Report – Australian Energy Market Commission 2022-2023, p. 6. Available from: <https://www.audit.sa.gov.au/sites/default/files/2023-10/Australian%20Energy%20Market%20Commission.pdf>

⁵⁷ AEMC – About us. Available from: <https://www.aemc.gov.au/about-us>

⁵⁸ Australian Energy Regulator – Who is your distributor?. Available from: <https://www.aer.gov.au/consumers/understanding-energy/who-your-distributor>

Table A1: Ontario – Summary of Designated Consumer Advocate

Ontario Energy Board	
Enabling Policy or Legislation	<p>There is no formal legislation that establishes a consumer advocate.</p> <p>The <i>Ontario Energy Board Act</i> states the OEB shall be guided by the objective to inform consumers and protect their interests with respect to prices and the adequacy, reliability, and quality of electricity service.⁵⁹ The OEB shall establish one or more processes by which the interests of consumers may be represented through advocacy or other representation provided by the OEB in regulatory proceedings before the OEB.⁶⁰</p>

⁵⁹ Ontario Energy Board Act, 1998, S.O 1998, c. 15 Schedule B, Section 1(1). Available from: <https://www.ontario.ca/laws/statute/98o15>

⁶⁰ Ontario Energy Board Act, 1998, S.O 1998, c. 15 Schedule B, Section 4.4.1(1).

Table A1: Ontario – Summary of Designated Consumer Advocate

Ontario Energy Board	
Consumer Advocate Mandate	<p>The OEB does not have any formal legislation or mandate that establishes a consumer advocate. However, the OEB shall protect the interests of consumers and establish one or more processes by which the interests of consumers are represented in regulatory proceedings.⁶¹ Also, the OEB shall establish one or more processes where consumers or other persons who have an interest in the electric industry may provide input for consideration by the OEB.⁶²</p> <p>OEB staff can make submissions that advocate for specific outcomes or findings.⁶³ During settlement negotiations, staff typically play a role as active observers ensuring that all relevant information is considered, presenting options, and offering advice on the strengths and weaknesses of proposals. In some cases, OEB commissioners may provide for staff to be a party to the settlement conference and to any settlement proposal.⁶⁴</p> <p>The OEB’s mandate includes “to inform consumers and protect their interests” but does not specifically indicate a mandate to educate⁶⁵. The OEB provides consumer information on topics including understanding and managing bills⁶⁶, choosing energy plans,⁶⁷ bill assistance programs⁶⁸, consumer protection⁶⁹, and net metering.⁷⁰</p> <p>The OEB is required to submit annual reports to the Minister of Energy.⁷¹</p>

⁶¹ Ontario Energy Board Act, 1998, S.O 1998, c. 15 Schedule B, Section 4.4.1(1). Available from: <https://www.ontario.ca/laws/statute/98o15>

⁶² Ontario Energy Board Act, 1998, S.O 1998, c. 15 Schedule B, Section 4.4.

⁶³ See for example Ontario Energy Board Staff Submission, Enbridge Gas 2024 Rates Application, Page 2. Available:

<https://www.rds.oeb.ca/CMWebDrawer/Record/814564/File/document>

⁶⁴ Summarized from the OEB’s practice direction on settlement conferences. Available:

https://www.oeb.ca/oeb/Documents/Regulatory/Practice_Direction/Settlement_Conferences.pdf Accessed May 15, 2024.

⁶⁵ Ontario Energy Board Act, 1998, S.O 1998, c. 15 Schedule B, Section 1(1).

⁶⁶ Understanding your electricity bill. Available from: <https://www.oeb.ca/consumer-information-and-protection/electricity-rates/understanding-your-electricity-bill>

⁶⁷ Choosing your electricity price plan. Available from: <https://www.oeb.ca/consumer-information-and-protection/electricity-rates/choosing-your-electricity-price-plan>

⁶⁸ Low-income Energy Assistance Program. Available from: <https://www.oeb.ca/consumer-information-and-protection/bill-assistance-programs/low-income-energy-assistance-program>

⁶⁹ We’re here to help. Available from: <https://www.oeb.ca/consumer-information-and-protection/oeps-consumer-protection-role/were-here-help>

⁷⁰ Net metering. Available from: <https://www.oeb.ca/consumer-information-and-protection/net-metering>

⁷¹ Ontario Energy Board Act, 1998, S.O 1998, c. 15 Schedule B, Section 4.9(1).

Table A1: Ontario – Summary of Designated Consumer Advocate

Ontario Energy Board	
Consumer Advocate Appointment Process	There is no designated consumer advocate in Ontario but the Ontario Energy Board is required to protect the interests of consumers. ⁷² The Lieutenant Governor in Council appoints members onto the OEB board of directors. ⁷³ The board of directors shall, on the recommendation of the chief executive officer, appoint at least five commissioners ⁷⁴ and one commissioner to the position of chief commissioner ⁷⁵ .
Consumer Advocate Funding Mechanism	There is no consumer advocate in Ontario.

Table A2: Ontario – Policy Objectives Cited for Implementing Consumer Advocate

Ontario Energy Board	
Ensure Effective Representation	There is no consumer advocate.
Improve Efficiency and Effectiveness	Reduce the Number of Intervenors
Reduce the Number of Intervenors	Not applicable.
Cost Savings	Cost Savings Not applicable.
Other Reasons	Not applicable.

⁷² Ontario Energy Board Act, 1998, S.O 1998, c. 15 Schedule B, Section 1(1). Available from: <https://www.ontario.ca/laws/statute/98o15>

⁷³ Ontario Energy Board Act, 1998, S.O 1998, c. 15 Schedule B, Section 4.1(2).

⁷⁴ Ontario Energy Board Act, 1998, S.O 1998, c. 15 Schedule B, Section 4.3(1).

⁷⁵ Ontario Energy Board Act, 1998, S.O 1998, c. 15 Schedule B, Section 4.3(3).

Table A3: Ontario – Summary of Intervenor Costs Capping Policies and Mechanisms

Ontario Energy Board	
<p>Cap Total Intervenor Funding</p> <p style="padding-left: 40px;">Per Proceeding</p> <p style="padding-left: 40px;">Per Intervenor</p> <p style="padding-left: 40px;">Per Year</p>	<p>Per Proceeding</p> <p>No. The OEB’s practice direction on cost awards provides broad discretion in what OEB commissioners may consider in awarding costs but there is no explicit language on capping cost awards for a proceeding or individual intervenors.⁷⁶</p> <p>Per Intervenor</p> <p>The OEB is currently undergoing a pilot project to limit intervenor costs (\$20,000 per intervenor) for cost of service applications for very small and small utilities (those with fewer than 30,000 customers). Intervenors who claim amount above \$20,000 are required to provide justification of additional complexities in the application or how they took a leadership role amongst other intervenors to minimize duplication.⁷⁷</p> <p>Per Year</p> <p>None.</p>

⁷⁶ Ontario Energy Board Practice Direction on Cost Awards, Section 5.01. Available from:

<https://www.oeb.ca/sites/default/files/uploads/documents/regulatorycodes/2023-03/Practice-Direction-on-Cost-Awards-20230401.pdf>

⁷⁷ Ontario Energy Board Filing Requirements for Electricity Distribution Rate Applications for 2025 Rates, p. 1-2. Available from:

<https://www.rds.oeb.ca/CMWebDrawer/Record/848506/File/document>

Table A3: Ontario – Summary of Intervenor Costs Capping Policies and Mechanisms

Ontario Energy Board	
Other Policies or Mechanisms for Managing Intervenor Costs	<p>The intervenor shall provide the estimated cost to prepare the proposed evidence and participation in the expected activities related to that evidence. The intervenor should also advise the OEB promptly after becoming aware that activities related to evidence will be materially higher than estimated.⁷⁸</p> <p>The OEB indicates on its intervenor application form that they expect intervenors to coordinate with other intervenors of similar interest and provides similar instructions in the first procedural order of each hearing.^{79,80}</p> <p>The OEB may require parties where there are multiple requests to file evidence on similar issues to work together.⁸¹ Also, the OEB may require two or more experts to work together to narrow issues and submit a joint written statement.⁸²</p> <p>Where the OEB grants leave to a party to file evidence, the OEB may impose conditions for filing evidence, including a timeline for filing evidence.⁸³</p> <p>The OEB may hold technical conferences to review and clarify an application, intervention, reply, evidence of a party, or matters related to interrogatories.⁸⁴ An issues conference may also be held to reach a consensus on the issues list for a proceeding.⁸⁵</p>

⁷⁸ Ontario Energy Board Rules of Practice and Procedure, Section 13.04. Available from: https://www.oeb.ca/sites/default/files/uploads/documents/regulatorycodes/2024-03/OEB_Rules-Practice-and-Procedure_20240306.pdf

⁷⁹ Ontario Energy Board Rules of Practice and Procedure, Appendix A – Intervention Form, Question 7.

⁸⁰ Ex. Ontario Energy Board, EB-2022-0200, Procedural Order No. 1. December 16, 2022. Available from: <https://www.rds.oeb.ca/CMWebDrawer/Record/766191/File/document>

⁸¹ Ontario Energy Board Rules of Practice and Procedure, Section 13.06.

⁸² Ontario Energy Board Rules of Practice and Procedure, Section 13A.04.

⁸³ Ontario Energy Board Rules of Practice and Procedure, Section 13.07.

⁸⁴ Ontario Energy Board Rules of Practice and Procedure, Section 25.01.

⁸⁵ Ontario Energy Board Rules of Practice and Procedure, Section 28.05.

Table A4: Newfoundland & Labrador – Summary of Designated Consumer Advocate

Newfoundland and Labrador Board of Commissioners of Public Utilities – Consumer Advocate	
Enabling Policy or Legislation	The <i>Public Utilities Act</i> states the Lieutenant-Governor in Council may appoint a consumer advocate ⁸⁶ .
Consumer Advocate Mandate	<p>The scope of the consumer advocate may extend, to participating in all pre-hearing procedures, reviewing the application and evidence filed, preparing requests for information, retaining and instructing necessary experts, cross-examining witnesses, calling witnesses on behalf of the interests of consumers and making final submissions to the board.⁸⁷</p> <p>The role of the consumer advocate is limited to participation in regulatory matters.⁸⁸ The consumer advocate is also required to prepare an activity plan.⁸⁹ The consumer advocate reports to the Minister of Justice and Public Safety, who is responsible for reviewing the initial budget of the consumer advocate.⁹⁰</p>
Consumer Advocate Appointment Process	The <i>Independent Appointments Commission Act</i> states the Appointments Commission shall provide recommendations to the Lieutenant-Governor in Council respecting appointments of the consumer advocate in accordance with a merit-based process. ⁹¹ The consumer advocate qualifications are to include a completion of a law degree and experience practicing in a relevant field of law or an equivalent combination of education and experience. ⁹²

⁸⁶ Section 117(1), Chapter P-47 – Public Utilities Act, RSNL 1990. Available from: <https://www.assembly.nl.ca/legislation/sr/statutes/p47.htm#117>

⁸⁷ The Consumer Advocate Activity Plan 2020-2023, p.3. Available from: <https://www.gov.nl.ca/jps/files/ConsumerAdvocateActivityPlan2020-2023.pdf>

⁸⁸ Independent Appointments Commission – Consumer Advocate. Available from: <https://www.exec-abc.gov.nl.ca/public/agency/detail/?id=665&>

⁸⁹ The Consumer Advocate Activity Plan 2020-2023, p.2.

⁹⁰ The Consumer Advocate Annual Report 2021-2022, p. 1. Available from: <https://www.gov.nl.ca/jps/files/ConsumerAdvocateAnnualReport2021-22.pdf>

⁹¹ Section 9(1), SNL2016 Chapter I-2.1. Available from: <https://www.assembly.nl.ca/legislation/sr/statutes/i02-1.htm>

⁹² Independent Appointments Commission – Consumer Advocate.

Table A4: Newfoundland & Labrador – Summary of Designated Consumer Advocate

Newfoundland and Labrador Board of Commissioners of Public Utilities – Consumer Advocate	
Consumer Advocate Funding Mechanism	<p>All costs relating to the consumer advocate shall be borne by the Newfoundland & Labrador Board of Commissioners of Public Utilities.^{93,94} All expenses of the board shall be estimated by the board annually and assessed upon and borne by the public utilities.^{95,96} The costs are recovered from customers through rates.</p> <p>The <i>Public Utilities Act</i> states the Lieutenant-Governor in Council may approve or alter a budget submitted by the Board of Commissioners of Public Utilities.⁹⁷ The consumer advocate reports to the Minister of Justice and Public Safety, including reviewing the initial budget before the consumer advocate invoices.⁹⁸</p>

⁹³ Section 117(3), Chapter P-47 – Public Utilities Act, RSNL 1990. Available from: <https://www.assembly.nl.ca/legislation/sr/statutes/p47.htm#117>

⁹⁴ Newfoundland and Labrador Board of Commissioners of Public Utilities Annual Report, 2022, p. 6. Available from: <https://www.gov.nl.ca/jps/files/PUBAnnualReport2021-22.pdf>

⁹⁵ Section 13(1), Chapter P-47 – Public Utilities Act, RSNL 1990.

⁹⁶ Order No. P.U. 2(2022), Section 2.6.1, p. 14. Available from: [http://www.pub.nf.ca/PU/orders/2022/P.U.%2003\(2022\).PDF](http://www.pub.nf.ca/PU/orders/2022/P.U.%2003(2022).PDF)

⁹⁷ Section 15(4), Chapter P-47 – Public Utilities Act, RSNL 1990.

⁹⁸ Newfoundland and Labrador Board of Commissioners of Public Utilities Annual Report, 2022, p. 6.

Table A5: Newfoundland & Labrador – Policy Objectives Cited for Implementing Consumer Advocate

Newfoundland and Labrador Board of Commissioners of Public Utilities – Consumer Advocate	
Ensure Effective Representation	Yes, the Lieutenant-Governor in Council may appoint a consumer advocate to represent electrical services customers before the Board of Commissioners of Public Utilities. ⁹⁹
Improve Efficiency and Effectiveness Reduce the Number of Intervenors Cost Savings	Reduce the Number of Intervenors None. Cost Savings None.
Other Reasons	None.

⁹⁹ Section 117, Chapter P-47 – Public Utilities Act, RSNL 1990. Available from: <https://www.assembly.nl.ca/legislation/sr/statutes/p47.htm#117>

Table A6: Newfoundland & Labrador – Summary of Intervenor Costs Capping Policies and Mechanisms

Newfoundland and Labrador Board of Commissioners of Public Utilities – Consumer Advocate	
<p>Cap Total Intervenor Funding</p> <p>Per Proceeding</p> <p>Per Intervenor</p> <p>Per Year</p>	<p>Per Proceeding</p> <p>No, the <i>Public Utilities Act</i> states the Newfoundland & Labrador Board of Commissioners of Public Utilities must submit a budget by December 31 containing estimates for the year.¹⁰⁰</p> <p>Per Intervenor</p> <p>None.</p> <p>Per Year</p> <p>None.</p>
<p>Other Policies or Mechanisms for Managing Intervenor Costs</p>	<p>There are no explicit requirements for intervenors to collaborate and provide duplication of effort but in determining final cost award, the Board will consider whether the interest presented by the intervenor was unique and not otherwise represented.¹⁰¹</p>

¹⁰⁰ Section 15(1), Chapter P-47 – Public Utilities Act, RSNL 1990. Available from: <https://www.assembly.nl.ca/legislation/sr/statutes/p47.htm#117>

¹⁰¹ Board of Commissioners of Public Utilities Hearing Participation Guidelines, p. 2. Available from: <http://pub.nf.ca/download/Hearing%20Participation%20Guidelines.pdf>

Table A7: Nova Scotia – Summary of Designated Consumer Advocate

Nova Scotia Utility and Review Board – Consumer Advocate & Small Business Advocate	
Enabling Policy or Legislation	The <i>Public Utilities Act</i> states where the Governor in Council directs or the Nova Scotia Utility and Review Board on its own motion decides, the Nova Scotia Utility and Review Board shall appoint a person to act as a consumer advocate in a hearing before the board. ¹⁰²
Consumer Advocate Mandate	<p>The <i>Public Utilities Act</i> states the consumer advocate should participate in all aspects of a hearing before the Nova Scotia Utility and Review Board and represent the interests of residential consumers as a full intervenor. This includes the power to enter into settlement agreements with other parties.¹⁰³ Section 92(3), states the small business advocate should participate in all aspects of a hearing before the Nova Scotia Utility and Review Board and represent the interests of small businesses as a full intervenor. This includes the power to enter into settlement agreements with other parties.¹⁰⁴</p> <p>The consumer advocate is appointed to ensure domestic customers are fairly represented to put them on equal footing and properly make a case before the Nova Scotia Utility and Review Board.¹⁰⁵</p> <p>The <i>Public Utilities Act</i> states the role of the consumer advocate is limited to participation in all aspects of the hearing and are accountable to the Nova Scotia Utility and Review Board.¹⁰⁶ The consumer advocate must reside in Nova Scotia and be a practicing member of the Nova Scotia Bar Society.¹⁰⁷</p>

¹⁰² Section 91(1) of the Nova Scotia *Public Utilities Act*, R.S., c.380, 1989. Available from: <https://nslegislature.ca/sites/default/files/legc/statutes/public%20utilities.pdf>

¹⁰³ Section 91(2) of the Nova Scotia *Public Utilities Act*, R.S., c.380, 1989.

¹⁰⁴ Section 92(3) of the Nova Scotia *Public Utilities Act*, R.S., c.380, 1989.

¹⁰⁵ Nova Scotia Electricity Mandate – Consumer Advocate. Document # 217887. Available from: <https://nsuarb.novascotia.ca/sites/default/files/Communications%20Plan%20-%20Electricity%20Mandate%20-%20Website%20info%20re%20CA%20-%20PGA%20Version%20-%20Jul%2013.pdf>

¹⁰⁶ Section 91(2,3) and Section 92(3,6) of the Nova Scotia *Public Utilities Act*, R.S., c.380, 1989.

¹⁰⁷ Request for Proposals for Consumer Advocate (RFP No.: UARD-23-01), p. 13. Available from: <https://nsuarb.novascotia.ca/sites/default/files/NSUARB%20300727%20RFP%20Consumer%20Advocate.pdf>

Table A7: Nova Scotia – Summary of Designated Consumer Advocate

Nova Scotia Utility and Review Board – Consumer Advocate & Small Business Advocate	
Consumer Advocate Appointment Process	<p>The consumer advocate is chosen through issuing a request for proposals, by the Nova Scotia Utility and Review Board¹⁰⁸.</p> <p>The <i>Public Utilities Act</i> states the Governor in Council or the Nova Scotia Utility and Review Board decides, the Nova Scotia Utility and Review Board to appoint a person to act as a consumer advocate in a hearing before the board¹⁰⁹.</p> <p>The <i>Public Utilities Act</i>, states the Governor in Council or the Nova Scotia Utility and Review Board decides, the Nova Scotia Utility and Review Board to appoint a person to act as a small business advocate in a hearing before the board¹¹⁰.</p>
Consumer Advocate Funding Mechanism	<p>The <i>Public Utilities Act</i> states the Nova Scotia Utility and Review Board may fix fees and expenses of a consumer advocate or small business advocate in performing their functions and duties^{111,112}.</p> <p>Consumer advocates are paid by the Nova Scotia Utility and Review Board, with costs recovered from the utility making the application or through a general assessment against the industry.¹¹³ The costs are recovered from customers through rates.</p>

¹⁰⁸ Request for Proposals for Consumer Advocate (RFP No.: UARD-23-01). Available from: <https://nsuarb.novascotia.ca/sites/default/files/NSUARB%20300727%20RFP%20Consumer%20Advocate.pdf>

¹⁰⁹ Section 91(1) of the Nova Scotia *Public Utilities Act*, R.S., c.380, 1989. Available from: <https://nslegislature.ca/sites/default/files/legc/statutes/public%20utilities.pdf>

¹¹⁰ Section 92(2) of the Nova Scotia *Public Utilities Act*, R.S., c.380, 1989.

¹¹¹ Section 91(3) of the Nova Scotia *Public Utilities Act*, R.S., c.380, 1989.

¹¹² Section 92(4) of the Nova Scotia *Public Utilities Act*, R.S., c.380, 1989.

¹¹³ Nova Scotia Electricity Mandate – Consumer Advocate. Document # 217887. Available from: <https://nsuarb.novascotia.ca/sites/default/files/Communications%20Plan%20-%20Electricity%20Mandate%20-%20Website%20info%20re%20OCA%20-%20PGA%20Version%20-%20Jul%2013.pdf>

Table A8: Nova Scotia – Policy Objectives Cited for Implementing Consumer Advocate

Nova Scotia Utility and Review Board – Consumer Advocate & Small Business Advocate	
Ensure Effective Representation	The consumer advocate is appointed to ensure domestic customers are fairly represented to put them on equal footing and properly make a case before the Nova Scotia Utility and Review Board ¹¹⁴ .
Improve Efficiency and Effectiveness Reduce the Number of Intervenors Cost Savings	<p>Reduce the Number of Intervenors</p> No, domestic customers are still eligible to represent themselves including the ability to apply for intervenor status. ¹¹⁵
Other Reasons	None.

¹¹⁴ Nova Scotia Electricity Mandate – Consumer Advocate. Document # 217887. Available from: <https://nsuarb.novascotia.ca/sites/default/files/Communications%20Plan%20-%20Electricity%20Mandate%20-%20Website%20info%20re%20CA%20-%20PGA%20Version%20-%20Jul%2013.pdf>

¹¹⁵ Nova Scotia Electricity Mandate – Consumer Advocate. Document # 217887.

Table A9: Nova Scotia – Summary of Intervenor Costs Capping Policies and Mechanisms

Nova Scotia Utility and Review Board – Consumer Advocate & Small Business Advocate	
Cap Total Intervenor Funding	Per Proceeding
Per Proceeding	No, the <i>Public Utility Act</i> states the Nova Scotia Utility and Review Board submit an annual budget that is to be borne by public utilities which carried on business for the whole or part of the proceeding year. ¹¹⁶
Per Intervenor	Per Intervenor
Per Year	None.
	Per Year
	None.
Other Policies or Mechanisms for Managing Intervenor Costs	None.

¹¹⁶ Section 15(1), Nova Scotia *Public Utilities Act*, R.S., c.380, 1989. Available from: <https://nslegislature.ca/sites/default/files/legc/statutes/public%20utilities.pdf>

Table A10: New Brunswick – Summary of Designated Consumer Advocate

New Brunswick Energy and Utilities Board - Public Intervenor	
Enabling Policy or Legislation	The <i>Act Respecting a Public Intervenor for the Energy Sector</i> states the Lieutenant-Governor in Council shall appoint a barrister and solicitor who is a member of the Law Society of New Brunswick as the Public Intervenor for the energy sector ¹¹⁷ . Section 6(5) states the Public Intervenor shall advocate in the public interest and does not represent the interests of nor advocate on behalf of a party to the proceeding, or any other interested groups.
Consumer Advocate Mandate	The <i>Act Respecting a Public Intervenor for the Energy Sector</i> states the Public Intervenor shall advocate in the public interest or ratepayers ¹¹⁸ and does not represent the interests of nor advocate on behalf of a party to the proceeding, or any other interested groups ¹¹⁹ . The role of the Public Intervenor is limited to participation in all aspects of the hearing and are accountable to the New Brunswick Energy and Utilities Board ¹²⁰ and the Attorney General ¹²¹ and shall file an annual report with the Attorney General ¹²² .
Consumer Advocate Appointment Process	The <i>Act Respecting a Public Intervenor for the Energy Sector</i> states the Lieutenant-Governor in Council shall appoint a barrister and solicitor who is a member of the Law Society of New Brunswick as the Public Intervenor for the energy sector ^{123, 124} .

¹¹⁷ Chapter 28 – An Act Respecting a Public Intervenor for the Energy Sector, Section 2. Available from: <https://laws.gnb.ca/en/pdf/cs/2013.%20C.28.pdf>

¹¹⁸ Court of Appeal of New Brunswick, 68-23-CA, Section 2. Available from: <https://www.courtsnb-coursnb.ca/content/dam/courts/pdf/appeal-appel/decisions/2024/03/2024-03-21-new-brunswick-power-corporation-v-new-brunswick-energy-and-utilities-board-et-al.-2024-nbca-44.pdf>

¹¹⁹ Chapter 28 – An Act Respecting a Public Intervenor for the Energy Sector, Section 6(5).

¹²⁰ Chapter 28 – An Act Respecting a Public Intervenor for the Energy Sector, Section 6.

¹²¹ Chapter 28 – An Act Respecting a Public Intervenor for the Energy Sector, Section 14.

¹²² Chapter 28 – An Act Respecting a Public Intervenor for the Energy Sector, Section 13(1).

¹²³ Chapter 28 – An Act Respecting a Public Intervenor for the Energy Sector, Section 2.

¹²⁴ The Royal Gazette Vol. 181, Order in Council 2023-126, p. 611. Available from: <https://www2.gnb.ca/content/dam/gnb/Corporate/Gazette/2023/rg-2023-07-26.pdf>

Table A10: New Brunswick – Summary of Designated Consumer Advocate

New Brunswick Energy and Utilities Board - Public Intervenor	
Consumer Advocate Funding Mechanism	The <i>Act Respecting a Public Intervenor for the Energy Sector</i> states the Public Intervenor shall submit an annual budget setting out the operating expenses to the Attorney General for approval ^{125,126} . The Public Intervenor then submits an accounting of all operating expenses to the Board. The Board assesses the direct and common expenses of the Public Intervenor to utilities which are recovered through rates. ¹²⁷

¹²⁵ Chapter 28 – An Act Respecting a Public Intervenor for the Energy Sector, Section 2. Available from: <https://laws.gnb.ca/en/pdf/cs/2013,%20C.28.pdf>

¹²⁶ New Brunswick Energy & Utilities Board Annual Report 2021-2022, Audited Financial Statements – 2022, p 12. Available from: https://www.leqnb.ca/content/house_business/60/1/bills/Annual%20Report%202021-2022,%20New%20Brunswick%20Energy%20and%20Utilities%20Board.pdf

¹²⁷ Chapter E-9.18 – Energy and Utilities Board Act, Section 50. Available from: <https://laws.gnb.ca/en/showfulldoc/cs/E-9.18/20200628>

Table A11: New Brunswick – Policy Objectives Cited for Implementing Consumer Advocate

New Brunswick Energy and Utilities Board - Public Intervenor	
Ensure Effective Representation	Yes, the Public Intervenor shall be deemed a party to all proceedings before the board, regardless of whether the Public Intervenor intends to intervene. ¹²⁸
Improve Efficiency and Effectiveness Reduce the Number of Intervenors Cost Savings	Reduce the Number of Intervenors None. Cost Savings None.
Other Reasons	Yes, the public energy advocate (or Public Intervenor) offers full-time and effective representation of small-scale customer classes. This allows for an equitable and accountable method of allocating costs of the Public Intervenor to the utilities whose regulatory activities necessitate the need for consumer advocacy. ¹²⁹

¹²⁸ Chapter 28 – An Act Respecting a Public Intervenor for the Energy Sector, Section 49(3). Available from: <https://laws.gnb.ca/en/pdf/cs/2013,%20C.28.pdf>

¹²⁹ The New Brunswick Energy Blueprint – October 2011, pg. 28. Available from: <https://www2.gnb.ca/content/dam/gnb/Departments/en/pdf/Publications/201110NBEnergyBlueprint.pdf>

Table A12: New Brunswick – Summary of Intervenor Costs Capping Policies and Mechanisms

New Brunswick Energy and Utilities Board - Public Intervenor	
Cap Total Intervenor Funding	Per Proceeding
Per Proceeding	None.
Per Intervenor	Per Intervenor
Per Year	None.
Other Policies or Mechanisms for Managing Intervenor Costs	Per Year
	None.
	The <i>Energy and Utilities Board Act</i> states the Board may order the costs of and incidental to any proceeding to be paid to a party in a proceeding. The Board is currently reviewing adopting procedures with respect to costs to be paid to an intervenor. ^{130,131}

¹³⁰ Chapter E-9.18 – Energy and Utilities Board Act, Section 47. Available from: <https://laws.gnb.ca/en/showfulldoc/cs/E-9.18/20200628>

¹³¹ A letter seeking feedback on the establishment of rules for cost awards. Notice – Establishment of Process. New Brunswick Energy and Utilities Board Rules of Procedure – Cost Awards. Available from: <https://nbeub.ca/uploads/2023%2012%2020%20-%20Notice%20-%20Rules%20of%20Procedure%20-%20Cost%20Awards.pdf>

Table A13: Michigan – Summary of Designated Consumer Advocate

Michigan Public Service Commission - Utility Consumer Participation Board & Attorney General's Office	
Enabling Policy or Legislation	<p>The <i>Michigan Public Service Commission Act</i> states the Utility Consumer Participation Board was initially created within the Department of Management and Budget to exercise its powers and duties under this act independently of the department¹³². The Utility Consumer Participation Board is to consist of five members appointed by the Governor, with one of whom shall be chosen from at least one lists of qualified persons submitted by the Attorney General.</p> <p>The <i>Attorney General Act</i> states the Attorney General may, intervene in and appear for the people of the state in any court or tribunal, in which the people of this state may be a party or interested.¹³³</p>

¹³² Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6l(3). Available from: [https://www.legislature.mi.gov/\(S\(lqvw2x55qzefle55x5js1c45\)\)/documents/mcl/pdf/mcl-chap460.pdf](https://www.legislature.mi.gov/(S(lqvw2x55qzefle55x5js1c45))/documents/mcl/pdf/mcl-chap460.pdf)

¹³³ The Attorney General Act Section 14(28), Michigan Compiled Laws. Available from: <https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-14-28>

Table A13: Michigan – Summary of Designated Consumer Advocate

Michigan Public Service Commission - Utility Consumer Participation Board & Attorney General's Office	
Consumer Advocate Mandate	<p>The <i>Michigan Public Service Commission Act</i> states the Utility Consumer Participation Board was created as a means of insuring equitable representation of the interests of energy utility customers¹³⁴. Section 460.6l(5) states each member of the board shall be of advocate for the interests of residential utility consumers.</p> <p>The Utility Consumer Participation Board does not appear in proceedings, but awards grants to qualified nonprofit organizations and local units of government to represent the interests of residential utility customers.¹³⁵</p> <p>The Attorney General's Office represents utility customers in general and is eligible to receive funding from the Utility Consumer Representation Fund.^{136,137} Both the Utility Consumer Participation Board and the Attorney General are to submit annual reports¹³⁸.</p> <p>The <i>Michigan Public Service Commission Act</i> states the Utility Consumer Participation Board is accountable to the Department of Licensing and Regulatory Affairs.¹³⁹ Energy utilities who apply for rate proceedings are required to remit to the Utility Consumer Representation Fund.¹⁴⁰</p>

¹³⁴ Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6l(1). Available from:

[https://www.legislature.mi.gov/\(S\(lqvw2x55gzefle55x5js1c45\)\)/documents/mcl/pdf/mcl-chap460.pdf](https://www.legislature.mi.gov/(S(lqvw2x55gzefle55x5js1c45))/documents/mcl/pdf/mcl-chap460.pdf)

¹³⁵ Utility Consumer Representation Fund Annual Report - 2022, p 5. Available from: <https://www.michigan.gov/lara/-/media/Project/Websites/lara/about/ucpb/2024/UCPB-2022-Annual-Report.pdf?rev=ead59a0eb39d45dfaf3342619117de61&hash=4C5A5147A6BD7B2A3701E2F091AD53F3>

¹³⁶ Utility Consumer Representation Fund Annual Report - 2022, p 6.

¹³⁷ Michigan Public Service Commission, MSPC No. U-21488, Section 4, p. 2. Available from: <https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y00000BQr8gAAD>

¹³⁸ Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6m(21 and 22).

¹³⁹ Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6l(3).

¹⁴⁰ Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6m(2).

Table A13: Michigan – Summary of Designated Consumer Advocate

Michigan Public Service Commission - Utility Consumer Participation Board & Attorney General's Office	
Consumer Advocate Funding Mechanism	The <i>Michigan Public Service Commission Act</i> states that each energy utility that has applied to the commission for the initiation of an energy cost recovery proceeding shall remit to the Utility Consumer Representation Fund before or upon filing its initial application for that proceeding and remitted annually ¹⁴¹ . Grants from this fund are available to Attorney General and intervenors through the Utility Consumer Participation Board to compensate for intervening in rate cases.

Table A14: Michigan – Policy Objectives Cited for Implementing Consumer Advocate

Michigan Public Service Commission - Utility Consumer Participation Board	
Ensure Effective Representation	The Utility Consumer Participation Board was created as a means of ensuring equitable representation of the interests of energy utility customers. ¹⁴²
Improve Efficiency and Effectiveness Reduce the Number of Intervenors Cost Savings	Reduce the Number of Intervenors None. Cost Savings None.
Other Reasons	None.

¹⁴¹ Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6m(2). Available from: [https://www.legislature.mi.gov/\(S\(lqvw2x55gzefle55x5js1c45\)\)/documents/mcl/pdf/mcl-chap460.pdf](https://www.legislature.mi.gov/(S(lqvw2x55gzefle55x5js1c45))/documents/mcl/pdf/mcl-chap460.pdf)

¹⁴² Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6l(1).

Table A15: Michigan – Summary of Intervenor Costs Capping Policies and Mechanisms

Michigan Public Service Commission - Utility Consumer Participation Board	
Cap Total Intervenor Funding	Per Proceeding
Per Proceeding	No, there are no caps per proceeding.
Per Intervenor	Per Intervenor
Per Year	No, there are no funding limitations per intervenor.
	Per Year
	<p>The utility consumer representation fund is funded by energy utilities and in 2022 included total remittances of:¹⁴³</p> <ul style="list-style-type: none"> • \$1.81 million from utilities with at least 100,000 customers (adjusted annually); and • \$0.23 million from utilities with less than 100,000 customers. <p>Together utilities remitted \$2.04 million to the fund with \$750,000 allocated to the Utility Consumer Participation Board and the remaining amount to the Attorney General for advocacy for utility customers in general.</p>

¹⁴³ Utility Consumer Representation Fund Annual Report – 2022, p. 2. Available from: https://www.michigan.gov/lara/-/media/Project/Websites/lara/about/Legislative-Reports/Statutory-Required-Reports/FY2022/2022-UCPB-Annual-Report_FINAL.pdf?rev=2af936dce74448c0a8659d068c0599ca&hash=65A033E7F3046F5D99231E56D556F492

Table A15: Michigan – Summary of Intervenor Costs Capping Policies and Mechanisms

Michigan Public Service Commission - Utility Consumer Participation Board	
Other Policies or Mechanisms for Managing Intervenor Costs	<p>The board may invite two or more parties to submit jointly and award a grant to be managed cooperatively.¹⁴⁴ Also, the board shall coordinate the activities of grant recipients and the attorney general to avoid duplication.¹⁴⁵</p> <p>The Utility Consumer Representation Funds collected from utilities are split between the Attorney General who advocates on behalf of all utility customers and the Utility Consumer Participation Board that awards grants to intervenors who represent residential customer groups.¹⁴⁶</p> <p>A prehearing conference may be held where parties providing for joint, coordinated, or consolidated presentation by parties having similar interests to avoid duplication of evidence and for producing and exchanging proposed exhibits and prepared testimony of proposed witnesses.¹⁴⁷</p>

¹⁴⁴ Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6m(13). Available from: [https://www.legislature.mi.gov/\(S\(lqvw2x55gzefle55x5js1c45\)\)/documents/mcl/pdf/mcl-chap460.pdf](https://www.legislature.mi.gov/(S(lqvw2x55gzefle55x5js1c45))/documents/mcl/pdf/mcl-chap460.pdf)

¹⁴⁵ Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6m(17c).

¹⁴⁶ Utility Consumer Representation Fund Annual Report - 2021, Section 1, p 3. Available from: https://www.michigan.gov/lara/-/media/Project/Websites/lara/about/ucpb/UCRF-Annual-Report-2021_Final.pdf?rev=71e3818160594583b8fac8e09947bea3&hash=EC322887EE16ED5E5503BDA091A0037A

¹⁴⁷ Michigan Office of Administrative Hearing and Rules, Section 792.10421(1)(f and h). Available from: <https://ars.apps.lara.state.mi.us/AdminCode/DownloadAdminCodeFile?FileName=R%20792.10101%20to%20R%20792.11903.pdf>

Table A16: Oregon – Summary of Designated Consumer Advocate

Oregon Public Utilities Commission - Oregon Citizens Utility Board	
Enabling Policy or Legislation	The <i>Citizens' Utility Board Act</i> states the Citizen's Utility Board shall have all rights and powers necessary to represent and protect the interests of utility consumers this includes ¹⁴⁸ conducting studies, participating in proceedings before the Board, and to adopt and modify bylaws governing the activities of the Citizens' Utility Board.
Consumer Advocate Mandate	<p>The <i>Citizens' Utility Board Act</i> states the people of the State of Oregon find that utility consumers need an effective advocate to assure that public policies affecting the quality and price of utility services reflect their needs and interest and that utility consumers have the right to form an organization which will represent their interests before legislative, administrative, and judicial bodies.¹⁴⁹</p> <p>The <i>Utility Regulation Generally Act</i> states that financial assistance may only be provided to organizations that represent broad customer interests, the interests of low-income residential customers, or interests of residential customers that are members of environmental justice communities in regulatory proceedings before the commission¹⁵⁰.</p> <p>The Citizens' Utility Board publishes an annual report but is not explicitly required to.¹⁵¹ Citizens' Utility Board is involved in energy policy advocacy, consumer education, and participates in rate proceedings.¹⁵² The Citizens' Utility Board applies for grant funding from the Oregon Public Utilities Commission which is collected from utilities.¹⁵³</p>

¹⁴⁸ The Oregon Revised Statutes, Vol. 19(57), Section 774.030 – Citizen's Utility Board Act. Available from: https://www.oregonlegislature.gov/bills_laws/ors/ors774.html

¹⁴⁹ The Oregon Revised Statutes, Vol. 19(57), Section 774.020 – Citizen's Utility Board Act.

¹⁵⁰ The Oregon Revised Statutes, Vol. 19(57), Section 757.072 – Utility Regulation Generally. Available from: https://www.oregonlegislature.gov/bills_laws/ors/ors757.html

¹⁵¹ Oregon Citizens' Utility Board Winter 2023 Report. Available from: https://cdn.oregoncub.org/images/uploads-legacy/pdfs/2023_Annual_Report_-_FINAL.pdf

¹⁵² Oregon Citizens' Utility Board Our Work – Energy. Available from: <https://oregoncub.org/our-work/energy/>

¹⁵³ Order No. 23-033, Appendix A, p. 5. Available from: <https://apps.puc.state.or.us/orders/2023ords/23-033.pdf>

Table A16: Oregon – Summary of Designated Consumer Advocate

Oregon Public Utilities Commission - Oregon Citizens Utility Board	
Consumer Advocate Appointment Process	<p>The <i>Citizens’ Utility Board Act</i> states all consumers are eligible for membership in the Citizens’ Utility Board and each member shall be entitled to cast one vote for the election of the Citizens’ Utility Board of Governors.¹⁵⁴</p> <p>The <i>Citizens’ Utility Board Act</i> states the Citizens’ Utility Board of Governors shall be composed of three persons elected from each congressional district of the state by a majority of the votes cast by members residing in that district.¹⁵⁵</p>
Consumer Advocate Funding Mechanism	<p>The <i>Public Utilities Commission Act</i> states a utility providing electricity or natural gas may enter into a written agreement to provide financial assistance to an organization that represents broad customer interests in Commission proceedings.¹⁵⁶ Only the Citizens’ Utility Board of Oregon and organizations that represent the interests of low-income residential consumers or communities, or customers that are members of environmental justice communities are eligible to enter into funding agreements with utilities.¹⁵⁷</p>

¹⁵⁴ The Oregon Revised Statutes, Vol. 19(57), Section 774.040 – Citizens’ Utility Board Act. Available from:

https://www.oregonlegislature.gov/bills_laws/ors/ors774.html

¹⁵⁵ The Oregon Revised Statutes, Vol. 19(57), Section 774.070 – Citizens’ Utility Board Act.

¹⁵⁶ Oregon Administrative Rules, Chapter 860(1), Section 860-001-0120. Available from:

<https://records.sos.state.or.us/ORSOSWebDrawer/Recordhtml/9481579>

¹⁵⁷ Oregon Administrative Rules, Chapter 860(1), Section 860-001-0810(6).

Table A17: Oregon – Policy Objectives Cited for Implementing Consumer Advocate

Oregon Public Utilities Commission - Oregon Citizens Utility Board	
Ensure Effective Representation	Utility consumers need an effective advocate to assure that public policies affecting the quality and price of utility services reflect their needs and interest. ¹⁵⁸
Improve Efficiency and Effectiveness Reduce the Number of Intervenors Cost Savings	Reduce the Number of Intervenors None. Cost Savings None.
Other Reasons	None.

¹⁵⁸ The Oregon Revised Statutes, Vol. 19(57), Section 774.020 – Citizens’ Utility Board. Available from: https://www.oregonlegislature.gov/bills_laws/ors/ors774.html

Table A18: Oregon – Summary of Intervenor Costs Capping Policies and Mechanisms

Oregon Public Utilities Commission - Oregon Citizens Utility Board	
Cap Total Intervenor Funding	Per Proceeding
Per Proceeding	Not clear.
Per Intervenor	Per Intervenor Not clear.
Per Year	Per Year Yes, there are funding agreements in place between intervenors and utilities in the amounts of grant funding available in a fiscal year. ^{159,160,161} The <i>Utility Regulation Generally Act</i> states the total aggregate financial assistance available to all organizations that represent the interests of low-income residential customers or environmental justice communities, are eligible for Justice funding agreements. The total funding for these groups may not exceed \$500,000 annually. ¹⁶²

¹⁵⁹ Order No. 20-493, Appendix A, p. 8. Available from: <https://apps.puc.state.or.us/orders/2020ords/20-493.pdf>

¹⁶⁰ Order No. 22-506, Appendix A, p. 8. Available from: <https://apps.puc.state.or.us/orders/2022ords/22-506.pdf>

¹⁶¹ Order No. 23-033, Appendix A, p. 5. Available from: <https://apps.puc.state.or.us/orders/2023ords/23-033.pdf>

¹⁶² The Oregon Revised Statutes, Vol. 19(57), Section 757.072(2) – Utility Regulation Generally. Available from: https://www.oregonlegislature.gov/bills_laws/ors/ors757.html

Table A18: Oregon – Summary of Intervenor Costs Capping Policies and Mechanisms

Oregon Public Utilities Commission - Oregon Citizens Utility Board	
Other Policies or Mechanisms for Managing Intervenor Costs	<p>Some agreements include funding for preauthorized consumer groups, with some restrictions on the number of grantees per year.¹⁶³</p> <p>A party must become pre-certified or case certified for a particular proceeding to be eligible to receive grants under an agreement.¹⁶⁴ Grant funding is allocated for groups of intervenors for specific uses including the Citizens Utility Board Fund, specific issue or case funds, and pre-certification funds.^{165,166} For justice funding agreements, no more than five eligible organizations will be pre-certified each year.¹⁶⁷</p> <p>Intervenors who represent low-income residential customers or environmental justice groups who receive grant funding are encouraged to make reasonable efforts to coordinate activities and combine efforts and resources including before submitting proposed budgets or after receiving grants. However, such cooperative efforts will not affect the amounts of their grants.¹⁶⁸</p> <p>A proposed budget must be filed 30 days after the organization and the proceeding have been pre-certified for justice funding.¹⁶⁹</p>

¹⁶³ Order No. 23-033, Appendix A, p. 5. Available from: <https://apps.puc.state.or.us/orders/2023ords/23-033.pdf>

¹⁶⁴ Pre-certified organizations are those that meet the eligibility criteria for funding and are approved for pre-certification remains pre-certified for general grant funding agreements and for one year for justice funding agreements. Oregon Public Utility Commission, Chapter 860-001-0120, 860-001-0120(2), 860-001-0120(3) and 860-001-0850(1).

¹⁶⁵ Order No. 23-033, Appendix A, p. 5.

¹⁶⁶ Order No. 22-506, Appendix A, p. 8. Available from: <https://apps.puc.state.or.us/orders/2022ords/22-506.pdf>

¹⁶⁷ Oregon Public Utility Commission, Chapter 860-001-0850(1). Available from: <https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=4027>

¹⁶⁸ Oregon Public Utility Commission, Chapter 860-001-840(3).

¹⁶⁹ Order No. 23-033, Appendix A, p. 6.

Table A19: Ohio – Summary of Designated Consumer Advocate

Public Utilities Commission of Ohio - Ohio Consumers' Counsel	
Enabling Policy or Legislation	The <i>Public Utilities Act</i> states the Consumers' Counsel shall have the rights and powers of any party of interest appearing before the public utilities commission. ¹⁷⁰
Consumer Advocate Mandate	<p>The <i>Public Utilities Act</i> states Counsel may take appropriate action with respect to residential consumer complaints; may institute, intervene in, or otherwise participate in proceedings on behalf of residential consumers; and may conduct studies concerning topics relevant to the rates charged to residential customers.¹⁷¹</p> <p>The <i>Public Utilities Act</i> states Counsel may represent one or more residential consumers of municipal corporations within an area whenever an application is made to the public utilities commission by any public utility.¹⁷²</p> <p>The Consumers' Counsel may intervene and may conduct long range studies concerning topics relevant to the rate charged to residential customers.¹⁷³ The Consumers' Counsel board shall submit an annual report to the general assembly.¹⁷⁴ The Consumers' Counsel also provide education to consumers on a variety of topics.¹⁷⁵</p>

¹⁷⁰ Ohio Revised Code, Section 4911.02.B2. Available from: <https://codes.ohio.gov/ohio-revised-code/chapter-4911>

¹⁷¹ Ohio Revised Code, Section 4911.02.B2.

¹⁷² Ohio Revised Code, Section 4911.15.

¹⁷³ Ohio Revised Code, Section 4911.02.B2.

¹⁷⁴ Ohio Revised Code, Section 4911.17.

¹⁷⁵ OCC Annual Report 2023. Available from: <https://www.occ.ohio.gov/content/occ-annual-report-2023>

Table A19: Ohio – Summary of Designated Consumer Advocate

Public Utilities Commission of Ohio - Ohio Consumers' Counsel	
Consumer Advocate Appointment Process	<p>The <i>Public Utilities Act</i> states consumers' counsel governing board is a nine-member board consisting of three representatives of organized groups representing labour, residential consumers, and family farmers and shall be appointed by the attorney general with the advice and consent of the senate.¹⁷⁶</p> <p>The <i>Public Utilities Act</i> states no person may be appointed consumers' counsel unless admitted to the practice of law in Ohio and is qualified by knowledge and experience to practice in public utility proceedings¹⁷⁷. No person who holds stocks or bonds of any utility or is a candidate for elective public office may be appointed to or employed by the consumer counsel¹⁷⁸. Counsel shall be a resident of the state, not hold any other office under any levels of government, and not engage in any other occupation or business.¹⁷⁹</p>
Consumer Advocate Funding Mechanism	<p>The <i>Public Utilities Act</i> states the consumer counsel operating fund is an amount equal to the appropriation of the office of consumers' counsel in each fiscal year to be apportioned and assessed against each public utility within the state.¹⁸⁰</p>

¹⁷⁶ Ohio Revised Code, Section 4911.17. Available from: <https://codes.ohio.gov/ohio-revised-code/chapter-4911>

¹⁷⁷ Ohio Revised Code, Section 4911.03.A.

¹⁷⁸ Ohio Revised Code, Section 4911.03.B.

¹⁷⁹ Ohio Revised Code, Section 4911.04.

¹⁸⁰ Ohio Revised Code, Section 4911.18.

Table A20: Ohio – Policy Objectives Cited for Implementing Consumer Advocate

Public Utilities Commission of Ohio - Ohio Consumers' Counsel	
Ensure Effective Representation	Yes, the Office of the Ohio Consumers' Counsel was created by the Ohio General Assembly to represent residential consumers on issues related to utility services. ¹⁸¹
Improve Efficiency and Effectiveness Reduce the Number of Intervenors Cost Savings	Reduce the Number of Intervenors None. Cost Savings None.
Other Reasons	None.

¹⁸¹About the Ohio Consumers' Counsel. Available from: [https://www.occ.ohio.gov/factsheet/fact-sheet-about-office-ohio-consumers-counsel#:~:text=The%20Office%20of%20the%20Ohio%20Consumers'%20Counsel%20\(OCC\)%20was,telephone%2C%20and%20water%20utility%20services](https://www.occ.ohio.gov/factsheet/fact-sheet-about-office-ohio-consumers-counsel#:~:text=The%20Office%20of%20the%20Ohio%20Consumers'%20Counsel%20(OCC)%20was,telephone%2C%20and%20water%20utility%20services).

Table A21: Ohio – Summary of Intervenor Costs Capping Policies and Mechanisms

Public Utilities Commission of Ohio - Ohio Consumers' Counsel	
<p>Cap Total Intervenor Funding</p> <p>Per Proceeding</p> <p>Per Intervenor</p> <p>Per Year</p>	<p>Per Proceeding</p> <p>There are currently no rules with respect to reimbursement of costs for intervenors in Ohio.¹⁸²</p> <p>Per Intervenor</p> <p>None.</p> <p>Per Year</p> <p>None.</p>
<p>Other Policies or Mechanisms for Managing Intervenor Costs</p>	<p>There are currently no rules with respect to reimbursement of costs for intervenors in Ohio.¹⁸³</p> <p>The commission will consider the extent to which an intervenor's proposed intervention is represented by existing parties.¹⁸⁴ The commission may grant limited intervention for an intervenor to participate with respect to one or more issues or may require parties with substantially similar interests to consolidate their examination of witnesses or presentation of testimony.¹⁸⁵</p>

¹⁸² Ohio Legislative Service Commission, Governor's Office of Energy Justice, p. 12. Available from: <https://www.legislature.ohio.gov/download?key=18182&format=pdf>

¹⁸³ Ohio Legislative Service Commission, Governor's Office of Energy Justice, p. 12.

¹⁸⁴ Ohio Revised Code, Section 4901-1-11(B)(5). Available from: <https://codes.ohio.gov/ohio-administrative-code/chapter-4901-1>

¹⁸⁵ Ohio Revised Code, Section 4901-1-11(D).

Table A22: United Kingdom – Summary of Designated Consumer Advocate

Office of Gas and Electricity Markets (ofgem) - Citizens Advice & Citizens Advice Scotland	
Enabling Policy or Legislation	The <i>Electricity Act</i> states an appeal may be brought to the Competition and Markets Authority against a decision by the Gas and Electricity Markets Authority by the Citizens' Advice or Citizens Advice Scotland in the capacity of representing consumers whose interests are materially affected by the decision ¹⁸⁶ .
Consumer Advocate Mandate	<p>Citizens' Advice and Citizens Advice Scotland are the consumer advocates in the United Kingdom. The Public Bodies Order 2014, states the abolition of the New National Consumer council and the transfer of their duties to Citizens' Advice and Citizens Advice Scotland.^{187,188} The powers of the former consumer advocate, the New National Consumer council, was they may provide advice and information, make proposals, or represent the views of consumers on consumer matters.¹⁸⁹</p> <p>Citizens Advice have customer service call centres, provide consumer education programs including understanding bills¹⁹⁰ and participate in stakeholder engagement alongside Ofgem to ensure a utility's Business Plan addresses the needs and preferences of consumers.¹⁹¹</p>

¹⁸⁶ The Electricity Act 1989, Chapter 29, Section 11C(1 and 2), Amended by the Energy Bill 2015-16. Available from: <https://www.legislation.gov.uk/ukpga/1989/29/data.xht?view=snippet&wrap=true>

¹⁸⁷ Public Bodies Order 2014, No.631, Section 2 and 3. Available from: <https://www.legislation.gov.uk/uksi/2014/631/contents/made>

¹⁸⁸ Consumer Futures transition to the Citizens Advice service – Frequently asked questions. Available from: https://www.citizensadvice.org.uk/global/migrated_documents/corporate/cf-transition-faqs.pdf

¹⁸⁹ Mandate of the former consumer advocate group, whose duties were later transferred to Citizens' Advice and Citizens' Advice Scotland. The Consumers, Estate, Agents and Redress Act 2007(c. 17), Section 8(1). Available from: https://www.legislation.gov.uk/ukpga/2007/17/pdfs/ukpga_20070017_en.pdf

¹⁹⁰ Citizens' Advice Annual Report 2022/23, p. 23. Available from: https://assets.ctfassets.net/mfz4nbqura3g/1CviI8xMxxf8Qzm8uI2NKbF/ad0eec22a4379960bac66ca4ed5a84a4/Citizens_Advice_Annual_Report_2022-2023.pdf

¹⁹¹ Section 2.9, Enhanced Stakeholder Engagement Guidance for RII0-ED2 – Version 2. Available from: https://www.ofgem.gov.uk/sites/default/files/docs/2021/04/ed2_enhanced_engagement_guidance_v2-clean_version-for_publication.pdf

Table A22: United Kingdom – Summary of Designated Consumer Advocate

Office of Gas and Electricity Markets (ofgem) - Citizens Advice & Citizens Advice Scotland	
Consumer Advocate Appointment Process	There is no formal appointment process for the consumer advocate. Citizens Advice is a national charity made up of over 250 independent Citizen Advice ¹⁹² charities offering one-on-one services by phone, email, webchat, face-to-face ¹⁹³ , in addition to Energy Advice, Energy Outreach, and Carbon Monoxide Advice programs. ¹⁹⁴
Consumer Advocate Funding Mechanism	Being a charitable organization, Citizens' Advice receives donations from several government departments, through grant income, corporate donations, and other income sources. ¹⁹⁵

¹⁹² Citizens' Advice Annual Report 2022/23, p. 9. Available from: https://assets.ctfassets.net/mfz4nbgura3g/1CvI8xMxxf8Qzm8uI2NKbF/ad0eec22a4379960bac66ca4ed5a84a4/Citizens_Advice_Annual_Report_2022-2023.pdf

¹⁹³ Citizens' Advice Annual Report 2022/23, p. 11.

¹⁹⁴ Citizens' Advice Annual Report 2022/23, p. 23.

¹⁹⁵ Citizens' Advice Annual Report 2022/23, p. 63.

Table A23: United Kingdom – Policy Objectives Cited for Implementing Consumer Advocate

Office of Gas and Electricity Markets (ofgem) - Citizens Advice & Citizens Advice Scotland	
Ensure Effective Representation	Yes, the former New National Consumer Council (now Citizens Advice and Citizens Advice Scotland) was established to represent the view of consumers on consumer matters.
Improve Efficiency and Effectiveness Reduce the Number of Intervenor Cost Savings	<p>Reduce the Number of Intervenor</p> Yes, the New National Consumer Council was transferred to Citizens Advice and Citizens Advice Scotland to reduce the number of organizations involved. ¹⁹⁶
	<p>Cost Savings</p> Yes, the New National Consumer Council was transferred to Citizens Advice and Citizens Advice Scotland to provide consumer protection services in a more cost-effective manner. ^{197,198}
Other Reasons	None.

¹⁹⁶ Consumer Futures transition to the Citizens Advice service – Frequently asked questions. Available from: https://www.citizensadvice.org.uk/global/migrated_documents/corporate/cf-transition-faqs.pdf

¹⁹⁷ Update on consumer protection landscape reforms, National Audit Office, Section 1.4, p. 6. April 2014 Available from: <https://www.nao.org.uk/wp-content/uploads/2014/04/Update-on-consumer-protection-landscape-reforms1.pdf>

¹⁹⁸ Consumer Futures transition to the Citizens Advice service – Frequently asked questions. Available from: https://www.citizensadvice.org.uk/global/migrated_documents/corporate/cf-transition-faqs.pdf

Table A24: United Kingdom – Summary of Intervenor Costs Capping Policies and Mechanisms

Office of Gas and Electricity Markets (Ofgem) - Citizens Advice & Citizens Advice Scotland	
Cap Total Intervenor Funding	Per Proceeding
Per Proceeding	None. The Ofgem in United Kingdom is a non-adjudicative regulator.
Per Intervenor	Per Intervenor
Per Year	None.
	Per Year
	None.
Other Policies or Mechanisms for Managing Intervenor Costs	The Ofgem in United Kingdom is a non-adjudicative regulator. Customer challenge groups are required to provide feedback to utilities on their draft business plans, to allow companies to update their business plans prior to submitting a final report to Ofgem. ¹⁹⁹

¹⁹⁹ Ofgem 2021. Guidance – RIOO-ED2 Enhanced Engagement Guidance Document Version 2, Section 3.32. Available from: https://www.ofgem.gov.uk/sites/default/files/docs/2018/11/riio-2_challenge_group_terms_of_reference.pdf

Table A25: Québec – Summary of Designated Consumer Advocate

Régie de l'énergie du Québec - Union des consommateurs	
Enabling Policy or Legislation	<p>There is no formal legislative provision that establishes a consumer advocate however there are a number of groups that represent the interests of consumers in Régie de l'énergie du Québec proceedings.</p> <p>The Union des consommateurs ("Consumers Union") is a non-profit organization made up of 14 different consumer rights groups. They intervene on issues before the Régie de l'énergie, the energy regulatory in Quebec, on issues relating to "energy rates, supply, terms of service, collection, etc.". ^{200,201}</p> <hr/> <p>The Association coopérative d'économie familiale (ACEF) de Québec ("Cooperative Home Economics Association of Quebec"), founded in 1966 in Québec City, was originally created to provide budget and legal consultation services to working-class families struggling with debt problems. ²⁰²</p>

²⁰⁰ (Translated with Google Translate) Union des consommateurs, Champ d'intervention Énergie. Available from: <https://uniondesconsommateurs.ca/champs/energie/>

²⁰¹ (Translated with Google Translate) Viviane de Tilly, Union des consommateurs, Demande R-4134-2020, Rédaction du mémoire, Page 2. Available at: https://www.regie-energie.qc.ca/fr/participants/dossiers/R-4134-2020/doc/R-4134-2020-C-UC-0004-Comm-Comm-2021_01_28.pdf

²⁰² (Translated with Google Translate) ACEF de Quebec, Notre histoire. 2022. Available from: <https://acefdequebec.com/notre-acef/> Accessed June 27, 2024

Table A25: Québec – Summary of Designated Consumer Advocate

Régie de l'énergie du Québec - Union des consommateurs	
Consumer Advocate Mandate	<p>The mission of the Union des consommateurs is to promote and defend consumer rights, with a particular focus on low-income households²⁰³ and a mandate of "research, information, and education".²⁰⁴</p> <p>The Union des consommateurs represents consumers in political, regulatory, and judicial bodies, as well as in public addressing issues like energy, personal finance, social and fiscal policies, consumer protection, health, telecommunications, broadcasting, internet, and privacy.²⁰⁵</p> <p>The Union des consommateurs does not produce an annual report.</p> <hr/> <p>The mandate of the ACEF de Québec is to provide services and assistance on the topics of personal finance, consumer rights, tenants' rights, and rights of social assistance recipients.²⁰⁶</p> <p>The ACEF de Québec produces an annual report.²⁰⁷</p>

²⁰³ (Translated with Google Translate) Viviane de Tilly, Union des consommateurs, Demande R-4134-2020, Rédaction du mémoire, Page 2.

²⁰⁴ (Translated with Google Translate) Régie de l'énergie, R-4057-2018, Union des consommateurs, Demande d'intervention. August 9, 2018. Available from: https://www.regie-energie.qc.ca/fr/participants/dossiers/R-4057-2018/doc/R-4057-2018-C-UC-0002-DemInterv-Dem-2018_08_09.pdf

²⁰⁵ (Translated with Google Translate) Union des consommateurs, Qui sommes-nous?. 2024. Available from : <https://uniondesconsommateurs.ca/a-propos/qui-sommes-nous/>

²⁰⁶ (Translated with Google Translate) ACEF de Québec, Notre histoire. 2022. Available from: <https://acefdequebec.com/notre-acef/> Accessed June 27, 2024

²⁰⁷ ACEF de Québec, Rapport annuel d'activités 2022-2023. October 11, 2023. Available from: https://acefdequebec.com/wp-content/uploads/2024/06/Rapport-annuel-ACEFQ_2022-2023_final.pdf

Table A25: Québec – Summary of Designated Consumer Advocate

Régie de l'énergie du Québec - Union des consommateurs	
Consumer Advocate Appointment Process	<p>There is no appointment process for the Union des consommateurs.</p> <p>There is no appointment process for the ACEF de Québec.</p>
Consumer Advocate Funding Mechanism	<p>Union des consommateurs is a non-for-profit organization that receives no funding from private enterprise.²⁰⁸</p> <p>ACEF de Québec receives funding through the cost award process.²⁰⁹</p> <p>The <i>Act Respecting the Régie de l'énergie</i> states that it may order any electric or natural gas distributor to pay the costs incurred for matters submitted, decisions, or orders as well as any person whose participation was considered useful.²¹⁰</p> <p>Rule 42 of the Rules of Procedure of the Régie de l'énergie states that an intervenor or applicant can file for a cost claim within 30 days of a proceeding.^{211,212}</p>

²⁰⁸ (Translated with Google Translate) Union des consommateurs, Faites un don. Available from: <https://uniondesconsommateurs.ca/a-propos/dons/>

²⁰⁹ (Translated with Google Translate) ACEF de Québec, Rapport annuel d'activités 2022-2023, Page 8. October 11, 2023. Available from: https://acefdequebec.com/wp-content/uploads/2024/06/Rapport-annuel-ACEFO_2022-2023_final.pdf

²¹⁰ Québec, Act Respecting the Régie de l'énergie, Section 36. Available from: <https://www.legisquebec.gouv.qc.ca/en/document/cs/r-6.01#se:36>

²¹¹ Québec, Rules of Procedure of the Régie de l'énergie, Payment of Costs, chapter R-6.01, r. 4.1, Rule 42. Available at: <https://www.legisquebec.gouv.qc.ca/en/pdf/cr/R-6.01,%20R.%204.1.pdf>

²¹² An example of the Union des consommateurs receiving an award for a cost claim is provided here. Régie de l'énergie, D-2021-004, R-4127-2020, Table 1, Page 19. January 19, 2021. Available at: https://www.regie-energie.qc.ca/fr/participants/dossiers/R-4127-2020/doc/R-4127-2020-A-0043-Dec-Dec-2021_01_19.pdf

Table A26: Québec – Policy Objectives Cited for Implementing Consumer Advocate

Régie de l'énergie du Québec - Union des consommateurs	
Ensure Effective Representation	The Union des consommateurs and ACEF de Québec were not created through policy.
Improve Efficiency and Effectiveness Reduce the Number of Intervenors Cost Savings	The Union des consommateurs and ACEF de Québec were not created through policy.
Other Reasons	The Union des consommateurs and ACEF de Québec were not created through policy.

Table A27: Québec – Summary of Intervenor Costs Capping Policies and Mechanisms

Régie de l'énergie du Québec - Union des consommateurs	
Cap Total Intervenor Funding	Per Proceeding, Per Intervenor, and Per Year
Per Proceeding	The Regie de l'énergie can limit the annual funding for all cases or set a per-case annual funding limit, with powers given in the <i>Act Respecting the Régie de l'énergie</i> . ²¹³
Per Intervenor	The Regie de l'énergie states in their fee payment guide that they may cap the costs necessary for the study of a file as a whole, by theme or issue of the file, or by stakeholder or category of speakers. ²¹⁴
Per Year	
Other Policies or Mechanisms for Managing Intervenor Costs	The Regie de l'énergie has various rules and criteria for whether to allow the intervener to claim costs, to ensure that they provided an adequate contribution to the hearing and had a unique contribution that differed from other intervenors points of view. ²¹⁵

²¹³ Québec, Act Respecting the Régie de l'énergie, Section 113. Available from: <https://www.legisquebec.gouv.qc.ca/en/document/cs/r-6.01#se:113>

²¹⁴ (Translated by Google Translate) Régie de l'énergie Québec, Guide De Paiement Des Frais 2020, Section 6. Available from: https://www.regie-energie.qc.ca/storage/app/media/la-regie/lois-reglements-documents-administratifs/interventions-frais-intervenants/Regie_GuidePaiementFrais2020_janvier2020.pdf

²¹⁵ (Translated by Google Translate) Régie de l'énergie Québec, Guide De Paiement Des Frais 2020, Sections 11 & 12.

Table A28: Manitoba – Summary of Designated Consumer Advocate

Manitoba Public Utilities Board - Consumers Coalition	
Enabling Policy or Legislation	<p>There is no formal legislative provision that establishes a consumer advocate.</p> <p>The Consumers Association of Canada (CAC) Manitoba, formed in 1947, has been active in Manitoba Hydro rate regulation matters since 1991 and has intervened in every General Rate Application and Cost of Service application since 2004.²¹⁶ CAC Manitoba joined with Harvest Manitoba (formerly Winnipeg Harvest), to form the Consumer’s Coalition, with its first intervention in the 2014/15 General Rate Application. In 2021, the Aboriginal Council of Winnipeg joined the Consumers Coalition, first participating as a group in Manitoba Hydro’s 2021/22 Interim Rate Application.²¹⁷</p>
Consumer Advocate Mandate	<p>The mandate for the Consumers Coalition is to “protect the interests of Manitoba Hydro’s residential customer class” while protecting their “right to just, reasonable, and sustainable rates”.²¹⁸</p> <p>While the Consumer’s Coalition is focussed on intervening in cases before the Manitoba Public Utilities Board, CAC Manitoba has a broader mandate that includes marketplace monitoring, policy research, and promoting consumer rights through education services and publications.²¹⁹</p> <p>The Consumer’s Coalition does not produce an annual report.</p>

²¹⁶ Consumers Coalition, CC-1-3, Attachment A to Intervener Application, Efficiency Manitoba 3-Year Energy Efficiency Plan Submission (2020-23). Available from: <http://www.pubmanitoba.ca/v1/proceedings-decisions/appl-current/pubs/2020-em-3-yr-plan/em-int-ex/cc-1-3-attachment-a.pdf>

²¹⁷ Consumers Coalition, CC-1, Application to Intervene in the Manitoba Hydro 2023/24 & 2024/25 General Rate Application. Available from: <http://www.pubmanitoba.ca/v1/proceedings-decisions/appl-current/pubs/2022-mh-gra/cc-1-cc-intervenerapplication.pdf>

²¹⁸ Consumers Coalition, CC-1, Application to Intervene in the Manitoba Hydro 2023/24 & 2024/25 General Rate Application, Pages 3 & 7.

²¹⁹ CAC Manitoba, History. 2024. Available from: <https://cacmanitoba.ca/history>

Table A28: Manitoba – Summary of Designated Consumer Advocate

Manitoba Public Utilities Board - Consumers Coalition	
Consumer Advocate Appointment Process	There is no appointment process for the Consumers Coalition.
Consumer Advocate Funding Mechanism	<p>The <i>Public Utilities Board Act of Manitoba</i> states that “The board may order by whom, and to whom, any costs are to be paid, and by whom the costs are to be taxed and allowed.”^{220,221}</p> <p>Rule 43 of the Rules of Practice and Procedure further ensures that interveners avoid duplication by only awarding costs to those who have “cooperated with other Interveners who have common objectives”.²²²</p>

²²⁰ Government of Manitoba, The Public Utilities Board Act, Order for payment of costs, Section 56(2). Available from: <https://web2.gov.mb.ca/laws/statutes/ccsm/pdf.php?cap=p280>

²²¹ It is conventional in Manitoba for the party who submitted the application to be ordered to pay intervener costs. An example can be found here. Public Utilities Board, Order No. 143/23, page 8. Available from: <http://www.pubmanitoba.ca/v1/proceedings-decisions/orders/pubs/23-orders/143-23.pdf>

²²² Public Utilities Board, Rules of Practice and Procedure, Rule 43. Available from: http://www.pubmanitoba.ca/pdf/pandp/rules_pandp_mar07.pdf

Table A29: Manitoba – Policy Objectives Cited for Implementing Consumer Advocate

Manitoba Public Utilities Board - Consumers Coalition	
Ensure Effective Representation	The Consumer Coalition was not created through policy.
Improve Efficiency and Effectiveness Reduce the Number of Intervenors Cost Savings	Reduce the Number of Intervenors The Consumer Coalition was not created through policy. Cost Savings The Consumer Coalition was not created through policy.
Other Reasons	The Consumer Coalition was not created through policy.

Table A30: Manitoba – Summary of Intervenor Costs Capping Policies and Mechanisms

Manitoba Public Utilities Board - Consumers Coalition	
<p>Cap Total Intervenor Funding</p> <p>Per Proceeding</p> <p>Per Intervenor</p> <p>Per Year</p>	<p>Per Proceeding</p> <p>Costs “may be fixed in any case at a sum certain”.²²³</p> <p>Per Intervenor</p> <p>None</p> <p>Per Year</p> <p>None</p>
<p>Other Policies or Mechanisms for Managing Intervenor Costs</p>	<p>The Manitoba Public Utilities Board has various rules and criteria for whether to allow or limit the intervenor to claim costs, ensuring that they made a significant and relevant contribution to the proceeding, cooperated with other intervenors to avoid duplication, represented substantial interests beyond their own, unnecessarily add length to the proceeding, or gone significantly over budget without informing the board.²²⁴</p> <p>Furthermore, in Manitoba an intervenor is also supposed to “attend any pre-hearing conference to confer with other intervenors and avoid duplication of evidence...”.²²⁵</p>

²²³ Government of Manitoba, The Public Utilities Board Act 56(1). November 3, 2022.

<https://web2.gov.mb.ca/laws/statutes/ccsm/p280.php?lang=en#56>

²²⁴ Public Utilities Board Manitoba, Intervenor Costs Policy for General Rate Applications, Section 3.0. Available from:

<http://www.pubmanitoba.ca/v1/about-pub/pubs/int-cost-policy-gra-.pdf>

²²⁵ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rules 46(3). Available from:

http://www.pubmanitoba.ca/pdf/pandp/rules_pandp_mar07.pdf

Table A31: Alberta – Summary of Designated Consumer Advocate

Alberta Utilities Commission - Utilities Consumer Advocate	
Enabling Policy or Legislation	<p>The Utilities Consumer Advocate (UCA) was originally established through Order in Council 433/2003 in October 2003 as a program within the Ministry of Government Services.²²⁶ It was created in response to a report by the Advisory Council on Electricity (ACE) that was tasked with looking at electricity-billing problems. This report recommended the creation of a UCA to represent small consumers and to provide more education about consumer choice in the retail electricity and gas markets.²²⁷</p> <p>In 2007, the UCA's responsibilities were defined in legislation in Schedule 13.1 of the <i>Government Organization Act</i> and regulated through the Utilities Consumer Advocate Regulation.^{228, 229}</p>

²²⁶ Alberta Government Services, Annual Report 2003-2004, Page 89. Available from: <https://open.alberta.ca/dataset/eebd69da-2293-482f-b9e3-69c1b3c4e059/resource/84b22dc5-eaf8-4604-b509-746a197b24c5/download/annrep03-04.pdf>

²²⁷ Alberta Ministry of Energy, 2003-2004 Annual Report, Page 32. Available from: <https://open.alberta.ca/dataset/cbd7147b-d304-4e3e-af28-78970c71232c/resource/b53421a2-f8fa-42b9-8093-f1479d98dfc/download/6847119-2003-2004-Alberta-Energy-Annual-Report.pdf>

²²⁸ The Utilities Consumer Advocate, Affordability and Utilities, Annual Report 2022-2023. Available from: <https://open.alberta.ca/dataset/ee6fc86b-2c20-4895-b677-9119712cd4e4/resource/932c5f1f-6da0-4d6b-91d8-15e5702e8252/download/au-annual-report-2022-2023.pdf>

²²⁹ Schedule 13.1 – Office of the Utilities Consumer Advocate, Government Organization Act, Alberta. Available from: https://kings-printer.alberta.ca/1266.cfm?page=G10.cfm&leg_type=Acts&isbncln=9780779780303&display=html

Table A31: Alberta– Summary of Designated Consumer Advocate

Alberta Utilities Commission - Utilities Consumer Advocate	
Consumer Advocate Mandate	<p>The mandate for the UCA is established in Schedule 13.1 of the <i>Alberta Government Organization Act</i>.</p> <p>The <i>Alberta Government Organization Act</i> states that the UCA represents residential, farm, and small business customers of electricity and natural gas before proceedings of the Alberta Utilities Commission (AUC) or other bodies that affect the interests of consumers. The UCA is also ordered to disseminate independent and impartial information about the regulatory process. The UCA has a number of responsibilities to serve utility customers that are not directly related to regulatory proceedings or the AUC.²³⁰</p> <p>The Consumer Advocate reports to the relevant government ministry, at the time of inception being the Minister of Government Services.²³¹</p> <p>The UCA publishes an annual report.²³²</p>
Consumer Advocate Appointment Process	<p>The <i>Alberta Government Organization Act</i> states that for any committee or council established in the act, a government minister can appoint or provide the manner of appointment for its members.²³³</p>
Consumer Advocate Funding Mechanism	<p>The funding for the UCA comes from the industry, 80% by the Balancing Pool and 20% from Natural Gas Utilities.^{234,235} Section 148 of the <i>Electric Utilities Act</i> and Section 28.1(8) of the <i>Gas Utilities Act</i> establishes the recovery of costs.^{236,237}</p>

²³⁰ Schedule 13.1 — Office of the Utilities Consumer Advocate, Government Organization Act, Alberta. Available from: https://kings-printer.alberta.ca/1266.cfm?page=G10.cfm&leg_type=Acts&isbncIn=9780779780303&display=html

²³¹ Alberta Ministry of Energy 2003-2004 Annual Report, Page 30. Available from: <https://open.alberta.ca/dataset/cbd7147b-d304-4e3e-af28-78970c71232c/resource/b53421a2-f8fa-42b9-8093-f1479d98dffc/download/6847119-2003-2004-Alberta-Energy-Annual-Report.pdf>

²³² The Utilities Consumer Advocate, Affordability and Utilities, Annual Report 2022-2023.

²³³ Schedule 13.1(3), Government Organization Act, Alberta, Section 7(2).

²³⁴ Chapter 6, Financial Information, Office of the Utilities Consumer Advocate, Annual Report 2022-2023. Available from: <https://ucahelps.alberta.ca/documents/UCA%20Annual%20Report%202022-23.pdf>

²³⁵ The Utilities Consumer Advocate, Affordability and Utilities, Annual Report 2022-2023.

²³⁶ Section 148, Electric Utilities Act, Alberta. Available from: https://kings-printer.alberta.ca/1266.cfm?page=E05P1.cfm&leg_type=Acts&isbncIn=9780779846238&display=html

²³⁷ Section 28.1(8), Gas Utilities Act, Alberta. Available from: https://kings-printer.alberta.ca/1266.cfm?page=G05.cfm&leg_type=Acts&isbncIn=9780779837106&display=html

Table A32: Alberta – Policy Objectives Cited for Implementing Consumer Advocate

Alberta Utilities Commission - Utilities Consumer Advocate	
Ensure Effective Representation	Since its inception in 2003, following the deregulation of the electricity market that began in 1996, the UCA was designed to represent small consumers in the regulatory process. ^{238,239}
Improve Efficiency and Effectiveness Reduce the Number of Intervenors Cost Savings	Reduce the Number of Intervenors and Cost Savings One of the benefits presented as a result of the introduction of the UCA was the reduction of the total number of intervenors, “many of whom are representing a same or similar argument”. This would help to “reduce the time and cost to conduct hearings”. ²⁴⁰
Other Reasons	The UCA was first recommended in a report by the Advisory Council on Electricity (ACE) as a third party that investigates and reports on consumer complaints. The report also called for more consumer education, a function that the Utilities Consumer advocate serves. ²⁴¹

²³⁸ Alberta Ministry of Energy 2003-2004 Annual Report, Page 32. Available from: <https://open.alberta.ca/dataset/cbd7147b-d304-4e3e-af28-78970c71232c/resource/b53421a2-f8fa-42b9-8093-f1479d98dffcc/download/6847119-2003-2004-Alberta-Energy-Annual-Report.pdf>

²³⁹ Government of Alberta, Alberta electricity overview. Available from: <https://www.alberta.ca/alberta-electricity-overview>

²⁴⁰ Mel Knight (Minister of Energy), Alberta Hansard. November 15, 2007. Available from: https://docs.assembly.ab.ca/LADDAR_files/docs/hansards/han/legislature_26/session_3/20071115_1300_01_han.pdf

²⁴¹ Alberta Advisory Council, Report and Recommendations on Consumer Concerns, Page 2. September 2003. Available from: https://open.alberta.ca/dataset/0e4941d5-6976-4174-8e23-08ed068dd529/resource/ebb6e72a-f699-4982-ae4f-7e7d634f482e/download/ace_final_report.pdf

Table A33: Alberta – Summary of Intervenor Costs Capping Policies and Mechanisms

Alberta Utilities Commission - Utilities Consumer Advocate	
<p>Cap Total Intervenor Funding</p> <p style="padding-left: 40px;">Per Proceeding</p> <p style="padding-left: 40px;">Per Intervenor</p> <p style="padding-left: 40px;">Per Year</p>	<p>Per Proceeding</p> <p>None</p> <p>Per Intervenor</p> <p>None</p> <p>Per Year</p> <p>None</p>
<p>Other Policies or Mechanisms for Managing Intervenor Costs</p>	<p>In Alberta, in determining the amount of costs awarded, the AUC can consider if a participant “made reasonable efforts to cooperate with other parties to reduce the duplication of evidence and questions or to combine its submission with that of similarly interested participants.”²⁴²</p> <p>The AUC also has various policies for managing costs including if the participant needed legal or technical expertise to take part, contributed a sufficient amount with an adequate level of expertise, had reasonable costs, pursued relevant issues, broke commission rules, asked duplicative questions, unnecessarily lengthened the proceeding, and any other matter that the commission chooses.²⁴³</p>

²⁴² Alberta Utilities Commission, Rule 022 – Rules on Costs in Utility Rates Proceedings, Rule 11.2(c). February 7, 2024. Available from: https://media.www.auc.ab.ca/prd-wp-uploads/regulatory_documents/Consultations/2024-02-07-Rule022.pdf

²⁴³ Alberta Utilities Commission, Rule 022 – Rules on Costs in Utility Rates Proceedings. February 7, 2024.

Table A34: British Columbia – Summary of Designated Consumer Advocate

British Columbia Utilities Commission - Residential Consumer Intervenor Group	
Enabling Policy or Legislation	The British Columbia Utilities Commission (BCUC) released an RFP on July 13, 2020 for the formation on the group with the reason provided that it is “important for residential and individual ratepayers to be represented in regulatory proceedings before the BCUC as BCUC decisions affect the rates they pay and the safety and reliability of the services”. ²⁴⁴ In January 2021, the BCUC entered into an agreement with Midgard Consulting Inc. (Midgard) to establish the Residential Consumer Intervenor Group (“RCIG”). ²⁴⁵ The name of the intervenor group was changed to the Residential Consumer Intervenor Association (“RCIA”) in 2021. ²⁴⁶

²⁴⁴ RFP 11552 - BCUC Consumer Intervenor Group, MERX. Available from: <https://www.merx.com/public/supplier/solicitations/notice/940579699/abstract>

²⁴⁵ NEWS RELEASE – BCUC Enters Agreement to Support the Establishment of a Residential Ratepayer Group, British Columbia Utilities Commission. Available from: https://assets-global.website-files.com/60a2c768289ac03b58ab1f99/60a2dfd2ccfec65cd0a38d3f_2021-01-14-News-Release-BCUC-Residential-Ratepayer-Group.pdf

²⁴⁶ Section 1.4, Regulatory Process, Decision and Order G-310-21A, Creative Energy Vancouver Platforms Inc. Available from: <https://www.ordersdecisions.bcuc.com/bcuc/decisions/en/item/515249/index.do>

Table A34: British Columbia– Summary of Designated Consumer Advocate

British Columbia Utilities Commission - Residential Consumer Intervenor Group	
Consumer Advocate Mandate	<p>The intervenor group represents residential ratepayers in BCUC matters.^{247,248} The RCIA's mandate is focussed towards:</p> <ul style="list-style-type: none"> • Economic considerations with a view to minimizing costs while seeking commercially reasonable and safe performance; • Technological innovation opportunities but striving to avoid stranded costs; and • Evidence-based decision making with measurable targets.²⁴⁹ <p>The RCIA can make an application on any public proceeding where “the decision may impact ratepayers”. The RCIA decides what proceedings it would like to intervene in.²⁵⁰</p> <p>The RCIA has yet to post an annual report on their website.²⁵¹</p> <p>One of the terms of service as part of the RFP was that the contractor was an independent contractor, not an employee, agent, or partner of the BCUC.²⁵²</p>

²⁴⁷ NEWS RELEASE – BCUC Enters Agreement to Support the Establishment of a Residential Ratepayer Group, British Columbia Utilities Commission. Available from: https://assets-global.website-files.com/60a2c768289ac03b58ab1f99/60a2dfd2ccfec65cd0a38d3f_2021-01-14-News-Release-BCUC-Residential-Ratepayer-Group.pdf

²⁴⁸ Exhibit C8-1, BC Hydro F2022 Revenue Requirements, Residential Consumer Intervenor Group. Available from: https://docs.bcuc.com/documents/proceedings/2021/doc_60537_c8-1-rcig-request-to-intervene.pdf

²⁴⁹ Exhibit C5-1, BC Hydro EV Fast Charging Raste Application, Residential Consumer Intervenor Association. Available from: https://docs.bcuc.com/documents/proceedings/2021/doc_62141_c5-1-rcia-request-to-intervene.pdf

²⁵⁰ BCUC, RFP 11552, Questions and Answers, Q1 & Q2. August 14, 2020. Available from: https://bcbid.gov.bc.ca/bare.aspx/en/fil/download/9c9dbf40b-3681-4c7b-9dc0-e74af9b52533?file_context%5BcontainerUrl%5D=/rfp/rfp_info_extranet/138373/&file_context%5Bbrfp%5D=138373

²⁵¹ RCIA, Governance & Transparency, Reporting. 2023. Available from: <https://www.residentialintervenor.com/about-us/leadership-and-annual-reports>

²⁵² BCUC, Request for Proposals, RFP 11552, Terms of General Service Agreement. July 10, 2020. Available from: https://bcbid.gov.bc.ca/bare.aspx/en/fil/download/ae0f0294-6d36-4e29-8a2d-54f60b10dae0?file_context%5BcontainerUrl%5D=/rfp/rfp_info_extranet/138373/&file_context%5Bbrfp%5D=138373

Table A34: British Columbia– Summary of Designated Consumer Advocate

British Columbia Utilities Commission - Residential Consumer Intervenor Group	
Consumer Advocate Appointment Process	There is no appointment process for the RCIA.
Consumer Advocate Funding Mechanism	As the RCIA is an intervening group, it is funded through the normal mechanisms that all intervening groups are subject to. The eligibility for participation cost awards is laid out in Part VI of the Rules of Practice and Procedure for the BCUC. Part IV of the Rules of Practice and Procedure states that BCUC may “order a participant or participants to pay all or part of the costs of another participant or participants”. ²⁵³

²⁵³ Part IV, Rules of Practice and Procedure, Order G-72-23, British Columbia Utilities Commission. Available from: <https://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/521582/index.do>

Table A35: British Columbia – Policy Objectives Cited for Implementing Consumer Advocate

British Columbia Utilities Commission - Residential Consumer Intervenor Group	
Ensure Effective Representation	The RCIA is responsible for representing the interests of residential ratepayers and building a sustainable program for intervening in BCUC hearings. ²⁵⁴
Improve Efficiency and Effectiveness Reduce the Number of Intervenors Cost Savings	Reduce the Number of Intervenors None Cost Savings None
Other Reasons	None

²⁵⁴ BCUC, Request for Proposals, RFP 11552, Section 3.3. July 10, 2020. Available from: https://bcbid.gov.bc.ca/bare.aspx/en/fil/download/ae0f0294-6d36-4e29-8a2d-54f60b10dae0?file_context%5BcontainerUrl%5D=/rfp/rfp_info_extranet/138373/&file_context%5Bbrfp%5D=138373

Table A36: British Columbia – Summary of Intervenor Costs Capping Policies and Mechanisms

British Columbia Utilities Commission - Residential Consumer Intervenor Group	
<p>Cap Total Intervenor Funding</p> <p> Per Proceeding</p> <p> Per Intervenor</p> <p> Per Year</p>	<p>Per Proceeding</p> <p>According to the BCUC Rules of Practice and Procedure, the BCUC “may establish a cap on all, or on part of, a cost award available in a proceeding to any or all participants”.²⁵⁵</p> <p>Per Intervenor</p> <p>As above</p> <p>Per Year</p> <p>None</p>
<p>Other Policies or Mechanisms for Managing Intervenor Costs</p>	<p>The BCUC has various policies for managing costs in a cost award including whether the costs incurred were reasonable and necessary, whether they contributed adequately, whether there was coordination with other participants with similar interests, whether they tried to keep the hearing short, efficient, and not unnecessarily long, whether they adequately participated in the hearing, whether they refrained from inappropriate or irresponsible activities, whether they stayed within scope of the proceeding and their participation and were not overly repetitive, whether they incurred an appropriate amount of time, and complied with all orders, directions, and rules.²⁵⁶</p>

²⁵⁵ British Columbia Utilities Commission, Order G-72-23, Section 32.02. Available from: <https://www.ordersdecisions.b cuc.com/bcuc/orders/en/item/521582/index.do>

²⁵⁶ British Columbia Utilities Commission, Order G-72-23, Section 36.01.

Table A37: Wisconsin – Summary of Designated Consumer Advocate

Wisconsin Public Service Commission – Citizens Utility Board	
Enabling Policy or Legislation	The Citizens Utility Board (“CUB”) and Wisconsin Industrial Energy Group (“WIEG”) are consumer groups that represent utility customers before the Public Service Commission in most major proceedings. The CUB was created by the state Legislature in 1979 under Wisconsin Statute 199 and opened in 1980, reorganizing as a private nonprofit organization in 1986. ²⁵⁷
Consumer Advocate Mandate	<p>Article III of the Bylaws of the CUB state that the purpose of the corporation is to:</p> <ol style="list-style-type: none"> 1. Provide public interest legal services to ensure effective and democratic representation of residential, small commercial, and small industrial utility customers before regulatory agencies and the courts. 2. Advocate for safe, reliable, affordable, and environmentally responsible utility services. 3. Educate and empower consumers and the general public through the preparation, compilation, analysis, and dissemination of information and resource materials relating to public utility regulation and policy.²⁵⁸ <p>The CUB publishes annual reports.²⁵⁹</p>

²⁵⁷ Our Story, Citizens Utility Board of Wisconsin. Available from: <https://cubwi.org/about-us/>

²⁵⁸ Article III – Purpose of the Corporation, Bylaws, Citizens Utility Board of Wisconsin. Available from: https://cubwi.org/cub_files/#

²⁵⁹ Citizens Utility Board of Wisconsin, Annual Report 2022. August 2023. Available from: <https://cubwi.org/download/cub-annual-report-2022/>

Table A37: Wisconsin– Summary of Designated Consumer Advocate

Wisconsin Public Service Commission – Citizens Utility Board	
Consumer Advocate Appointment Process	<p>Article V of the CUB Bylaws states that any “individuals, small businesses, and non-profit organizations that are customers of utility service” may become members. Article VI of the CUB Bylaws states that the Board of Directors are elected by members. Article VII of the CUB Bylaws states that officers (President, Vice President, Secretary, and Treasurer) are elected by Directors.²⁶⁰</p> <p>The original consumer advocate under Wisconsin Statute 199.06(1) states that 2 members of the board (directors) are elected from each district.²⁶¹</p>

²⁶⁰ Bylaws, Citizens Utility Board of Wisconsin. Available from: <https://cubwi.org/download/cub-bylaws/>

²⁶¹ Wisconsin Statute 199.06(1), Citizens Utility Board of Wisconsin, Wisconsin. Available from: <https://docs.legis.wisconsin.gov/statutes/statutes/199>

Table A37: Wisconsin– Summary of Designated Consumer Advocate

Wisconsin Public Service Commission – Citizens Utility Board	
Consumer Advocate Funding Mechanism	<p>The funding mechanism for the CUB is detailed in the <i>Regulation of Public Utilities Act</i>. The public service commission approves the CUB’s budget. Each investor-owned electric or natural gas public utility is required to pay part of the CUB’s approved budget proportionate share of the total number of residential, small commercial, and small industrial customer meters reported by energy utilities.²⁶² The majority of the rest of the budget comes from membership dues and contributions, with the Public Service Commission of Wisconsin also providing funding.²⁶³</p> <p>In past years the Citizen’s Utility Board was provided \$300,000 to support its general operating expenses.²⁶⁴ The consumer advocate must file a budget up to \$900,000, approved by the consumer advocate’s board of directors, that is approved by the commission.²⁶⁵ The consumer advocate received \$818,725 in 2022.²⁶⁶</p> <p>In addition, the consumer advocate is eligible for up to \$100,000 in compensation through the normal intervenor financing method.²⁶⁷</p>

²⁶² Wisconsin Statute 196.315, Consumer Advocate Funding, Regulation of Public Utilities, Wisconsin. Available from: <https://docs.legis.wisconsin.gov/statutes/statutes/196/315>

²⁶³ Citizens Utility Board of Wisconsin, Financial Statements with Supplementary Information, 2021-2022, Page 5. Available from: CUB Audit – 2022 (https://cubwi.org/cub_files/#)

²⁶⁴ Wisconsin, Legislative Fiscal Bureau, Intervenor Compensation. May 2021. Available from: https://docs.legis.wisconsin.gov/misc/lfb/budget/2021_23_biennial_budget/302_budget_papers/536_public_service_commission_departmentwide_and_energy_programs_intervenor_compensation.pdf

²⁶⁵ Wisconsin Statute 196.315(3) & (5), Consumer Advocate Funding, Regulation of Public Utilities, Wisconsin. Available from: <https://docs.legis.wisconsin.gov/statutes/statutes/196/315>

²⁶⁶ Citizens Utility Board of Wisconsin, Financial Statements with Supplementary Information, 2021-2022. Available from: CUB Audit – 2022 (<https://cubwi.org/download/cub-audit-2023/>)

²⁶⁷ Wisconsin Statute 196.31(2m), Consumer Advocate Funding, Regulation of Public Utilities, Wisconsin. Available from: <https://docs.legis.wisconsin.gov/statutes/statutes/196/31>

Table A38: Wisconsin – Policy Objectives Cited for Implementing Consumer Advocate

Wisconsin Public Service Commission – Citizens Utility Board	
Ensure Effective Representation	The <i>Citizens Utility Board Act</i> cites promotion of “health, welfare, and prosperity of all citizens... by ensuring effective and democratic representation of individual farmers and other individual residential utility consumers before regulatory agencies, the legislature and other public bodies”. ²⁶⁸
Improve Efficiency and Effectiveness Reduce the Number of Intervenors Cost Savings	<p>Reduce the Number of Intervenors</p> None
	<p>Cost Savings</p> None
Other Reasons	The <i>Citizens Utility Board Act</i> cites “providing for consumer education on utility service costs and on benefits and methods of energy conservation”. ²⁶⁹

²⁶⁸ Wisconsin Statute 199.02, Citizens Utility Board of Wisconsin, Wisconsin. Available from: <https://docs.legis.wisconsin.gov/statutes/statutes/199>

²⁶⁹ Wisconsin Statute 199.02, Citizens Utility Board of Wisconsin, Wisconsin.

Table A39: Wisconsin – Summary of Intervenor Costs Capping Policies and Mechanisms

Wisconsin Public Service Commission – Citizens Utility Board	
Cap Total Intervenor Funding	Per Proceeding
Per Proceeding	None
Per Intervenor	Per Intervenor
Per Year	None
	Per Year
	The maximum amount of funding available for intervenor compensation is set at \$542,500 for 2023-2024 and 2024-2025. ²⁷⁰
	The Public Service Commission must compensate “some or all of the reasonable costs of participation” for any participant in a Public Service Commission proceeding granted that they meet the stated requirements and are not a public utility. ²⁷¹
	In 2019, the amount of available funding for intervenor compensation increased from \$442,500 to \$542.500. As of 2021, the Public Service Commission had not regularly reached its expenditure authority limit (spending \$375,100 on intervenor compensation in 2019-20). ²⁷²

²⁷⁰ State of Wisconsin, 2023 Senate Bill 70, Act 19, 20.155(1)(g) Public Service Commission, Page 24. July 5, 2023. Available from: <https://docs.legis.wisconsin.gov/2023/related/acts/19.pdf>

²⁷¹ Wisconsin, Regulation of Public Utilities, Statute 196.31. Available from: <https://docs.legis.wisconsin.gov/statutes/statutes/196/31>

²⁷² Wisconsin, Legislative Fiscal Bureau, Intervenor Compensation. May 2021. Available from: https://docs.legis.wisconsin.gov/misc/lfb/budget/2021_23_biennial_budget/302_budget_papers/536_public_service_commission_departmentwide_and_energy_programs_intervenor_compensation.pdf

Table A39: Wisconsin – Summary of Intervenor Costs Capping Policies and Mechanisms

Wisconsin Public Service Commission – Citizens Utility Board	
Other Policies or Mechanisms for Managing Intervenor Costs	<p>According to the Wisconsin Public Service Intervenor Compensation rules, in order to be eligible for a cost award "intervention in the proceeding would cause significant financial hardship without compensation from the commission."²⁷³</p> <p>Other rules include that the customer must be materially affected, who represent a unique interest that would not otherwise be adequately represented, who are necessary for a fair determination.²⁷⁴</p> <p>Ideas/viewpoints presented must be substantive, novel, or significant.²⁷⁵</p> <p>A commission employee that reviews applications can call a conference among applications to promote and coordinate a joint presentation if similar interests exist.²⁷⁶</p>

²⁷³ Wisconsin Public Service Commission, Chapter PSC 3 – Intervenor Compensation, PSC 3.02(b). April 2007. Available from: <https://psc.wi.gov/Documents/IntervenorComp-Chapter3.pdf>

²⁷⁴ Wisconsin Public Service Commission, Chapter PSC 3 – Intervenor Compensation, PSC 3.02. April 2007.

²⁷⁵ Wisconsin Public Service Commission, Chapter PSC 3 – Intervenor Compensation, PSC 3.03(2)(c). April 2007.

²⁷⁶ Wisconsin Public Service Commission, Chapter PSC 3 – Intervenor Compensation, PSC 3.05(2). April 2007.

Table A40: California – Summary of Designated Consumer Advocate

California Public Utilities Commission - Public Advocates Office	
Enabling Policy or Legislation	The Public Advocates Office, created in 1984, is an independent organization within the California Public Utilities Commission (“CPUC”) that advocates on behalf of utility ratepayers. ^{277,278} The Public Advocates Office was created through legislature, in the <i>Public Utilities Act</i> . ²⁷⁹
Consumer Advocate Mandate	The mandate of the Public Advocates Office is to “obtain the lowest possible rate for service consistent with reliable and safe service levels”. The office is directed to “primarily consider the interests of residential and small commercial customers”. The mandate is established in the <i>Public Utilities Act</i> . ²⁸⁰ The Public Advocates Office produces an annual report. ²⁸¹
Consumer Advocate Appointment Process	The director of the Public Advocates Office is appointed by the Governor and confirmed by the Senate. This is legislated in the <i>Public Utilities Act</i> . ²⁸²

²⁷⁷ Public Advocates Office’s Mission, Public Advocates Office, Public Utilities Commission, State of California. Available from: <https://www.cpuc.ca.gov/about-cpuc/divisions/public-advocates-office>

²⁷⁸ About, The Public Advocates Office, State of California. Available from: <https://www.publicadvocates.cpuc.ca.gov/about>

²⁷⁹ Public Utilities Code 309.5, Regulation of Public Utilities, Public Utilities Act, State of California. Available from: https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PUC§ionNum=309.5.

²⁸⁰ Public Utilities Code 309.5, Regulation of Public Utilities, Public Utilities Act, State of California.

²⁸¹ The Public Advocates Office – The Consumer Advocate at the California Public Utilities Commission, 2023 Annual Report, Page 27. Available from: <https://www.publicadvocates.cpuc.ca.gov/-/media/cal-advocates-website/files/press-room/reports-and-analyses/annual-reports/2023-annual-report.pdf>

²⁸² Public Utilities Code 309.5(b), Regulation of Public Utilities, Public Utilities Act, State of California.

Table A40: California – Summary of Designated Consumer Advocate

California Public Utilities Commission - Public Advocates Office	
Consumer Advocate Funding Mechanism	<p>The Public Advocates Office is funded through the budget of the California Government, legislated in the <i>Public Utilities Act</i>. The budget is approved through the California Department of Finance.²⁸³ The final enacted budget for the office was \$53.406 million in 2022-2023 with \$47.608 million expended.^{284,285}</p> <p>The Public Advocates Office has an additional budget (\$3 million in 2023-2024) authorized for reimbursable contracts. Reimbursable contracts are available for certain types of proceedings including audits, mergers, and major resource additions where expert consultant services are required.²⁸⁶</p>

²⁸³ Public Utilities Code 309.5, Regulation of Public Utilities, Public Utilities Act, State of California. Available from:

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PUC§ionNum=309.5.

²⁸⁴ California 2022-23 State Budget, 8660 Public Utilities Commission. June 27, 2022. Available from:

<https://ebudget.ca.gov/budget/publication/#/e/2022-23/Department/8660>

²⁸⁵ The Public Advocates Office – The Consumer Advocate at the California Public Utilities Commission, 2023 Annual Report, Page 27. Available from:

<https://www.publicadvocates.cpuc.ca.gov/-/media/cal-advocates-website/files/press-room/reports-and-analyses/annual-reports/2023-annual-report.pdf>

²⁸⁶ The Public Advocates Office – The Consumer Advocate at the California Public Utilities Commission, 2023 Annual Report, Page 27.

Table A41: California – Policy Objectives Cited for Implementing Consumer Advocate

California Public Utilities Commission - Public Advocates Office	
Ensure Effective Representation	The Public Advocates Office has the mandate “to represent and advocate on behalf of the interests of public utility customers and subscribers within the jurisdiction of the commission”, as stated in the <i>Public Utilities Act</i> . ²⁸⁷
Improve Efficiency and Effectiveness Reduce the Number of Intervenors Cost Savings	Reduce the Number of Intervenors None Cost Savings None
Other Reasons	The CPUC reorganized the functions of the Public Staff Division and renamed it the Office of Ratepayer Advocates (ORA) (which would later become the Public Advocate’s Office) in order to “improve efficiency of staff and resources”. ²⁸⁸

²⁸⁷ Public Utilities Code 309.5(a), Regulation of Public Utilities, Public Utilities Act, State of California. Available from: https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PUC§ionNum=309.5.

²⁸⁸ California, The Public Advocates Office, Our History. 2024. Available from: <https://www.publicadvocates.cpuc.ca.gov/about/office-history>

Table A42: California – Summary of Intervenor Costs Capping Policies and Mechanisms

California Public Utilities Commission - Public Advocates Office	
Cap Total Intervenor Funding	Per Proceeding
Per Proceeding	None
Per Intervenor	Per Intervenor None
Per Year	Per Year None
Other Policies or Mechanisms for Managing Intervenor Costs	<p>The compensation provided under the <i>Public Utilities Act</i> “may not, in any case, exceed the comparable market rate for services paid by the commission or the public utility, whichever is greater, to persons of comparable training and experience who are offering similar services.”²⁸⁹</p> <p>The <i>Public Utilities Act</i> requires that participation or intervention without an award of fees or costs imposes a significant financial hardship and that the presentation makes a substantial contribution to the adoption, in whole or in part, of the commission’s order or decision.²⁹⁰</p>

²⁸⁹ California, Public Utilities Code, Article 5 – Intervenor’s Fees and Expenses, Section 1806. Available from: https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PUC§ionNum=1806.

²⁹⁰ California, Public Utilities Code, Article 5 – Intervenor’s Fees and Expenses, Section 1803. Available from: https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PUC§ionNum=1803.

Table A43: New York – Summary of Designated Consumer Advocate

New York Public Service Commission – Utility Intervention Unit	
Enabling Policy or Legislation	<p>The Utility Intervention Unit (UIU), part of the Division of Consumer Protection in the New York Department of State, and enabled through New York State Executive Law § 94-a(4)(b).^{291,292}</p> <p>The Division of Consumer Protection was formerly known as the New York State Consumer Protection Board, a change which occurred in the State Fiscal Year 2011-12 Budget.²⁹³</p>
Consumer Advocate Mandate	<p>The UIU represents consumer interests in energy, water, and telecommunication services regulation at all levels of government, as per Executive Law § 94-a(4)(b).^{294,295}</p> <p>The UIU participates in rate cases and policy cases.²⁹⁶</p> <p>The Division of Consumer Protection, that the UIU is a part of, has other functions, including running education programs.²⁹⁷</p> <p>The activities of the UIU are included as part of the New York State Division of Consumer Protection annual report.²⁹⁸</p>

²⁹¹ Utility Intervention Unit, Activities of the Division of Consumer Protection, 2023 Annual Report, New York Department of State. Available from: <https://dos.ny.gov/system/files/documents/2024/04/2023-dcp-annual-report.pdf>

²⁹² New York State Senate, Consolidated Laws of New York, Consumer protection division, Chapter 18, Article 6, Section 94-A. Available from: <https://www.nysenate.gov/legislation/laws/EXC/94-A>

²⁹³ Division of Consumer Protection, 2011-12 Budget: The Consumer Protection Division, 2011 Legislative Update from the New York State Assembly. Available from: <https://assembly.state.ny.us/comm/Consumer/20110811/>

²⁹⁴ Utility Intervention Unit, Activities of the Division of Consumer Protection, 2023 Annual Report, New York Department of State.

²⁹⁵ Section 94-A(4), Article 6 – Department of State, Chapter 18 – Executive, Consolidated Laws of New York, New York State Senate. Available from: <https://www.nysenate.gov/legislation/laws/EXC/94-A>

²⁹⁶ New York Department of State, 2021 Annual Report, Page 4. March 21, 2022. Available from: <https://dos.ny.gov/system/files/documents/2022/03/2021-dcp-annual-report-final.pdf>

²⁹⁷ New York State Senate, Consolidated Laws of New York, Consumer protection division, Chapter 18, Article 6, Section 94-A(3)(3).

²⁹⁸ New York Department of State, 2022 Annual Report. March 15, 2023. Available from: <https://dos.ny.gov/system/files/documents/2023/03/2022-dcp-annual-report-.pdf>

Table A43: New York – Summary of Designated Consumer Advocate

New York Public Service Commission – Utility Intervention Unit	
Consumer Advocate Appointment Process	The Division of Consumer Protection is controlled by the secretary of state (“secretary”), who is appointed by the governor, with the “advice and consent” of the senate. ²⁹⁹ The secretary “may appoint staff as necessary” within the division for each unit. ³⁰⁰
Consumer Advocate Funding Mechanism	As a unit within the department of state, the Utility Intervention Unit receives funding through the Department of State budget. ³⁰¹

²⁹⁹ New York State Senate, Consolidated Laws of New York, Consumer protection division, Chapter 18, Article 6, Section 90. Available from: <https://www.nysenate.gov/legislation/laws/EXC/90>

³⁰⁰ New York State Senate, Consolidated Laws of New York, Consumer protection division, Chapter 18, Article 6, Section 94-A(2)(b).

³⁰¹ State Operations, All Funds Financial Requirements by Program Appropriations, Department of State, FY 2025 Executive Budget, New York State Division of the Budget. Available from: <https://www.budget.ny.gov/pubs/archive/fy25/ex/agencies/appropdata/StateDepartmentof.pdf>

Table A44: New York – Policy Objectives Cited for Implementing Consumer Advocate

New York Public Service Commission – Utility Intervention Unit	
Ensure Effective Representation	The New York State Consumer Protection Board was created in 1970 due to an increased demand for consumer representation. The State Consumer Protection Board was charged with providing representation for all utility customers before the state Public Service Commission. ³⁰²
Improve Efficiency and Effectiveness Reduce the Number of Intervenors Cost Savings	Reduce the Number of Intervenors None Cost Savings None
Other Reasons	None

³⁰² Holburn GL, Bergh RV; Political Instability and Policy Insulation: The Diffusion of Utility Consumer Advocacy Legislation in the United States. Berkeley, University of California. August 2000, Available from: <https://citeseerx.ist.psu.edu/document?repid=rep1&type=pdf&doi=8cf9abb4f425aa30c3de1fdc2e4cf2b349a6cf18>.

Table A45: New York – Summary of Intervenor Costs Capping Policies and Mechanisms

New York Public Service Commission	
Cap Total Intervenor Funding	Per Proceeding
Per Proceeding	None
Per Intervenor	Per Intervenor
Per Year	None
Other Policies or Mechanisms for Managing Intervenor Costs	Per Year
	None
	At present, there is no funding available for intervenors who wish to participate in proceedings. Senate Bill S405 set to establish utility intervenor reimbursement for participation in proceedings before the Public Service Commission but was vetoed by the governor on November 17, 2023. ³⁰³

³⁰³ The New York State Senate, 2023-2024 Legislative Session, Senate Bill S405. Available from: <https://www.nysenate.gov/legislation/bills/2023/S405>

Table A46: Australia – Summary of Designated Consumer Advocate

Australian Energy Regulator – Consumer Challenge Panel	
Enabling Policy or Legislation	<p>In the <i>National Electricity Rules</i> it states that the Australian Energy Regulator (AER) must have regard to “the extent to which the operating [and capital] expenditure forecast includes expenditure to address the concerns of electricity consumers as identified by the Transmission Network Service Provider in the course of its engagement with electricity consumers”.³⁰⁴</p> <p>The AER created a Consumer Challenge Panel (CCP) in 2012. It was not created through formal legislation.³⁰⁵ The CCP is a forum that provides advice to the AER to help ensure that regulatory decisions appropriately consider consumer perspectives.^{306,307} The AER is not obliged to act on the views expressed by CCP members.³⁰⁸</p>

³⁰⁴ Rule 6A.6.6(e)(5A), National Electricity Rules (Version 209), Australian Energy Market Commission (AEMC). Available from: <https://energy-rules.aemc.gov.au/storage/rules/76dca81154cddd535814e26ee14f7a8ea553207c/assets/files/NER%20-%20v209%20-%20Full.pdf>

³⁰⁵ Page 11, Review of the Consumer Challenge Panel. Available from:

<https://www.aer.gov.au/system/files/KPMG%20Review%20of%20the%20CCP%20-%20Summary%20Report%20-%20January%202019.pdf>

³⁰⁶ Why is the Consumer Challenge Panel being established?, Better Regulation: AER’s Consumer Challenge Panel, Australian Energy Regulator (AER). Available from: https://www.aer.gov.au/system/files/Consumer%20Challenge%20Panel%20-%20Fact%20Sheet_1.pdf

³⁰⁷ Consumer Challenge Panel (CCP), About the ACCC and AER, Australian Competition and Consumer Commission Annual Report 2022-23. Available from: <https://www.transparency.gov.au/publications/treasury/australian-competition-and-consumer-commission-accr/australian-competition-and-consumer-commission-annual-report-2022-23/part-2---agency-overview/about-the-accr-and-aer>

³⁰⁸ Page 3, AER’s Consumer Challenge Panel: description, Charter and evaluation criteria, Australian Energy Regulator. Available from: <https://www.aer.gov.au/system/files/Consumer%20Challenge%20Panel%20-%20Description,%20Charter%20and%20Evaluation%20Criteria.pdf>

Table A46: Australia – Summary of Designated Consumer Advocate

Australian Energy Regulator – Consumer Challenge Panel	
Consumer Advocate Mandate	<p>The CCP:</p> <ul style="list-style-type: none"> • Provides guidance to the AER, ensuring that consumer interests are adequately reflected in regulatory proposals and in the AER’s decision-making process; and • Evaluates the level of consumer engagement that networks provide, including how well the proposals align with consumer preferences.³⁰⁹ <p>The CCP acts as a liaison between network businesses (utilities), consumer representatives, other relevant stakeholders, and AER Board and staff members to discuss regulatory materials, including proposals, and whether they align with consumers’ interests.</p> <p>“Consumer challenge” is designed to be a more “considered and neutral” assessment of issues while consumer advocacy “reflects an active desire to influence outcomes”.³¹⁰</p> <p>The CCP is discussed in the AER annual report.³¹¹</p>
Consumer Advocate Appointment Process	The thirteen CCP members are appointed individually through a competitive tender process. ^{312,313,314}
Consumer Advocate Funding Mechanism	The AER, which operates the CCP, is funded by the Australian government. ³¹⁵

³⁰⁹ Section 2, Roles of the CCP, Consumer Challenge Panel Governance Handbook, Australian Energy Regulator. Available from: <https://www.aer.gov.au/system/files/CCP%20Governance%20Handbook%20June%202021.pdf>

³¹⁰ Page 8, Review of the Consumer Challenge Panel, KPMG. Available from: <https://www.aer.gov.au/system/files/KPMG%20Review%20of%20the%20CCP%20-%20Summary%20Report%20-%20January%202019.pdf>

³¹¹ Australian Competition & Consumer Commission, Australian Energy Regulator; Annual Report 2022-23. October 2023. Available from: <https://www.accc.gov.au/system/files/ACCC%20AER%20Annual%20Report%202022-23.pdf>

³¹² Who is on the CCP?. Consumer Challenge Panel – Q&As, Australian Energy Regulator. Available from: <https://www.aer.gov.au/system/files/Consumer%20Challenge%20Panel%20-%20Q%26A%200.pdf>

³¹³ What is the Consumer Challenge Panel? Better Regulation: AER’s Consumer Challenge Panel, Australian Energy Regulator (AER).

³¹⁴ Section 5.2, Consumer views on regulator determinations, Overview of the Better Regulation reform package, Australian Energy Regulator. Available from: https://www.aer.gov.au/system/files/AER%20Overview%20of%20the%20Better%20Regulation%20reform%20package_0.pdf

³¹⁵ Australian Competition & Consumer Commission, Service Charter, The AER. Available from: <https://www.accc.gov.au/about-us/accc-role-and-structure/service-charter>. Accessed June 26, 2024.

Table A47: Australia – Summary of Designated Consumer Advocate

Australian Energy Regulator – Energy Consumers Australia	
Enabling Policy or Legislation	<p>Energy Consumers Australia (ECA) was established by the Council of Australian Governments³¹⁶ in 2015. It acts as the “national voice for residential and small business energy consumers”.³¹⁷</p> <p>Necessary legislative amendments were passed prior to establishment in Australian States. For example, the <i>Statute Amendment (Energy Consumers Australia) Act 2014 (SA)</i>.³¹⁸</p> <p>There is concern from some parties about the overlap between Energy Consumers Australia and the Consumer Challenge Panel (CCP). ECA has increased its activities and involvement in network determinations. As the ECA becomes more active in its engagement, the CCP can take a less active role, and act as a “conduit between the AER and network businesses”.³¹⁹</p>

³¹⁶ The Council of Australian Governments (COAG) was the primary intergovernmental forum where the Prime Minister, state and territory First Ministers and the President of the Australian Local Government Association (ALGA) worked together on policy reforms. It was succeeded by the National Cabinet in May of 2020. Available from: <https://federation.gov.au/about>

³¹⁷ Introduction, Consumer Access to Energy Data, Energy Consumers Australia. Available from: <https://treasury.gov.au/sites/default/files/2019-03/T282002-Energy-Consumers-Australia.pdf>

³¹⁸ Attachment 2 ECA objectives, Submission on TransGrid's revised proposal, ECA. January 11, 2018. Available from: <https://www.aer.gov.au/system/files/ECA%20-%20Submission%20on%20TransGrid%27s%20revised%20proposal%20-%20Attachment%202%20ECA%20objectives%20-%202011%20January%202018.pdf>

³¹⁹ Page 13, Review of the Consumer Challenge Panel, KPMG. Available from: <https://www.aer.gov.au/system/files/KPMG%20Review%20of%20the%20CCP%20-%20Summary%20Report%20-%20January%202019.pdf>

Table A47: Australia – Summary of Designated Consumer Advocate

Australian Energy Regulator – Energy Consumers Australia	
Consumer Advocate Mandate	<p>The purpose of ECA according to Article 4.1 of its constitution is to advocate for the long-term interests of consumers, especially residential or small business customers, who consumer electricity or gas or both. ECA is focussed on the issues of price, quality, safety, reliability and security of supply of energy services.³²⁰</p> <p>ECA actively participates in the National Energy Market (national electricity and gas market), engages with consumers and stakeholders, and conducts research for policy development and education among other functions.³²¹</p> <p>ECA, as a consumer advocate, has “an active desire to influence outcomes” which separates it from the Consumer Challenge Panel (CCP), which is designed to be a more “considered and neutral” party.³²²</p> <p>Energy Consumers Australia publishes annual reports.³²³</p>
Consumer Advocate Appointment Process	<p>Article 9 of the constitution of ECA states that Directors (members individually or collectively of the Board) are selected by the Prime Minister and First Ministers (Council of Australian Governments their successor).³²⁴</p> <p>There is a “Reference Committee” that provides advice to the ECA Board that is comprised of individuals from each National Energy Market States and Territories with expertise and knowledge of consumer energy issues in that particular jurisdiction.³²⁵</p>
Consumer Advocate Funding Mechanism	<p>ECA is funded by National Energy Market (national electricity and gas market) consumers through a levy.³²⁶</p>

³²⁰ Article 4.1, Constitution of Energy Consumers Australia Limited. Available from: <https://energyconsumersaustralia.com.au/wp-content/uploads/Constitution-Energy-Consumers-Australia-Limited.pdf>

³²¹ Article 4.2, Constitution of Energy Consumers Australia Limited.

³²² Page 8, Review of the Consumer Challenge Panel, KPMG.

³²³ Energy Consumers Australia, Annual Report 2022-23. Available from: <https://energyconsumersaustralia.com.au/wp-content/uploads/Annual-Report-2022-23.pdf>

³²⁴ Article 9, Constitution of Energy Consumers Australia Limited.

³²⁵ Reference Committee Terms of Reference and Arrangements, Energy Consumers Australia. Available from:

<https://energyconsumersaustralia.com.au/wp-content/uploads/ECA-Reference-Committee-TOR-and-Arrangements.pdf>

³²⁶ Grants Management, ECA Grant Guidelines, Energy Consumers Australia. Available from: <https://energyconsumersaustralia.com.au/wp-content/uploads/Grants-Program-Package-Main.pdf>

Table A48: Australia – Policy Objectives Cited for Implementing Consumer Advocate

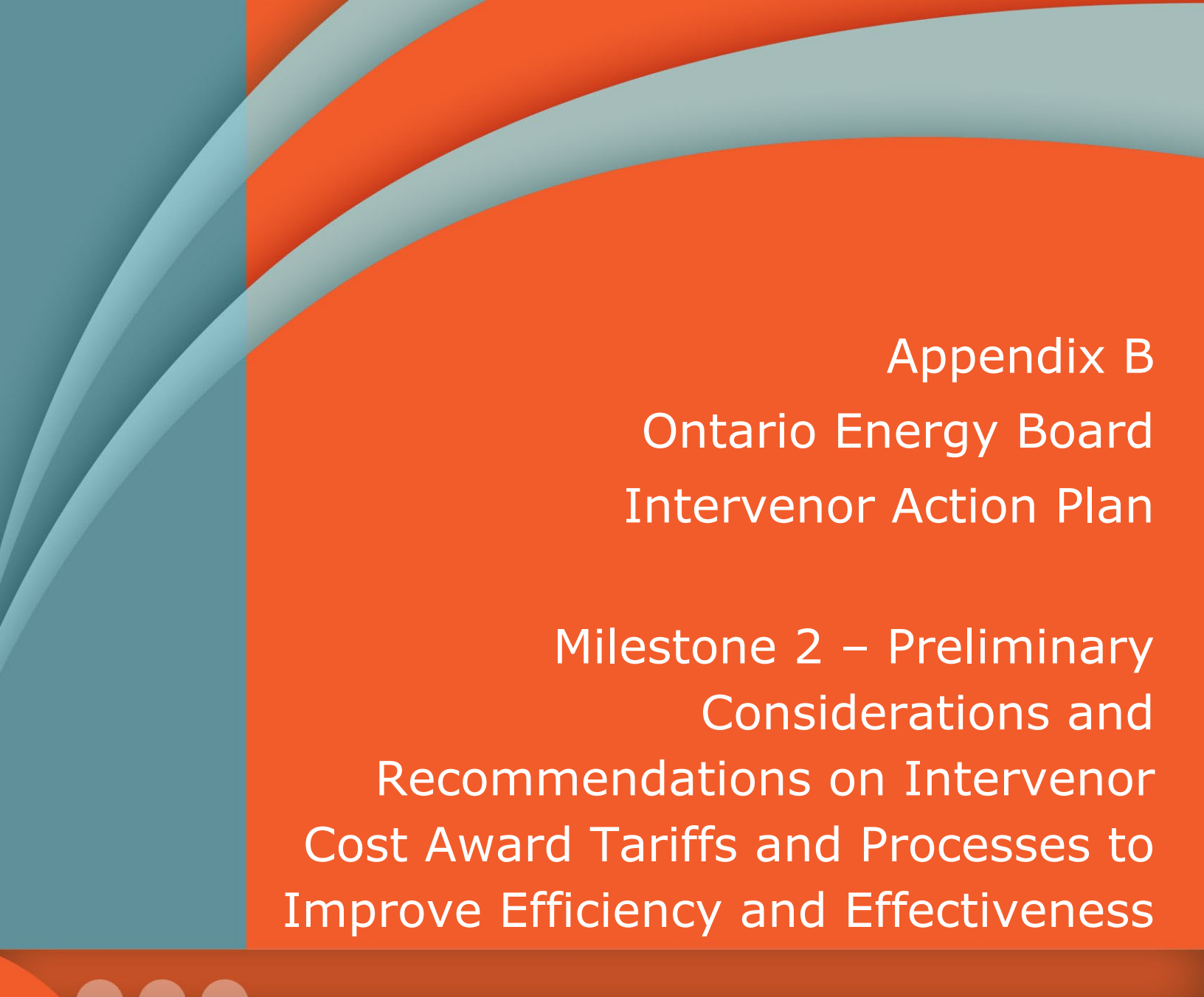
Australian Energy Regulator	
Ensure Effective Representation	ECA was created “to provide residential and small business consumers with a strong and influential voice in national energy matters”. ³²⁷
Improve Efficiency and Effectiveness Reduce the Number of Intervenors Cost Savings	Reduce the Number of Intervenors None Cost Savings None
Other Reasons	None

³²⁷ Energy Consumers Australia Business Plan 2016/2017, Page 4. Accessed June 26, 2024. Available from: <https://energyconsumersaustralia.com.au/wp-content/uploads/ECA-Business-Plan-16-17.pdf>

Table A49: Australia – Summary of Intervenor Costs Capping Policies and Mechanisms

Australian Energy Regulator	
<p>Cap Total Intervenor Funding</p> <p>Per Proceeding</p> <p>Per Intervenor</p> <p>Per Year</p>	<p>The Australian Energy Regulator (AER) does not involve intervenors in their regulatory process, instead relying on stakeholder engagement.³²⁸</p>
<p>Other Policies or Mechanisms for Managing Intervenor Costs</p>	<p>The Australian Energy Regulator (AER) does not involve intervenors in their regulatory process, instead relying on stakeholder engagement.</p>

³²⁸ Commonwealth of Australia, Australian Energy Regulator Stakeholder Engagement Framework. 2013. Available from: https://www.aer.gov.au/system/files/AER%20Stakeholder%20Engagement%20Framework_2.pdf Accessed June 27, 2024



Appendix B
Ontario Energy Board
Intervenor Action Plan

Milestone 2 – Preliminary
Considerations and
Recommendations on Intervenor
Cost Award Tariffs and Processes to
Improve Efficiency and Effectiveness



InterGroup

CONSULTANTS

Prepared for the Ontario Energy Board

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1.0 INTRODUCTION

InterGroup was retained by the Ontario Energy Board (OEB) to research and make recommendations related to intervenor cost award tariffs and processes to improve efficiency and effectiveness. The report is intended to respond to the Minister of Energy’s November 2023 letter of direction, in particular:

In 2021, the Top Quartile Regulator Report identified that “regulators need access to external expertise and a spectrum of perspectives.” The value of intervenors, however, is significantly diminished when the remuneration structure incentivizes the creation of issues or duplicates effort. Effective case management can mitigate this risk, but additional controls are necessary. In 2021-22, Ontario’s 5.3 million electricity and natural gas customers paid \$4.4 million to fund the Ontario Energy Board’s intervenor process. I encourage the OEB to continue its work reviewing the current intervenor processes and to identify opportunities to improve regulatory efficiency and consequently reduce regulatory burden. This should include, but is not limited to, considerations around a designated consumer advocate and capping intervenor costs.¹

The research builds on work previously undertaken by the OEB including the Framework for Review of Intervenor Processes and Cost Awards and recent amendments to the OEB’s Rule of Practice and Procedure and Practice Direction on Cost Awards. The research includes information collected by InterGroup during a review of practices in 15 other jurisdictions. The assignment is organized into three packages.

This report presents initial findings, summarizes considerations based on the research and provides initial recommendations related to the second work package and in particular two questions:

1. What are the current intervenor cost award tariffs in place in other jurisdictions and how do they compare to Ontario?
2. What processes are in place to improve efficiencies and effectiveness?

Detailed information on existing intervenor cost award tariffs and processes to improve efficiency and effectiveness are summarized in Attachment 2.

¹ Minister of Energy letter dated November 29, 2023. Available: <https://www.oeb.ca/sites/default/files/letter-of-direction-from-the-Minister-of-Energy-20231129.pdf> Accessed May 15, 2024.

2.0 SUMMARY OF OBSERVATIONS AND RECOMMENDATIONS

Based on the research completed for this assignment, InterGroup makes the following observations and recommendations regarding intervenor cost award tariffs and processes to improve efficiency and effectiveness of regulatory proceedings:

2.1 INTERVENOR COST AWARD TARIFFS

Observations:

1. OEB cost award tariffs for legal counsel are below the Canadian average.
2. OEB cost award tariffs for legal counsel match those of consultants. Most jurisdictions set cost award tariffs for legal counsel higher than cost award tariffs for consultants.
3. OEB cost award tariffs for consultants are above the Canadian average.
4. OEB tariffs have not been updated since 2007 while most other jurisdictions have updated their tariffs more recently.
5. Some jurisdictions have a separate expert witness category, which has rates above the normal cost award tariff rates for consultants.

Recommendations:

1. Consider making annual changes to the tariff indexed to inflation with an updated benchmarking review completed every five years.
2. Consider prioritizing increases to the tariff for legal counsel by completing a benchmarking review as the current rates are below the Canadian average and other jurisdictions typically have higher rates for legal counsel than consultants.
3. Consider adding an expert witness category for consultants to the cost award tariff.

2.3 PROCESSES TO IMPROVE EFFICIENCY AND EFFECTIVENESS

Observations:

1. The overall culture of active adjudication is a key ingredient to improving efficiency and effectiveness of regulatory proceedings.
2. Ontario's cohort of experienced intervenors provides a diversity of perspectives for the OEB to consider. Negotiated settlements are also facilitated by the participation of knowledgeable intervenors.
3. Negotiating a settlement serves as an effective method to resolve some or all of the issues between parties prior to a hearing and may save time and costs that would have been incurred if the full list of issues were subject to the hearing process.
4. The OEB staff play an important role in settlements as active observers and sometimes as parties to the settlement.
5. The OEB rules for cost eligibility includes directions to intervenors to collaborate to avoid duplication.
6. The OEB has not imposed limits on the discovery process, such as setting a maximum allowable number of interrogatory requests per intervenor.

Recommendations:

1. Modifications to intervenor approval processes: Consider revising the intervenor application form to require more information on the specific customers or customer classes being represented, and more detailed information on the issues intervenors propose to canvass. OEB staff² could also consider allowing interventions subject to their issues being included in final issue lists.
2. Modifications to intervenor approval processes: Consider expanding the use of budgets for parties who will be seeking cost awards. Budgets could be updated throughout the proceeding as processes and issues become clarified.
3. Limits on information requests and motions for further and better responses: In InterGroup's experience, limits on information requests provide extra incentive for intervenors to collaborate and ensure they are not asking duplicative questions. Consider formalizing the practice of intervenors communicating with applicants to resolve issues before involving the Commissioners. This includes requesting information to reach an agreement on what can be provided or requesting further or better responses. This could be implemented through a Procedural Order or a rule of practice or procedure, similar to the rule established by the AUC.
4. Continued focus on the use of settlements: Settlement processes can support the objective of achieving greater regulatory efficiency and effectiveness. The OEB's current rules of practice

² OEB staff, who have been delegated powers and duties under the OEB Act, oversee the proceeding and application up to the release of Procedural Order 1. During this period, staff determine who should be granted intervenor status for the proceeding.

state the purpose of settlement conferences is to settle all issues referred to in the proceeding, or to settle as many issues as possible.³

5. Final cost awards: Consider requiring specific information in the final cost award application that details efforts made by parties to collaborate. For example, indicating specific actions they took to reduce duplication such as sharing their draft information requests with other parties to ensure they were not canvassing the same information. While there may be incremental time claimed related to such collaboration, an overall reduction in time spent by each individual intervenor on their respective assessments of an application would be anticipated

³ OEB, Practice Direction on Settlement Conferences, p.3. Available from:
https://www.oeb.ca/oeb/Documents/Regulatory/Practice_Direction_Settlement_Conferences.pdf

3.0 INTERVENOR COST AWARD TARIFFS

An intervenor cost award tariff is a set of rates or charges that are applied to the costs claimed by intervenors in an adjudicative process. InterGroup reviewed cost award tariffs set by the OEB and compared them to cost award tariffs provided in other jurisdictions to assess their appropriateness. InterGroup notes that markets for professional services vary by jurisdiction for a number of reasons. Consultants may work across many jurisdictions but charge different rates in different markets. Legal counsel are typically more restricted in the jurisdictions in which they operate. As a result, making comparisons across jurisdictions can be difficult and it may be reasonable for different jurisdictions to have different tariffs based on local markets.

The analysis of intervenor cost award tariffs focusses on jurisdictions with publicly available tariffs similar to the OEB's intervenor cost award tariff. These include the provinces of Quebec, Manitoba, Alberta, and British Columbia, as well as the State of California. These jurisdictions provide cost awards to intervenors based on a standardized tariff, actual hours worked on an intervention and approved categories of expenses.

Some jurisdictions, such as Wisconsin, do not have specifically defined cost award tariffs. Wisconsin has an annual budget for all intervenor compensation during a particular fiscal year⁴ but does not have set cost award tariffs.⁵ The compensation provided in Wisconsin is limited to the rate an intervenor normally pays for comparable services and cannot exceed rates authorized for commission employees.⁶ In Newfoundland and Labrador⁷, Nova Scotia⁸, and New Brunswick⁹ specific cost award tariffs are not provided for intervenor cost awards.

Some jurisdictions have different methods for funding intervenors than the cost award tariff model. In Michigan, funding is available through the Utility Consumer Representation Fund in the form of grants that are available for participation in proceedings.¹⁰ In Oregon, annual funding agreements have been put into place between utilities and intervenors who represent the broad interests of customers, the interests of low-income residential customers; or the interests of residential customers that are members of environmental justice communities.¹¹

⁴ State of Wisconsin, 2023 Senate Bill 70, Act 19, 20.155(1)(g) Public Service Commission, Page 24. July 5, 2023. Available from: <https://docs.legis.wisconsin.gov/2023/related/acts/19.pdf>

⁵ State of Wisconsin, Chapter 196 Regulation of Public Utilities, Section 31 Intervenor financing. April 1, 2021. Available from: <https://docs.legis.wisconsin.gov/statutes/statutes/196/31>

⁶ State of Wisconsin, Administrative Code, Public Service Commission, PSC 3.04 Compensable costs. April 2007. Available from: https://docs.legis.wisconsin.gov/code/admin_code/psc/3

⁷ Board of Commissioners of Public Utilities – Newfoundland and Labrador, Hearing Participation Guidelines. August 18, 2017. Available from: <http://pub.nf.ca/download/Hearing%20Participation%20Guidelines.pdf>

⁸ Utility and Review Board Act, S.N.S. 1992, c. 11, N.S. Reg. 131/96 (July 17, 1996). October 12, 2017. Available from: <https://novascotia.ca/just/regulations/regs/URBcosts.htm>

⁹ Government of New Brunswick, Energy and Utilities Board Act, 47.1 Costs, 2023, c.6, s.3. Available from: <https://laws.gnb.ca/en/pdf/cs/E-9.18.pdf>

¹⁰ Government of Michigan, Utility Consumer Representation Fund Annual Report 2022. August 17, 2023. Available from: <https://www.michigan.gov/lara/-/media/Project/Websites/lara/about/ucpb/2024/UCPB-2022-Annual-Report.pdf>

¹¹ The Oregon Revised Statutes, Vol. 19(57), Section 757.072(1) – Utility Regulation Generally. Available from: https://www.oregonlegislature.gov/bills_laws/ors/ors757.html

Ontario has not updated its intervenor cost award tariffs since 2007.¹² Most other jurisdictions with published cost award tariffs have updated them in the last five years. Quebec updated their cost award tariffs in 2020¹³, Alberta in 2024¹⁴, and British Columbia in 2016.¹⁵ British Columbia switched from providing a daily intervenor compensation rate, to an hourly compensation rate, capped at a maximum of eight hours billed per day, in 2022,¹⁶ but the effective hourly rates remained largely the same.

The Manitoba PUB updated their cost award tariffs in 2023¹⁷ and 2024¹⁸, and have committed to reviewing their cost award tariff rates every five years, as well as reviewing the need for inflationary increases each year.¹⁹ In California, cost award tariffs are adjusted annually based on the U.S. Bureau of Labour Statistics Employment Cost Index.²⁰ The cost award tariff guide on the California Public Utilities Commission website is from 2022.²¹

Table 1 summarizes the intervenor cost award tariffs for consultants across jurisdictions. Ontario's tariffs for consultants are above the Canadian average. Cost award tariffs for case managers and coordinators are above those in other jurisdictions who have that specific category (Quebec and British Columbia). Some jurisdictions have a separate expert witness category, which has rates above the normal cost award tariff rates for consultants.

Table 2 summarizes the intervenor cost award tariffs for legal counsel across jurisdictions. Intervenor cost award tariffs for legal counsel in Ontario are below the Canadian average. In Ontario, cost award tariffs for legal counsel are the same as those of consultants. Most jurisdictions set cost award tariffs for legal counsel higher than cost award tariffs for consultants.

¹² Ontario Energy Board, Practice Direction on Cost Awards, Appendix "A", Cost Award Tariff. November 16, 2007. Available from: <https://www.rds.oeb.ca/CMWebDrawer/Record/20606/File/document>

¹³ (Translated with Google Translate) Guide de paiement des frais des intervenants 2020, Frais des intervenants, Régie de l'énergie Québec. Available from: https://www.regie-energie.qc.ca/storage/app/media/la-regie/lois-reglements-documents-administratifs/interventions-frais-intervenants/Regie_GuidePaiementFrais2020_janvier2020.pdf

¹⁴ Appendix A, Rule 022, Rules on Costs in Utility Rate Proceedings, Alberta Utilities Commission. Available from: https://media.www.auc.ab.ca/prd-wp-uploads/regulatory_documents/Consultations/2024-02-07-Rule022.pdf

¹⁵ British Columbia Utilities Commission, Participant Assistance / Cost Award Guidelines, G-143-16. Available from: <https://www.ordersdecisions.bccuc.com/bccuc/orders/en/item/179994/index.do>

¹⁶ British Columbia Utilities Commission. Rules of Practice and Procedure, Attachment A. Available from: <https://www.ordersdecisions.bccuc.com/bccuc/orders/en/item/521582/index.do>

¹⁷ Manitoba Public Utilities Board, Maximum Rate Schedule. January 1, 2023. Available from: <https://www.pubmanitoba.ca/v1/about-pub/pubs/maximumrateschedule2023.pdf>

¹⁸ Manitoba Public Utilities Board, Maximum Rate Schedule. January 1, 2024. Available from: <https://www.pubmanitoba.ca/v1/about-pub/pubs/maximumrateschedule-2024.pdf>

¹⁹ Manitoba Public Utilities Board, Annual Report 2022/23, Internal PUB priorities, Priority 7, Page 21. Available from: <https://www.pubmanitoba.ca/v1/about-pub/pubs/e-version2022-23pub-annualreport-bilingual.pdf>

²⁰ Public Utilities Commission of the State of California, Resolution ALJ-393, Escalation Methodology, Page 4. December 22, 2020. Available from: <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M356/K381/356381459.PDF>

²¹ Public Utilities Commission of the State of California, Hourly Rate Chart. January 1, 2022. Available from: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/icmp-materials/hourlyratechart-03182024-v2.xlsm>

Table 1: Intervenor Cost Award Tariffs: Consultants

Years of Experience	Canadian Average	ON	QC	MB ²²	AB	BC	Average of All Jurisdictions	California ^{23,24} (\$CAD)
Last Updated	-	2007	2020	2024	2024	2016	-	2022
Case Managers / Coordinators	\$110	\$170	\$80	-	-	\$75	\$110	-
1	\$141	\$170	\$135	\$118	\$160	\$120	\$158	\$244
6	\$186	\$230	\$160	\$165	\$210	\$165	\$209	\$322
11	\$248	\$290	\$195	\$204	\$315	\$235	\$264	\$345
>20	\$293	\$330	\$240	\$288	\$370	\$235	\$305	\$368
Expert Witnesses	\$285	-	\$300	-	-	\$270	\$285	-

²² Manitoba does not have a "Consultant" category in their cost award tariff guide, the "Accountant" category is used instead.

²³ California does not have a "Consultant" category in their cost award tariff guide, the "Economist" category is used instead.

²⁴ Median salaries from the hourly rate chart are used. The currency conversion rate used is 1.3254, the average Bank of Canada exchange rate for 2022. Available from:

https://www.bankofcanada.ca/rates/exchange/currency-converter/?lookupPage=lookup_currency_converter_2017.php&startRange=2017-01-01&rangeType=range&selectToFrom=from&convert=1.00&seriesTo%5B%5D=FXUSDCAD&seriesFrom=Canadian+dollar&rangeValue=&dFrom=2022-01-01&dTo=2023-12-31&submit_button=Convert

Table 2: Intervenor Cost Award Tariffs: Legal Counsel

Years of Experience	Canadian Average	ON	QC	MB	AB	BC	Average of All Jurisdictions	California ²⁵ (\$CAD)
Last Updated	-	2007	2020	2024	2024	2016	-	2022
Articling Students	\$120	\$100	\$80	-	\$190	\$110	\$120	-
1	\$196	\$170	\$135	\$118	\$315	\$240	\$216	\$320
6	\$253	\$230	\$200	\$170	\$380	\$285	\$305	\$567
11	\$303	\$290	\$250	\$225	\$430	\$320	\$366	\$681
>20	\$359	\$330	\$300	\$340	\$475	\$350	\$438	\$830

²⁵ Median salaries from the hourly rate chart are used. The currency conversion rate used is 1.3254, the average Bank of Canada exchange rate for 2022. Available from: https://www.bankofcanada.ca/rates/exchange/currency-converter/?lookupPage=lookup_currency_converter_2017.php&startRange=2017-01-01&rangeType=range&selectToFrom=from&convert=1.00&seriesTo%5B%5D=FXUSDCAD&seriesFrom=Canadian+dollar&rangeValue=&dFrom=2022-01-01&dTo=2023-12-31&submit_button=Convert

3.1 RECOMMENDATIONS ON INTERVENOR COST AWARD TARIFFS

The jurisdictional comparison indicates that current OEB cost award tariffs for legal counsel are below the Canadian average, while the rates for consultants are above average. The OEB's tariff has not been updated since 2007 while most other jurisdictions have updated their tariffs more recently. During engagement sessions for this project, stakeholders commented that some proceedings do not use lawyers and that consultants can in some cases serve the same function as lawyers. It was also noted that the OEB should consider only relevant years of experience in applying the cost award tariff. Based on the review of tariffs in other jurisdictions, InterGroup makes the following recommendations for the OEB to consider:

- The OEB could consider making annual changes to the tariff indexed to inflation with an updated benchmarking review completed every five years.
- The OEB could consider prioritizing increases to the tariff for legal counsel by completing a benchmarking review as the current rates are below the Canadian average and other jurisdictions typically have higher rates for legal counsel than consultants.
- The OEB could consider adding an expert witness category for consultants to the cost award tariff.

4.0 PROCESSES TO IMPROVE EFFICIENCY AND EFFECTIVENESS OF REGULATORY PROCEEDINGS

The Minister of Energy’s November 2023 letter of direction²⁶ states the OEB should “continue its work reviewing the current intervenor processes and to identify opportunities to improve regulatory efficiency and consequently reduce regulatory burden. This should include, but is not limited to, consideration around a designated consumer advocate and capping intervenor costs.”

The Minister’s letter of direction does not specify what is meant by “efficiency”. Efficiency could suggest a number of potential objectives, including:

- reducing costs of the regulatory process
- streamlining timelines for regulatory processes
- reducing duplication
- promoting collaboration

All of these can be reasonable objectives for a regulator but must be balanced with ensuring regulatory processes are effective, transparent and procedurally fair to all parties.

With respect to timelines and costs, the Minister’s letter made specific comment with respect to intervenor processes and capping intervenor costs. However, applicants and the OEB also contribute to costs. More efficient processes could also help reduce these costs.

Many regulators have from time to time undertaken reviews of their processes to improve efficiency. In 2023, the BCUC launched an initiative with the intent to increase regulatory efficiency and improve participation in the regulatory process.²⁷ The process resulted in a list of efficiencies that proposed certain changes to the BCUC’s rules, policies, or guidelines but also suggested using the existing rules, policies, and guidelines of the BCUC to implement efficiencies within its own processes.²⁸

In 2020, the Alberta Utilities Commission (AUC) appointed an independent committee to assist in improving the efficiency of rates proceedings. The committee members provided a report that

²⁶ Minister of Energy letter dated November 29, 2023. Available: <https://www.oeb.ca/sites/default/files/letter-of-direction-from-the-Minister-of-Energy-20231129.pdf> Accessed May 15, 2024.

²⁷ BCUC, Improving Regulatory Efficiency in BCUC Process, Rules, and Guidelines, Exhibit A2-1. August 11, 2023. Available from: https://docs.bcuc.com/documents/proceedings/2023/doc_73411_a21bcucstaffsubmissionimprovingefficiency.pdf

²⁸ BCUC, Regulatory Efficiency Initiative, Final List of Efficiencies. December 22, 2023. Available from: https://docs.bcuc.com/documents/other/2023/doc_75555_bcuc-regulatory-efficiency-initiative-final.pdf

made a number of recommendations but noted that the AUC is the master of its procedures and processes. The committee made an overarching recommendation:

That the Alberta Utilities Commission apply an overarching, assertive case management approach to the development and implementation of the Commission’s procedures and processes and the implementation of the Committee’s specific recommendations.²⁹

The OEB has similarly committed to active adjudication³⁰ which it defines as the enhanced approach used by the OEB to proactively establish and control adjudicative processes that are efficient, effective and procedurally fair and ensures that the information being put on the record of each proceeding is relevant and of material value to the decision-maker, while ensuring that procedural fairness is respected.

Continuing to focus on a culture of active adjudication is an essential ingredient to improving efficiency. Active adjudication must involve a number of tools. A number of specific policy or procedure changes could contribute to improving collaboration or reducing duplication, but may not reduce costs or shorten timelines. Options InterGroup has observed in other jurisdictions that the OEB could consider are described below.

Modifications to Intervenor Approval Processes

The OEB requires interveners to indicate how they will make reasonable efforts to coordinate their intervention with any other intervenors with similar interests.³¹ In Manitoba, the Public Utilities Board considers whether a potential intervenor represents a substantial number of intervenors that are not otherwise being represented on issues that are within the scope of a proceeding. At times, the Manitoba Public Utilities Board has denied intervenor status for some parties and directed them to communicate their concerns with the intervenors who are already representing those issues.³²

OEB staff, who have been delegated powers and duties under the OEB Act, oversee the proceeding and application up to the release of Procedural Order 1. During this period, staff determine who should be granted intervenor status for the proceeding.

²⁹ Report of the Procedures and Processes Review Committee. Page 2. August 2020. Available from: https://media.auc.ab.ca/prd-wp-uploads/regulatory_documents/Reference/2020-10-22-AUCReviewCommitteeReport.pdf

³⁰ Ontario Energy Board Action Plan, In Response to Stakeholder Comments on the Framework for Review of Intervenor Processes and Cost Awards, p.4.

³¹ Ontario Energy Board, Intervention Form, Question 7. Available from: <https://www.oeb.ca/html/intervenor/apply/> Retrieved August 2, 2024.

³² Manitoba Public Utilities Board, Order No. 130/22, Pages 15 and 16. Available from: <https://www.pubmanitoba.ca/v1/proceedings-decisions/orders/pubs/22-orders/130-22.pdf>

Procedural Order 1 proposes a draft issues list, which can be a standard issues list corresponding to the type of application, a list submitted by the applicant, or one developed by OEB staff.³³ Parties to the proceeding are able to provide input on the issues list.

After Procedural Order 1, a commissioner panel is appointed, that approves the final issues list which then defines the scope of the proceeding.

This process, and particularly the timing of the development of a final issues list, can present challenges to OEB staff in determining the extent to which a party has a substantial interest in a proceeding and which intervenors could be directed to collaborate.

As an initial step, the OEB could consider revising its intervenor application form to require more information on the specific customers or customer classes being represented, and more detailed information on the issues intervenors propose to canvass. This could assist in specifying groups of intervenors the OEB believes should collaborate. OEB staff could also grant preliminary approval of interventions, as they have done in the past, subject to their issues being included in final issue lists.

Jurisdictions like Quebec and Manitoba require budgets to be submitted at the beginning of a proceeding.^{34,35} In Manitoba the budget must include costs for legal, expert, consultant, analysts, and other fees.³⁶ The Board can provide comment on intervenor budgets.³⁷ The final cost decisions occur at the end of the proceeding.³⁸

Limits on Information Requests (IR) and Motions for Further and Better Responses

In Alberta, the AUC may impose limits on the number of interrogatory requests per intervenor in a proceeding.³⁹ The AUC typically does not limit the number of information requests it can ask. In InterGroup's experience, the limit on information requests provides extra incentive for intervenors to collaborate and ensure they are not asking duplicative questions.

In Manitoba, for some applications, the Public Utilities Board files information requests to the applicant prior to intervenors.⁴⁰ In the Centra Gas 2019/20 General Rate Application the Manitoba

³³ Ontario Energy Board, Rules of Practice and Procedure, Section 28 Identification of Issues. March 6, 2024. Available from : https://www.oeb.ca/sites/default/files/uploads/documents/regulatorycodes/2024-03/OEB_Rules-Practice-and-Procedure_20240306.pdf

³⁴ (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l'énergie, Rule 11. Available from: https://www.regie-energie.qc.ca/storage/app/media/la-regie/lois-reglements-documents-administratifs/interventions-frais-intervenants/Regie_GuidePaiementFrais2020_janvier2020.pdf

³⁵ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 27.

³⁶ Manitoba PUB Template for Intervenor Cost Estimate Cost Award Applications. Available from: <http://www.pubmanitoba.ca/v1/proceedings-decisions/appl-current/pubs/2019-centra-gra/int-costs-form-centra-gra-sample.pdf>

³⁷ Manitoba PUB Intervenor Costs Policy, Section 9.2.6 and 9.2.7.

³⁸ Manitoba PUB Intervenor Costs Policy, Section 9.2.6 and 9.2.7.

³⁹ See for example AUC proceeding 28174 which states a limit for the number of IRs for each intervenor. AUC, Proceeding 28174, p. 4. Available from: https://www2.auc.ab.ca/Proceeding28174/ProceedingDocuments/28174_X0251_2023-05-25%20AUC%20letter%20-%20Process%20schedule%20and%20response%20to%20CCA%20request%20for%20blackout%20periods_000255.pdf

⁴⁰ Manitoba Public Utilities Board, Centra Gas 2019/20 General Rate Application, Order No. 24/19, Appendix B Timetable. February 20, 2019. Available from: <https://www.pubmanitoba.ca/v1/proceedings-decisions/orders/pubs/2019-orders/24-19.pdf>

Public Utilities Board limited first round intervenor information requests to issues not raised in information requests asked by the Board.

In Alberta, where the applicant cannot respond to an IR, the applicant is typically required to reach out to the party requesting information to reach an agreement on the information that can be provided.⁴¹ Similarly, prior to filing any motions for further or better responses, intervenors typically must communicate with the applicant to try resolving their issue before requesting the matter be settled by the Commissioners.⁴² This also occurs informally in Ontario, as intervenors reach out to the applicants to resolve issues before involving the Commissioners. The OEB could consider making this a formal requirement, similar to the rule established by the AUC, through a Procedural Order or a rule of practice or procedure.

Limiting Evidence and Argument during Written Proceedings

In Alberta the development of the evidentiary record in a rates proceeding is conducted through a written process unless otherwise directed by the Commission.⁴³ However for argument, the AUC requires argument to be delivered orally, unless otherwise directed by the Commission. A person or party must demonstrate to the Commission that written argument will permit the proceeding to be resolved in a more fair or efficient manner for the commission to accept written argument.⁴⁴ For a proceeding which involves written argument and reply argument, the AUC may impose a page limit.⁴⁵ Similarly, for proceedings with oral argument and reply argument, parties may be directed to submit a written summary of their argument which is subject to page limits.⁴⁶ The independent committee the AUC appointed to assist in improving the efficiency of rates proceedings recommended the Commission adopt an assertive approach to management of oral argument including utilization of time limits⁴⁷, topics which it will hear during argument, requiring parties to not restate the evidentiary record, and encouraging parties to present argument and reply jointly to avoid duplication.^{48,49}

⁴¹ AUC, Proceeding 28174, Section 19 p. 5.

⁴² AUC, Rules of Practice and Procedure Rule 001, Section 28.2. Available from: <https://www.auc.ab.ca/rules/rule001/>

⁴³ AUC, Rules of Practice and Procedure Rule 001, Section 36.

⁴⁴ AUC, Rules of Practice and Procedure Rule 001, Section 48.2.

⁴⁵ AUC directs the UCA to refile its argument and argument reply. EPCOR 2023-2025 Non-Energy RRT Application, Proceeding 28457-X0141, Section 1, 4, and 6. Available from:

https://www2.auc.ab.ca/Proceeding28457/ProceedingDocuments/28457_X0141_2024-03-27%20AUC%20letter%20-%20Direction%20for%20the%20UCA%20to%20refile%20its%20argument%20and%20reply_000154.pdf

⁴⁶ AUC, Alberta Electric System Operator, Application for Updates to Rate Demand Opportunity Service, Proceeding 28989-X0095, Section 19. Available from: https://www2.auc.ab.ca/Proceeding28989/ProceedingDocuments/28989_X0095_2024-07-15%20AUC%20letter%20-%20Ruling%20on%20request%20to%20permit%20interveners%20to%20file%20evidence%20and%20process%20for%20oral%20argument_000105.pdf

⁴⁷ Hearing schedule with specific time limits for oral argument. AUC, Alberta Electric System Operator, Bulk and Regional Rate Design. Proceeding 26911-X1106, p. 6. Available from:

https://www2.auc.ab.ca/Proceeding26911/ProceedingDocuments/26911_X1106_2022-06-08%20AUC%20letter%20-%20Virtual%20hearing%20schedule%20and%20other%20hearing%20matters_001456.pdf

⁴⁸ Report of the Procedures and Processes Review Committee. Page 38. August 2020.

⁴⁹ Encourages parties to not restate the evidentiary record and to present argument and reply jointly. AUC, FortisAlberta 2022 Phase II DTA. Proceeding 25916-X0204, p. 1. Available from:

https://www2.auc.ab.ca/Proceeding25916/ProceedingDocuments/25916_X0204_2021-03-22%20AUC%20letter%20-%20Protocol%20for%20virtual%20hearing%20for%20oral%20argument%20and%20reply%20argument_000232.pdf

In British Columbia (BC), the BCUC has reduced final cost awards where in its view an intervenor did not use resources in a cost-effective manner. Examples of actions leading to cost award reductions have included filling a large number of IRs which are duplicative of other parties IRs, lengthy evidence which could have been summarized in a more concise manner, and final argument that contains duplicative information and unnecessary restating of evidence.⁵⁰

In Ohio, the Commission may direct parties to limit briefs to one or more specific issues or impose other requirements or limitations concerning the length or form of briefs.⁵¹

In Oregon, the Commission may require a party to file a brief, or to present oral arguments instead of or in addition to briefs.⁵² The Administrative Law Judge will determine the length of each party's oral argument to the Commission and the order of presentation.⁵³ The Administrative Law Judge also has the authority to limit a party's presentation of evidence or factual arguments to ensure the timely development of the hearing record.⁵⁴

Continued Focus on the Use of Settlements

Settlement processes can support the objective of achieving greater regulatory efficiency and effectiveness. The OEB's current rules of practice state the purpose of settlement conferences is to settle all issues referred to in the proceeding, or to settle as many issues as possible.⁵⁵

During settlement negotiations, OEB staff typically play a role as active observers ensuring that all relevant information is considered, presenting options, and offering advice on the strengths and weaknesses of proposals. In some cases, OEB commissioners may provide for staff to be a party to the settlement conference and to any settlement proposal.⁵⁶ Ontario's cohort of experienced intervenors provides a diversity of perspectives for the OEB to consider. Negotiated settlements are also facilitated by the participation of knowledgeable intervenors.

In Alberta, settlements are used to support the objectives of regulatory efficiency and effectiveness.⁵⁷ AUC staff involved in a negotiated settlement process must not participate in proceedings arising from or relating to any issue in the negotiated settlement without written consent of all parties in the negotiation.⁵⁸

⁵⁰ BCUC BC Hydro 2021 IRP, Order No. F-27-24, Section 2.1, p. 6. Available from:

<https://www.ordersdecisions.bcuc.com/bcuc/orders/en/522288/1/document.do>

⁵¹ Ohio Administrative Code, Rule 4901-1-31(A and B). Available from: <https://codes.ohio.gov/ohio-administrative-code/rule-4901-1-31>

⁵² Oregon Revised Statutes, Public Utility Commission, Chapter 860-001-0650. Available from:

<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=4027>

⁵³ Oregon Revised Statutes, Public Utility Commission, Chapter 860-001-0660(5).

⁵⁴ Oregon Revised Statutes, Public Utility Commission, Chapter 860-001-0310(2)(b).

⁵⁵ OEB, Practice Direction on Settlement Conferences, p.3. Available from:

https://www.oeb.ca/oeb/Documents/Regulatory/Practice_Direction_Settlement_Conferences.pdf

⁵⁶ OEB, Practice Direction on Settlement Conferences, p.6-7.

⁵⁷ Settlements are a cost-effective process to resolve entire, or parts of applications. AUC, 2023-2024 Report Card, p. 5. Available from: <https://media.auc.ab.ca/prd-wp-uploads/Shared%20Documents/2023-2024ReportCard.pdf>

⁵⁸ AUC, Rule 018 Rules on Negotiated Settlements, Section 5(1). Available from: https://media.auc.ab.ca/prd-wp-uploads/regulatory_documents/Consultations/Rule018.pdf

Final Cost Awards

The OEB could consider requiring specific information in the final cost award application that details efforts made by parties to collaborate. For example, indicating specific actions they took to reduce duplication such as sharing their draft information requests with other parties to ensure they were not canvassing the same information. While there may be incremental time claimed related to such collaboration, an overall reduction in time spent by each individual intervenor on their respective assessments of an application would be anticipated.

InterGroup's review of cost awards in other Canadian jurisdictions indicated the OEB approves a similar percentage of cost awards as utility regulators in British Columbia and Manitoba. However, the AUC typically awards a lower percentage of requested costs. In some instances, intervenors have received reduced cost awards where the AUC determined they did not sufficiently contribute to the understanding of issues⁵⁹ or for duplication of issues advanced by intervenors.⁶⁰

The OEB already has the ability to reduce cost awards if they are not satisfied sufficient effort was made to collaborate and reduce duplication. However, in practice InterGroup notes that it can be challenging to disallow costs that have already been incurred by intervenors. Implementing some or all of the recommendations in this section may help clarify expectations and identify issues before significant costs have been incurred that might later be subject to disallowances.

⁵⁹ AUC, Decision 26985-D01-2022, Costs Award, Section 29. January 24, 2022. Available from: [https://www2.auc.ab.ca/Proceeding26985/ProceedingDocuments/26985_X\[\] Decision%2026985-D01-2022_000012.pdf](https://www2.auc.ab.ca/Proceeding26985/ProceedingDocuments/26985_X[] Decision%2026985-D01-2022_000012.pdf)

⁶⁰ AUC, Decisions 28225-D01-2023, Costs Award, Section 5. August 18, 2023. Available from: [https://www2.auc.ab.ca/Proceeding28225/ProceedingDocuments/28225_X\[\] Decision%2028225-D01-2023_000034.pdf](https://www2.auc.ab.ca/Proceeding28225/ProceedingDocuments/28225_X[] Decision%2028225-D01-2023_000034.pdf)

Attachment 2: Intervenor Cost Award Tariffs and Processes to Improve Efficiency and Effectiveness Summary Tables

Table B1: Current Fee Tariffs and Processes to Allow for Advances of Funds

Jurisdiction	Current Fee Tariffs (Years of Experience: \$/h)						Effective Date
	Accountants	Consultants / Analysts	Engineers	IT	Lawyers	Other	
Ontario		0-5: 170 6-10: 230 11-19: 290 >20: 330			Articling: 100 0-5: 170 6-10: 230 11-19: 290 >20: 330	Case Management: 170	April 1, 2023
Québec (Intervenors) ¹		0-5: 135 6-10: 160 11-15: 195 > 15: 240			Intern: 80 0-5: 135 6-10: 200 11-15: 250 >15: 300	Expert Witness: 300 Coordinator: 80	February 1, 2020
Québec (Participant Employees)		0-5: 70 6-10: 80 11-15: 90 > 15: 100			Intern: 45 0-5: 85 6-10: 95 11-15: 105 >15: 135	Coordinator: 45	February 1, 2020

¹ (Google translated) Guide de paiement des frais des intervenants 2020, Frais des intervenants, Régie de l'énergie Québec. Available from: https://www.regie-energie.qc.ca/storage/app/media/la-regie/lois-reglements-documents-administratifs/interventions-frais-intervenants/Regie_GuidePaiementFrais2020_janvier2020.pdf

Table B1: Current Fee Tariffs and Processes to Allow for Advances of Funds

Jurisdiction	Current Fee Tariffs (Years of Experience: \$/h)						Effective Date
	Accountants	Consultants / Analysts	Engineers	IT	Lawyers	Other	
Manitoba ²	0-4: 118 5-9: 165 10-14: 204 15-19: 242 >20: 288		0-4: 118 5-9: 152 10-14: 185 15-19: 210 >20: 237	0-4: 118 5-9: 152 10-14: 196 15-19: 206 >20: 216	0-4: 118 5-9: 170 10-14: 225 15-19: 288 >20: 340		January 1, 2024 Last updated: 2023, 2016, and 2012
Alberta ³		1-4: 160 5-7: 210 8-12: 315 >12: 370			Articling: 190 1-4: 315 5-7: 380 8-12: 430 >12: 475		March 1, 2024 Last updated: 2008
British Columbia ⁴		0-4: 120 5-7: 165 >7: 235			Articling: 110 0-4: 240 5-7: 285 8-12: 320 >12: 350	Expert Witness: 270 Case Managers: 75	June 30, 2022 Last updated: 2016 and 2007

² Maximum Rate Schedule, PUB Manitoba. Available from: <http://www.pubmanitoba.ca/v1/about-pub/pubs/maximumrateschedule-2024.pdf>

³ Appendix A, Rule 022, Rules on Costs in Utility Rate Proceedings, Alberta Utilities Commission. Available from: https://media.www.auc.ab.ca/prd-wp-uploads/regulatory_documents/Consultations/2024-02-07-Rule022.pdf

⁴ Part IV, Rules of Practice and Procedure, Order G-72-23, British Columbia Utilities Commission. Available from: <https://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/521582/index.do>

Table B2: Processes and Requirements to Enhance Efficiency and Effectiveness - Requirements to Encourage Collaboration & Prevent Duplication of Effort

Jurisdiction	Summary of Requirements to Encourage Collaboration & Prevent Duplication of Effort
Ontario	<p>The OEB may require parties where there are multiple requests to file evidence on similar issues to work together.^{5,6}</p> <p>The OEB may also require two or more parties who have applied for cost award eligibility to combine efforts to avoid duplication of evidence or intervention.⁷ Intervenors are also to make reasonable efforts to combine its intervention with that of one of more similarly interested parties.⁸</p>
Newfoundland & Labrador	<p>There are no explicit requirements for intervenors to collaborate and provide duplication of effort but in determining final cost award, the Board will consider whether the interest presented by the intervenor was unique and not otherwise represented.⁹</p>
Nova Scotia	<p>There is no explicit rule for the requirement of intervenors to collaborate to prevent duplication of information.</p>
New Brunswick	<p>There is no explicit rule for the requirement of intervenors to collaborate to prevent duplication of information.</p>

⁵ Ontario Energy Board Rules of Practice and Procedure, Section 13.06. Available from:

https://www.oeb.ca/sites/default/files/uploads/documents/regulatorycodes/2024-03/OEB_Rules-Practice-and-Procedure_20240306.pdf

⁶ Ontario Energy Board, Intervention Form, Question 7. Available from: <https://www.oeb.ca/html/intervenor/apply/> Retrieved August 2, 2024.

⁷ Ontario Energy Board Practice Direction on Cost Awards, Section 4.04. Available from:

<https://www.oeb.ca/sites/default/files/uploads/documents/regulatorycodes/2023-03/Practice-Direction-on-Cost-Awards-20230401.pdf>

⁸ Ontario Energy Board Practice Direction on Cost Awards, Section 5.01(c).

⁹ Board of Commissioners of Public Utilities Hearing Participation Guidelines, p. 2. Available from:

<http://pub.nf.ca/download/Hearing%20Participation%20Guidelines.pdf>

Table B2: Processes and Requirements to Enhance Efficiency and Effectiveness - Requirements to Encourage Collaboration & Prevent Duplication of Effort

Jurisdiction	Summary of Requirements to Encourage Collaboration & Prevent Duplication of Effort
Michigan	<p>A prehearing conference may be held where parties providing for joint, coordinated, or consolidated presentation by parties having similar interests to avoid duplication of evidence and for producing and exchanging proposed exhibits and prepared testimony of proposed witnesses.¹⁰</p> <p>In determining a grant award, the Utility Consumer Participation Board will consider the anticipated involvement of the attorney general (consumer advocate) and whether the proposed activities of the intervenor would be duplicative or supplemental to the activities of the attorney general.¹¹ The board may direct two or more intervenors to file jointly and award a grant to be managed cooperatively.¹²</p> <p>To maximize the number of hearings and proceedings with intervenor participation and avoid duplication of effort, the Board shall coordinate the funded activities of grant recipients with those of the attorney general.¹³</p>
Oregon	<p>Intervenors who represent low-income residential customers or environmental justice groups who receive grant funding are encouraged to make reasonable efforts to coordinate activities and combine efforts and resources including before submitting proposed budgets or after receiving grants. However, such cooperative efforts will not affect the amounts of their grants.¹⁴</p>

¹⁰ Michigan Office of Administrative Hearing and Rules, Section 792.10421(1)(f and h). Available from: <https://ars.apps.lara.state.mi.us/AdminCode/DownloadAdminCodeFile?FileName=R%20792.10101%20to%20R%20792.11903.pdf>

¹¹ Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6m(12b). Available from: [https://www.legislature.mi.gov/\(S\(lqvw2x55qzefle55x5js1c45\)\)/documents/mcl/pdf/mcl-chap460.pdf](https://www.legislature.mi.gov/(S(lqvw2x55qzefle55x5js1c45))/documents/mcl/pdf/mcl-chap460.pdf)

¹² Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6m(13).

¹³ Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6m(17c).

¹⁴ Oregon Public Utility Commission, Chapter 860-001-840(3). Available from: <https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=4027>

Table B2: Processes and Requirements to Enhance Efficiency and Effectiveness - Requirements to Encourage Collaboration & Prevent Duplication of Effort

Jurisdiction	Summary of Requirements to Encourage Collaboration & Prevent Duplication of Effort
Ohio	The commission will consider the extent to which an intervenor’s proposed intervention is represented by existing parties. ¹⁵ The commission may grant limited intervention for an intervenor to participate with respect to one or more issues or may require parties with substantially similar interests to consolidate their examination of witnesses or presentation of testimony. ¹⁶
United Kingdom	The Ofgem in United Kingdom is a non-adjudicative regulator and does not have an intervention process. Customer challenge groups are required to provide feedback to utilities on their draft business plans, to allow companies to update their business plans prior to submitting a final report to Ofgem. ¹⁷
Québec	In Quebec, any party that wishes to request a cost award must attach to their request for intervention a form with the list of subjects they intend to address as well as a participation budget. The participation budget must depend on the issues they wish to address. The participation budget must include a detailed estimate of the costs and means required by the intervenor regarding their needs in terms of lawyers, expert witnesses, analysts, coordinators, and translation and stenography costs. ¹⁸

¹⁵ Ohio Revised Code, Section 4901-1-11(B)(5). Available from: <https://codes.ohio.gov/ohio-administrative-code/chapter-4901-1>

¹⁶ Ohio Revised Code, Section 4901-1-11(D).

¹⁷ Ofgem 2021. Guidance – RIOO-ED2 Enhanced Engagement Guidance Document Version 2, Section 3.32. Available from: https://www.ofgem.gov.uk/sites/default/files/docs/2021/04/ed2_enhanced_engagement_guidance_v2-clean_version_for_publication.pdf

¹⁸ (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l’énergie, Rules 4 & 5. Available from: https://www.regie-energie.qc.ca/storage/app/media/la-regie/lois-reglements-documents-administratifs/interventions-frais-intervenants/Regie_GuidePaiementFrais2020_janvier2020.pdf

Table B2: Processes and Requirements to Enhance Efficiency and Effectiveness - Requirements to Encourage Collaboration & Prevent Duplication of Effort

Jurisdiction	Summary of Requirements to Encourage Collaboration & Prevent Duplication of Effort
Manitoba	<p>Manitoba’s rules of practice and procedure state that “The Board may recommend or order that Interveners with similar interests present a joint intervention.”¹⁹</p> <p>Manitoba’s rules of practice and procedure also state that in order to receive cost awards an intervenor must have “participated in the hearing in a responsible manner and cooperated with other Interveners who have common objectives in the outcome of the proceedings in order to avoid a duplication of intervention”.²⁰ In awarding costs the Manitoba Board may consider if an intervenor:</p> <ul style="list-style-type: none"> • “Asked questions on cross-examination that were unduly repetitive of questions previously asked by another intervener”; • “Made reasonable efforts to ensure that the intervener’s evidence was not unduly repetitive of evidence presented by another intervener”; and • “Made reasonable efforts to cooperate with other interveners to reduce the duplication of evidence and questions or to combine the intervener’s submission with that of similarly interested interveners”.²¹ <p>Furthermore, in Manitoba an intervenor is also supposed to “attend any pre-hearing conference to confer with other interveners and avoid duplication of evidence...”.²²</p> <p>At the beginning of a hearing, a request for intervention must include the specific issues on which the perspective intervenor seeks Board approval to intervene. If the intervenor would like to claim costs, the cost of the proposed intervention must be quantified by issue.²³</p>

¹⁹ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 4(2). Available from:

http://www.pubmanitoba.ca/pdf/pandp/rules_pandp_mar07.pdf

²⁰ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 43(b).

²¹ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rules 44(a), (b), & (c).

²² Rules of Practice and Procedure, Manitoba Public Utilities Board, Rules 46(3).

²³ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 27(1).

Table B2: Processes and Requirements to Enhance Efficiency and Effectiveness - Requirements to Encourage Collaboration & Prevent Duplication of Effort

Jurisdiction	Summary of Requirements to Encourage Collaboration & Prevent Duplication of Effort
Alberta	In Alberta, in determining the amount of costs awarded, the AUC can consider if a participant “made reasonable efforts to cooperate with other parties to reduce the duplication of evidence and questions or to combine its submission with that of similarly interested participants.” ²⁴
British Columbia	In British Columbia, “Intervenors are expected to take reasonable efforts to avoid the duplication of evidence” ²⁵ , “The BCUC encourages and may require an intervenor to coordinate with other intervenors who represent substantially similar interests” ^{26,27} and “To the extent practicable, parties should not knowingly duplicate other parties’ information requests.” ²⁸ In the assessment for cost awards the BCUC considers if a participant has “Made reasonable efforts to combine or coordinate its participation with that of one or more participants with similar interests, in order to avoid duplication and reduce costs.” ²⁹
Wisconsin	There is no explicit rule for the requirement of intervenors to collaborate to prevent duplication of information.
California	The California Public Utilities Code for Hearings and Judicial Review states that “This article shall be administered in a manner that avoids unproductive or unnecessary participation that duplicates the participation of similar interests otherwise adequately represented or participation that is not necessary for a fair determination of the proceeding.” ³⁰

²⁴ Alberta Utilities Commission, Rule 022 – Rules on Costs in Utility Rates Proceedings, Rule 11.2(c). February 7, 2024. Available from:

https://media.www.auc.ab.ca/prd-wp-uploads/regulatory_documents/Consultations/2024-02-07-Rule022.pdf

²⁵ British Columbia Utilities Commission, Amendments to the Rules of Practice and Procedure, G-72-23, Rule 10.02. April 3, 2023. Available from:

<https://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/521582/index.do?q=G-72-23>

²⁶ British Columbia Utilities Commission, Amendments to the Rules of Practice and Procedure, G-72-23, Rule 10.03. April 3, 2023.

²⁷ For example, in the BC Hydro 2024 Rate Design proceeding, The British Columbia Utilities Commission directed several municipalities to participate as one intervenor group with participation limited to specific topics. Four renewable energy organizations were also directed to participate as one group and limited to specific topics and similarly for the Zone II Ratepayers Group and Gitga’at First Nation. BCUC BC Hydro 2024 Rate Design – Intervenor Registration and Scope of Participation, Exhibit A-3, p. 2. Available from: https://docs.bcuc.com/documents/proceedings/2024/doc_78401_a-3-intervenor-registration-participation-scope.pdf

²⁸ British Columbia Utilities Commission, Amendments to the Rules of Practice and Procedure, G-72-23, Rule 12.04. April 3, 2023.

²⁹ British Columbia Utilities Commission, Amendments to the Rules of Practice and Procedure, G-72-23, Rule 36.01. April 3, 2023.

³⁰ California Public Utilities Code, Article 5 Intervenor’s Fees and Expenses, 1801.3(f). January 1, 2017. Available from:

https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=PUC§ionNum=1801.3

Table B2: Processes and Requirements to Enhance Efficiency and Effectiveness - Requirements to Encourage Collaboration & Prevent Duplication of Effort

Jurisdiction	Summary of Requirements to Encourage Collaboration & Prevent Duplication of Effort
New York	In New York, "Discovery that is unreasonably cumulative, repetitive, or duplicative will not be allowed." ³¹
Australia	The Australian Energy Regulator is a non-adjudicative regulator and does not have an intervention process.

³¹ State Compilation of Codes, Rules and Regulations Of The State Of New York, 16 CRR-NY 5.8. February 28, 2023. Available from: <https://govt.westlaw.com/nycrr/Document/I5052369bcd1711dda432a117e6e0f345?transitionType=Default&contextData=%28sc.Default%29>

Table B3: Processes and Requirements to Enhance Efficiency and Effectiveness – Limits on Discovery and Motions for Better Responses

Jurisdiction	Limits on Discovery and Motions for Better Responses
Ontario	<p>There are no explicit rules for limits on discovery.</p> <p>There are currently no rules for intervenors to reach out to applicants to resolve any issue before requesting the matter to be settled by the commission, but this does occur informally. When an applicant is unable or unwilling to respond to an interrogatory, they shall file and serve a response stating the information is not relevant, available, or confidential.³² Applicants are encouraged to informally reach out to parties where they cannot respond to an interrogatory to resolve the issue in another manner, such as providing similar information to what was requested.</p>
Newfoundland & Labrador	<p>There are no explicit rules for limits on discovery or for intervenors to reach out to applicants for better responses prior to filing a motion.</p>
Nova Scotia	<p>There are no explicit rules for limits on discovery.</p> <p>A party may give another party notice in writing to produce any documents which relate to any matter in question between in parties, and if such information cannot be provided, secondary evidence of such documents may be given.³³</p>
New Brunswick	<p>There are no explicit rules for limits on discovery or for intervenors to reach out to applicants for better responses prior to filing a motion.</p>
Michigan	<p>There are no explicit rules for limits on discovery or for intervenors to reach out to applicants for better responses prior to filing a motion.</p>

³² Ontario Energy Board Rules of Practice and Procedure, Section 27.02. Available from: https://www.oeb.ca/sites/default/files/uploads/documents/regulatorycodes/2024-03/OEB_Rules-Practice-and-Procedure_20240306.pdf

³³ Nova Scotia Utility and Review Board Rules of Practice and Procedure, Section 29. Available from: https://nsuarb.novascotia.ca/sites/default/files/board_regulatory_rules.pdf

Table B3: Processes and Requirements to Enhance Efficiency and Effectiveness – Limits on Discovery and Motions for Better Responses

Jurisdiction	Limits on Discovery and Motions for Better Responses
Oregon	There are no explicit rules for limits on discovery. Before filing a procedural motion, an intervenor must try to confer with other parties to seek agreement about the subject of motion. A procedural motion must describe the effort to confer and the result of the effort. ³⁴
Ohio	There are no explicit rules for limits on discovery. Before serving a discovery request, a party must first make a reasonable effort to determine whether the information would be available from such sources. ³⁵ No motion of discovery may be made until an intervenor seeking discovery has exhausted all other means of resolving any differences with the party from whom discovery was requested. ³⁶
United Kingdom	The Ofgem in United Kingdom is a non-adjudicative regulator. There are no limits on discovery or motions for better responses.
Québec	There are no explicit rules for limits on discovery or for intervenors to reach out to applicants for better responses prior to filing a motion.
Manitoba	There are no explicit rules for limits on discovery or for intervenors to reach out to applicants for better responses prior to filing a motion.

³⁴ Oregon Public Utility Commission, Chapter 860-001-420(2). Available from: <https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=4027>

³⁵ Ohio Revised Code, Section 4901-1-16(G). Available from: <https://codes.ohio.gov/ohio-administrative-code/chapter-4901-1>

³⁶ Ohio Revised Code, Section 4901-1-23(C).

Table B3: Processes and Requirements to Enhance Efficiency and Effectiveness – Limits on Discovery and Motions for Better Responses

Jurisdiction	Limits on Discovery and Motions for Better Responses
Alberta	<p>In Alberta, the AUC may impose limits on the number of interrogatory requests per intervenor in a proceeding.³⁷ The AUC typically does not limit the number of information requests it can ask.</p> <p>In Alberta, where the applicant cannot respond to an IR, the applicant is typically required to reach out to the party requesting information to reach an agreement on the information that can be provided.³⁸ Similarly, prior to filing any motions for further or better responses, intervenors typically must communicate with the applicant to try resolving their issue before requesting the matter be settled by the Commission.³⁹</p>
British Columbia	<p>There are no explicit rules for limits on discovery.</p> <p>In British Columbia, BCUC rules of practice and procedure state that if a party believes an information request is unclear, “it is incumbent upon that party to make reasonable efforts to contact the requestor to clarify the question and respond in accordance with the deadline for information request responses”. If clarification cannot be obtained in a timely manner, “the party responding to the information request must state any assumptions made respecting the interpretation of the question”. “If a party fails to respond, or if a party, including BCUC staff, is not satisfied with an information request response, a party may file a request that the matter be settled by the BCUC.”⁴⁰</p>

³⁷ See for example AUC proceeding 28174 which states a limit for the number of IRs for each intervenor. AUC, Proceeding 28174, p. 4. Available from: https://www2.auc.ab.ca/Proceeding28174/ProceedingDocuments/28174_X0251_2023-05-25%20AUC%20letter%20-%20Process%20schedule%20and%20response%20to%20CCA%20request%20for%20blackout%20periods_000255.pdf

³⁸ AUC, Proceeding 28174, Section 19 p. 5.

³⁹ AUC, Rules of Practice and Procedure Rule 001, Section 28.2. Available from: https://media.auc.ab.ca/prd-wp-uploads/regulatory_documents/Consultations/Rule001.pdf

⁴⁰ BCUC, Rules of Practice and Procedure, G-175-22, 14.04 & 14.05. June 28, 2022. Available from: https://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/521125/index.do#_Toc107298614

Table B3: Processes and Requirements to Enhance Efficiency and Effectiveness – Limits on Discovery and Motions for Better Responses

Jurisdiction	Limits on Discovery and Motions for Better Responses
Wisconsin	There are no explicit rules for limits on discovery. In Wisconsin, any discovery motions are required to “include a certification that the movant has in good faith conferred or attempted to confer with the person subject to the motion in an effort to resolve their dispute without commission action”. ⁴¹
California	In California, “A motion to compel or limit discovery is not eligible for resolution unless the parties to the dispute have previously met and conferred in a good faith effort to informally resolve the dispute. The motion shall state facts showing a good faith attempt at an informal resolution of the discovery dispute presented by the motion, and shall attach a proposed ruling that clearly indicates the relief requested.” ⁴²
New York	There are no explicit rules for limits on discovery. In New York, “Parties are encouraged to communicate and exchange information informally, including by telephone or by meeting, and to use the formal procedures... only as necessary.” ⁴³
Australia	Australia does not have an intervention process.

⁴¹ Wisconsin Public Service Commission (PSC), Procedure and Practice Chapter PSC 2, Discovery Motions. Available from: https://docs.legis.wisconsin.gov/code/admin_code/psc/2/ii/24/2

⁴² State of California Public Utilities Commission Rules of Practice and Procedure, Rule 11.3. Available from: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/rules-of-practice-and-procedure-may-2021.pdf>

⁴³ State Compilation of Codes, Rules and Regulations Of The State Of New York, 16 CRR-NY 5.2. February 28, 2023. Available from: <https://govt.westlaw.com/nycrr/Document/I50520fc1cd1711dda432a117e6e0f345?transitionType=Default&contextData=%28sc.Default%29>

Table B4: Processes and Requirements to Enhance Efficiency and Effectiveness – Limiting Evidence and Argument during Written Proceedings

Jurisdiction	Limiting Evidence and Argument during Written Proceedings
Ontario	<p>There are no explicit rules in limiting evidence or argument during written proceedings. In determining the format of the proceeding, the OEB will consider including:⁴⁴</p> <ul style="list-style-type: none"> • The subject-matter of the proceeding, including the complexity and issues to be addressed; • The nature of the evidence, including the credibility of an issue or whether facts are in dispute; and • The efficiency and timeliness of the proceeding, including the urgency of the matter. <p>Where the OEB determines that all or a portion of a proceeding will be conducted as an oral hearing, the OEB may make provisions to allow parties to participate by electronic means.⁴⁵</p>
Newfoundland & Labrador	<p>The board may hold a pre-hearing conference to simplify the issues, evidence or disposition of the matter.⁴⁶</p> <p>At the conclusion of examination of evidence presented by parties, the board may direct that written argument and replies be filed with the board and the time and order in which oral argument is to be given.⁴⁷</p>

⁴⁴ Ontario Energy Board Rules of Practice and Procedure, Section 32.03(a, b, and f). Available from: https://www.oeb.ca/sites/default/files/uploads/documents/regulatorycodes/2024-03/OEB_Rules-Practice-and-Procedure_20240306.pdf

⁴⁵ Ontario Energy Board Rules of Practice and Procedure, Section 32.04.

⁴⁶ Newfoundland and Labrador Regulation 39/96, Section 16(a). Available from: <https://www.assembly.nl.ca/Legislation/sr/Regulations/rc969039.htm#9>

⁴⁷ Newfoundland and Labrador Regulation 39/96, Section 20(1)(a and e).

Table B4: Processes and Requirements to Enhance Efficiency and Effectiveness – Limiting Evidence and Argument during Written Proceedings

Jurisdiction	Limiting Evidence and Argument during Written Proceedings
Nova Scotia	<p>There are no explicit rules in limiting evidence or argument during written proceedings. A hearing may be conducted in an informal manner and are not required to follow the strict rules of practice and procedure required in a court of law.⁴⁸</p> <p>A party may call and examine witnesses, cross-examine opposing witnesses and present arguments and submissions.⁴⁹ The Board may receive in evidence any statement, document, information or matter that may assist the Board with the matter before the Board.⁵⁰ The Board may also require briefs to be filed by parties.⁵¹</p>
New Brunswick	<p>The Board may hold an oral hearing or a written hearing.⁵²</p> <p>Parties presenting evidence at an oral hearing must provide it in written form.⁵³ At an oral hearing, where a party intends to refer to a document exceeding two pages that has not previously been filed, shall only be permitted to put the document in evidence or use it in cross-examination of a witness, if the witness is served the document at least one business day in advance and provided a brief summary of its intended use.⁵⁴</p>

⁴⁸ Nova Scotia Utility and Review Board Rules of Practice and Procedure, Section 22(1). Available from: https://nsuarb.novascotia.ca/sites/default/files/board_regulatory_rules.pdf

⁴⁹ Nova Scotia Utility and Review Board Rules of Practice and Procedure, Section 22(4).

⁵⁰ Nova Scotia Utility and Review Board Rules of Practice and Procedure, Section 22(5).

⁵¹ Nova Scotia Utility and Review Board Rules of Practice and Procedure, Section 23.

⁵² New Brunswick Energy and Utilities Board Rules of Procedure, Section 5.1.1. Available from: <https://nbeub.ca/uploads/2019%2010%2001%20-%20REVISED%20Rules%20of%20Procedure%20-%20Effective%20November%201%202019.pdf>

⁵³ New Brunswick Energy and Utilities Board Rules of Procedure, Section 6.2.1.

⁵⁴ New Brunswick Energy and Utilities Board Rules of Procedure, Section 6.2.5.

Table B4: Processes and Requirements to Enhance Efficiency and Effectiveness – Limiting Evidence and Argument during Written Proceedings

Jurisdiction	Limiting Evidence and Argument during Written Proceedings
Michigan	<p>In Michigan, the presiding officer may rule on all matters of evidence, scheduling, and motions.⁵⁵</p> <p>When evidence consists of technical matters or figures that would make oral presentation difficult to follow, it must be presented in exhibit form, supplemented and explained, but not duplicated by testimony.⁵⁶</p> <p>Oral arguments may be made before the commission or presiding officer.⁵⁷ Initial briefs and reply briefs may be filed at the discretion of the parties unless requested by the commission or presiding officer.⁵⁸ Briefs containing factual information claimed to be established by the evidentiary record must include a reference to the specific portions of the record where the evidence is contained. Reply briefs must be confined to rebuttal of arguments contained in other parties’ initial briefs. The presiding officer may remove any brief that does not comply with this rule.⁵⁹</p>
Oregon	<p>In Oregon, the Commission may require a party to file a brief, or to present oral arguments instead of or in addition to briefs.⁶⁰ The Administrative Law Judge will determine the length of each party’s oral argument to the Commission and the order of presentation.⁶¹ The Administrative Law Judge also has the authority to limit a party’s presentation of evidence or factual arguments to ensure the timely development of the hearing record.⁶²</p>

⁵⁵ Michigan Office of Administrative Hearing and Rules, Section 792.10415(2). Available from: <https://ars.apps.lara.state.mi.us/AdminCode/DownloadAdminCodeFile?FileName=R%20792.10101%20to%20R%20792.11903.pdf>

⁵⁶ Michigan Office of Administrative Hearing and Rules, Section 792.10429(1).

⁵⁷ Michigan Office of Administrative Hearing and Rules, Section 792.10434(1).

⁵⁸ Michigan Office of Administrative Hearing and Rules, Section 792.10434(2).

⁵⁹ Michigan Office of Administrative Hearing and Rules, Section 792.10434(3).

⁶⁰ Oregon Revised Statutes, Public Utility Commission, Chapter 860-001-0650. Available from: <https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=4027>

⁶¹ Oregon Revised Statutes, Public Utility Commission, Chapter 860-001-0660(5).

⁶² Oregon Revised Statutes, Public Utility Commission, Chapter 860-001-0310(2)(b).

Table B4: Processes and Requirements to Enhance Efficiency and Effectiveness – Limiting Evidence and Argument during Written Proceedings

Jurisdiction	Limiting Evidence and Argument during Written Proceedings
Ohio	In Ohio, the Commission may direct parties to limit briefs to one or more specific issues or impose other requirements or limitations concerning the length or form of briefs. ⁶³
United Kingdom	The Ofgem in United Kingdom is a non-adjudicative regulator. Ofgem does not have an intervention process.
Québec	In Québec an applicant must file the documents and additional evidence the Régie considers necessary for deliberations. The Régie may allow any participant to file evidence. ⁶⁴ The Régie issues written instructions for the conduct of hearings and the preparation of a schedule, and fixes the time granted to each participant to present a position. ⁶⁵ A participant may call and examine witnesses, examine the other participants' witnesses and present a position, unless the Régie directs otherwise. ⁶⁶
Manitoba	At hearings, parties will have an opportunity to present their evidence and to examine and cross-examine witnesses. All proposed evidence is required to be pre-filed, and the direct oral evidence at a hearing should be in summary form. ⁶⁷ At the conclusion of the examination of evidence at the hearing, the Board may direct that oral argument be presented and establish the time for it, or order written argument to be filed with the Board, or both. ^{68,69}

⁶³ Ohio Administrative Code, Rule 4901-1-31(A and B). Available from: <https://codes.ohio.gov/ohio-administrative-code/rule-4901-1-31>

⁶⁴ Rules of Procedure of the Régie de l'énergie, Rules 23 and 24. Available from: <https://www.legisquebec.gouv.qc.ca/en/document/cr/R-6.01,%20r.%204.1%20/>

⁶⁵ Rules of Procedure of the Régie de l'énergie, Rules 36.

⁶⁶ Rules of Procedure of the Régie de l'énergie, Rules 38.

⁶⁷ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 30(1). Available from: http://www.pubmanitoba.ca/pdf/pandp/rules_pandp_mar07.pdf

⁶⁸ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 31.

⁶⁹ For example, in the Manitoba Hydro Cost of Service Study Methodology review proceeding, the Manitoba Public Utilities Board directed certain issues would be designated for oral evidence and any issues not designated for oral evidence would be subject to written submissions from the parties. Written submissions on non-designated issues were required to be submitted prior to the oral hearing and filing of written submissions relating to issues designated for oral evidence. PUB Manitoba Hydro Cost of Service Study Methodology Review, Order No. 26/16, p. 16-18. Available from: <https://www.pubmanitoba.ca/v1/proceedings-decisions/orders/pubs/26-16.pdf>

Table B4: Processes and Requirements to Enhance Efficiency and Effectiveness – Limiting Evidence and Argument during Written Proceedings

Jurisdiction	Limiting Evidence and Argument during Written Proceedings
Alberta	<p>In Alberta the development of the evidentiary record in a rates proceeding is conducted through a written process unless otherwise directed by the Commission.⁷⁰ However for argument, the AUC requires argument to be delivered orally, unless otherwise directed by the Commission. A person or party must demonstrate to the Commission that written argument will permit the proceeding to be resolved in a more fair or efficient manner for the commission to accept written argument.⁷¹ For a proceeding which involves written argument and reply argument, the AUC may impose a page limit.⁷² Similarly, for proceedings with oral argument and reply argument, parties may be directed to submit a written summary of their argument which is subject to page limits.⁷³</p> <p>The independent committee the AUC appointed to assist in improving the efficiency of rates proceedings recommended the Commission adopt an assertive approach to management of oral argument including utilization of time limits⁷⁴, topics which it will hear during argument, requiring parties to not restate the evidentiary record, and encouraging parties to present argument and reply jointly to avoid duplication.^{75,76}</p>

⁷⁰ AUC, Rules of Practice and Procedure Rule 001, Section 36. Available from: <https://www.auc.ab.ca/rules/rule001/>

⁷¹ AUC, Rules of Practice and Procedure Rule 001, Section 48.2.

⁷² AUC directs the UCA to refile its argument and argument reply. EPCOR 2023-2025 Non-Energy RRT Application, Proceeding 28457-X0141, Section 1, 4, and 6. Available from: https://www2.auc.ab.ca/Proceeding28457/ProceedingDocuments/28457_X0141_2024-03-27%20AUC%20letter%20-%20Direction%20for%20the%20UCA%20to%20refile%20its%20argument%20and%20reply_000154.pdf

⁷³ AUC, Alberta Electric System Operator, Application for Updates to Rate Demand Opportunity Service, Proceeding 28989-X0095, Section 19. Available from: https://www2.auc.ab.ca/Proceeding28989/ProceedingDocuments/28989_X0095_2024-07-15%20AUC%20letter%20-%20Ruling%20on%20request%20to%20permit%20interveners%20to%20file%20evidence%20and%20process%20for%20oral%20argument_000105.pdf

⁷⁴ Hearing schedule with specific time limits for oral argument. AUC, Alberta Electric System Operator, Bulk and Regional Rate Design. Proceeding 26911-X1106, p. 6. Available from: https://www2.auc.ab.ca/Proceeding26911/ProceedingDocuments/26911_X1106_2022-06-08%20AUC%20letter%20-%20Virtual%20hearing%20schedule%20and%20other%20hearing%20matters_001456.pdf

⁷⁵ Report of the Procedures and Processes Review Committee. Page 38. August 2020. Available from: https://media.auc.ab.ca/prd-wp-uploads/regulatory_documents/Reference/2020-10-22-AUCReviewCommitteeReport.pdf

⁷⁶ Encourages parties to not restate the evidentiary record and to present argument and reply jointly. AUC, FortisAlberta 2022 Phase II DTA. Proceeding 25916-X0204, p. 1. Available from: https://www2.auc.ab.ca/Proceeding25916/ProceedingDocuments/25916_X0204_2021-03-22%20AUC%20letter%20-%20Protocol%20for%20virtual%20hearing%20for%20oral%20argument%20and%20reply%20argument_000232.pdf

Table B4: Processes and Requirements to Enhance Efficiency and Effectiveness – Limiting Evidence and Argument during Written Proceedings

Jurisdiction	Limiting Evidence and Argument during Written Proceedings
British Columbia	In British Columbia (BC), the BCUC has reduced final cost awards where in its view an intervenor did not use resources in a cost-effective manner. Examples have included filling a large number of IRs which are duplicative of other parties IRs, lengthy evidence which could have been summarized in a more concise manner, and final argument that contains duplicative information and unnecessary restating of evidence. ⁷⁷
Wisconsin	Parties shall indicate on the record whether they desire to file briefs. Other parties shall file reply briefs within the set time set by the administrative law judge. ⁷⁸ The commission may provide for oral argument in lieu of briefs under certain circumstances. The commission may also request oral argument in addition to briefs. ⁷⁹
California	The Administrative Law Judge or presiding officer may fix the time for filing briefs, with concurrent briefs preferred. Factual statements must be supported by identified evidence of record, with citations to the transcript. ⁸⁰ The Commission or the Administrative Law Judge may direct the presentation of oral argument before it. ⁸¹ In ratesetting and quasi-legislation proceedings in which the Commissioner has determined that a hearing is required, a party has the right to make an oral argument, if opening briefs are not permitted by the scoping memo. ⁸²

⁷⁷ BCUC BC Hydro 2021 IRP, Order No. F-27-24, Section 2.1, p. 6. Available from:

<https://www.ordersdecisions.bcuc.com/bcuc/orders/en/522288/1/document.do>

⁷⁸ Wisconsin State Legislature, Chapter PSC 2.26(1). Available from: https://docs.legis.wisconsin.gov/code/admin_code/psc/2

⁷⁹ Wisconsin State Legislature, Chapter PSC 2.26(4).

⁸⁰ California Public Utilities Commission, Rules of Practice and Procedure, Section 13.12. Available from: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/rules-of-practice-and-procedure-may-2021.pdf>

⁸¹ California Public Utilities Commission, Rules of Practice and Procedure, Section 13.14(a).

⁸² California Public Utilities Commission, Rules of Practice and Procedure, Section 13.14(b).

Table B4: Processes and Requirements to Enhance Efficiency and Effectiveness – Limiting Evidence and Argument during Written Proceedings

Jurisdiction	Limiting Evidence and Argument during Written Proceedings
New York	In New York, briefs shall be addressed to the presiding officer unless the commission determines that briefs shall be directed to it. ⁸³ The presiding officer shall determine the number of briefs that may be written and the page limits if any. Copies of exhibits may be appended to any brief without counting to the page limit. The presiding officer may authorize oral argument where warranted and determine the scope of any arguments and procedures to be followed. ⁸⁴
Australia	Australia does not have an intervention process.

⁸³ State Compilation of Codes, Rules and Regulations Of The State Of New York, 16 CRR-NY 4.8(a). February 28, 2023. Available from: [https://govt.westlaw.com/nycrr/Document/I50520fb2cd1711dda432a117e6e0f345?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/nycrr/Document/I50520fb2cd1711dda432a117e6e0f345?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

⁸⁴ State Compilation of Codes, Rules and Regulations Of The State Of New York, 16 CRR-NY 4.8(b). February 28, 2023.

Table B5: Processes and Requirements to Enhance Efficiency and Effectiveness – Use of Settlements

Jurisdiction	Use of Settlements
Ontario	<p>Settlement processes can support the objective of achieving greater regulatory efficiency and effectiveness. The OEB’s current rules of practice state the purpose of settlement conferences is to settle all issues referred to in the proceeding, or to settle as many issues as possible.⁸⁵</p> <p>During settlement negotiations, OEB staff typically play a role as active observers ensuring that all relevant information is considered, presenting options, and offering advice on the strengths and weaknesses of proposals. In some cases, OEB commissioners may provide for staff to be a party to the settlement conference and to any settlement proposal.⁸⁶ Ontario’s cohort of experienced intervenors provides a diversity of perspectives for the OEB to consider. Negotiated settlements are also facilitated by the participation of knowledgeable intervenors.</p>
Newfoundland & Labrador	In Newfoundland, parties may enter into a settlement agreement to propose to the Board for all or certain issues arising from the application. ^{87,88}
Nova Scotia	The Board may dispose of all or part of an application by approving a settlement of one of more issues between two or more parties in a proceeding. ⁸⁹
New Brunswick	There are no explicit rules for parties in a proceeding to enter into a settlement agreement on one or more issues arising from the application.

⁸⁵ OEB, Practice Direction on Settlement Conferences, p.3. Available from: https://www.oeb.ca/oeb/Documents/Regulatory/Practice_Direction_Settlement_Conferences.pdf

⁸⁶ OEB, Practice Direction on Settlement Conferences, p.6-7.

⁸⁷ Partial settlement agreement. NP 2025 GRA – Settlement Agreement, p.1. Available from: <http://www.pub.nf.ca/applications/NP2025GRA/settlement/From%20NP%20-%20Settlement%20Agreement%20-%202024-06-04.pdf>

⁸⁸ Full settlement agreement. Order No. P.U. 2(2022), Section 1.3. Available from: [http://www.pub.nf.ca/PU/orders/2022/P.U.%2003\(2022\).PDF](http://www.pub.nf.ca/PU/orders/2022/P.U.%2003(2022).PDF)

⁸⁹ Nova Scotia Utility and Review Board Rules of Practice and Procedure, Section 26(1). Available from: https://nsuarb.novascotia.ca/sites/default/files/board_regulatory_rules.pdf

Table B5: Processes and Requirements to Enhance Efficiency and Effectiveness – Use of Settlements

Jurisdiction	Use of Settlements
Michigan	All parties in a proceeding are encouraged to enter into settlements when possible. Parties may agree upon some or all of the facts. ⁹⁰ Prehearing conferences may also be used to discuss the possibility of voluntary dismissal or settlement of the proceeding. ⁹¹ A grant recipient is required to prepare for and participate in all discussions designed to facilitate and settlement or narrowing of the issues before a hearing in order to minimize litigation costs for all parties. ⁹²
Oregon	A conference may be held to discuss settlement or other resolution or partial resolution of proceedings. ⁹³ Some or all parties may enter into a settlement of any or all issues at any time during a proceeding. ⁹⁴
Ohio	A prehearing conference may be held to clarify or settle issues involved in the proceeding. ⁹⁵
United Kingdom	The Ofgem in United Kingdom is a non-adjudicative regulator. There is no use of settlements.
Québec	Québec does not have any explicit rules regarding negotiated settlements.
Manitoba	Manitoba does not have any explicit rules regarding negotiated settlements.

⁹⁰ Michigan Office of Administrative Hearing and Rules, Section 792.10431(1 and 2). Available from: [file:///C:/Users/gsmith/Downloads/R%20792.10101%20to%20R%20792.11903%20\(5\).pdf](file:///C:/Users/gsmith/Downloads/R%20792.10101%20to%20R%20792.11903%20(5).pdf)

⁹¹ Michigan Office of Administrative Hearing and Rules, Section 792.10421(1)(l).

⁹² Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6m(19). Available from: [https://www.legislature.mi.gov/\(S\(lqvw2x55gzefle55x5js1c45\)\)/documents/mcl/pdf/mcl-chap460.pdf](https://www.legislature.mi.gov/(S(lqvw2x55gzefle55x5js1c45))/documents/mcl/pdf/mcl-chap460.pdf)

⁹³ Oregon Public Utility Commission, Chapter 860-001-590(2)(g). Available from: <https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=4027>

⁹⁴ Oregon Public Utility Commission, Chapter 860-001-350(1).

⁹⁵ Ohio Revised Code, Section 4901-1-26(A)(6). Available from: <https://codes.ohio.gov/ohio-administrative-code/chapter-4901-1>

Table B5: Processes and Requirements to Enhance Efficiency and Effectiveness – Use of Settlements

Jurisdiction	Use of Settlements
Alberta	In Alberta, settlements are used to support the objectives of regulatory efficiency and effectiveness. ⁹⁶ AUC staff involved in a negotiated settlement process must not participate in proceedings arising from or relating to any issue in the negotiated settlement without written consent of all parties in the negotiation. ⁹⁷
British Columbia	The BCUC uses the negotiated settlement process to “save time and reduce the costs of utility regulation while achieving sound regulatory decisions”. ⁹⁸
Wisconsin	According to Wisconsin law, “all parties to dockets before the commission are encouraged to enter into settlements when possible”. ⁹⁹
California	In California, “parties may, by written motion any time after the first prehearing conference and within 30 days after the last day of hearing, propose settlements on the resolution of any material issue of law or fact or on a mutually agreeable outcome to the proceeding”. ¹⁰⁰
New York	In New York, groups participating in rate cases may negotiate a settlement of issues and submit it to the Administrative Law Judge for review. ¹⁰¹
Australia	Australia does not have an intervention process.

⁹⁶ Settlements are a cost-effective process to resolve entire, or parts of applications. AUC, 2023-2024 Report Card, p. 5 & 12. Available from: <https://media.auc.ab.ca/prd-wp-uploads/Shared%20Documents/2023-2024ReportCard.pdf>

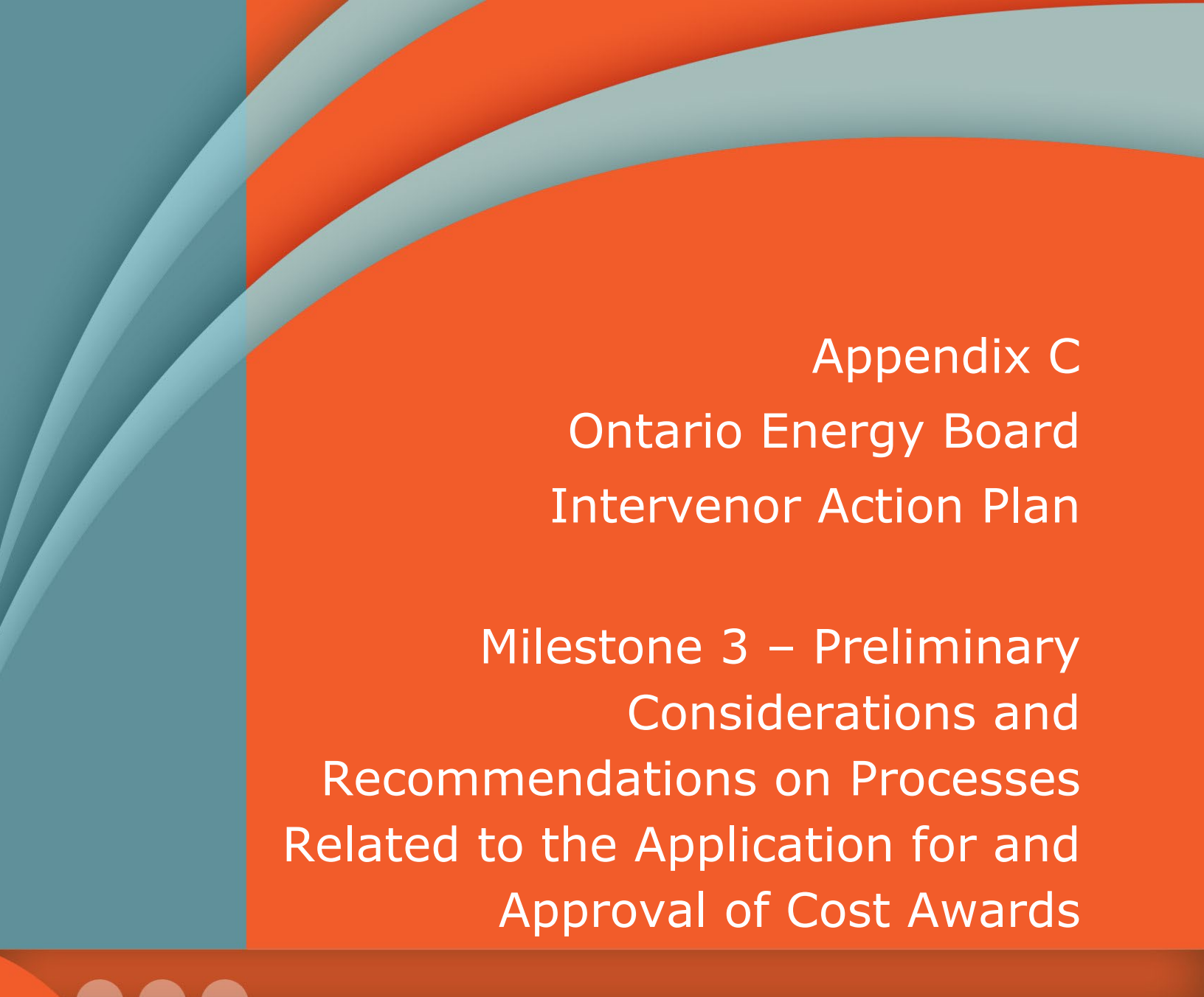
⁹⁷ AUC, Rule 018 Rules on Negotiated Settlements, Section 5(1). Available from: https://media.auc.ab.ca/prd-wp-uploads/regulatory_documents/Consultations/Rule018.pdf

⁹⁸ BCUC Order G-11-12, Policy Statement. February 2, 2012. Available from: <https://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/118349/index.do>

⁹⁹ Wisconsin State Legislature, Chapter 196 Regulation of Public Utilities, 196.026. January 31, 2018. Available from: <https://docs.legis.wisconsin.gov/statutes/statutes/196/026>

¹⁰⁰ State of California Public Utilities Commission, Rules of Practice and Procedure, Rule 12.1 – Proposal of Settlements. Available from: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/rules-of-practice-and-procedure-may-2021.pdf>

¹⁰¹ New York Department of Public Service, Major Rate Case Process Overview. Available from: <https://dps.ny.gov/major-rate-case-process-overview>
Accessed August 29, 2024.



Appendix C
Ontario Energy Board
Intervenor Action Plan

Milestone 3 – Preliminary
Considerations and
Recommendations on Processes
Related to the Application for and
Approval of Cost Awards



InterGroup

CONSULTANTS

Prepared for the Ontario Energy Board

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1.0 INTRODUCTION

InterGroup was retained by the Ontario Energy Board (OEB) to research and make recommendations on processes related to applications for and approval of cost awards and average cost awards for different scales of proceedings. The report is intended to respond to the Minister of Energy’s November 2023 letter of direction, in particular:

In 2021, the Top Quartile Regulator Report identified that “regulators need access to external expertise and a spectrum of perspectives.” The value of intervenors, however, is significantly diminished when the remuneration structure incentivizes the creation of issues or duplicates effort. Effective case management can mitigate this risk, but additional controls are necessary. In 2021-22, Ontario’s 5.3 million electricity and natural gas customers paid \$4.4 million to fund the Ontario Energy Board’s intervenor process. I encourage the OEB to continue its work reviewing the current intervenor processes and to identify opportunities to improve regulatory efficiency and consequently reduce regulatory burden. This should include, but is not limited to, considerations around a designated consumer advocate and capping intervenor costs.¹

The research builds on work previously undertaken by the OEB including the Framework for Review of Intervenor Processes and Cost Awards and recent amendments to the OEB’s Rule of Practice and Procedure and Practice Direction on Cost Awards. The research includes information collected by InterGroup from a review of practices in 15 other jurisdictions. The assignment is organized into three packages.

This report presents initial findings, summarizes considerations based on the research in Ontario and other jurisdictions and provides initial recommendations related to Milestone 3 of the project. Specifically, it addresses two questions:

1. What are the existing processes related to application for and approval of cost awards?
2. What are the average cost awards for different scales of proceedings?

Milestone 1 involved a jurisdictional scan to develop recommendations for whether a designated consumer advocate should be implemented in Ontario and made recommendations related to capping intervenor costs in OEB proceedings.

Milestone 2 examined processes related to intervenor fee tariffs, encouraging collaboration among intervenors, and other potential process efficiency improvements.

Detailed information on existing processes related to application for and approval of cost awards and average cost awards for different scales of proceedings are summarized in Attachment 3.

¹ Minister of Energy letter dated November 29, 2023. Available: <https://www.oeb.ca/sites/default/files/letter-of-direction-from-the-Minister-of-Energy-20231129.pdf> Accessed May 15, 2024.

2.0 SUMMARY OF OBSERVATIONS AND RECOMMENDATIONS

Based on the research completed for this assignment, InterGroup makes the following observations and recommendations regarding existing processes related to application for and approval of cost awards and average cost awards for different scales of proceedings:

2.1 PROCESSES RELATED TO APPLICATION FOR AND APPROVAL OF COST AWARDS

Observations:

1. In Ontario, the types of parties who are eligible for cost awards are similar to other jurisdictions.
2. To qualify for a cost award in Ontario, a party must demonstrate the nature of their interest in a proceeding. Most jurisdictions have a similar requirement. Some jurisdictions also require that parties demonstrate the need for financial assistance to be eligible for a cost award.
3. In Ontario, the types of eligible costs to be claimed in a cost award are similar to other jurisdictions.
4. The application process for intervenor status is similar in Ontario to other jurisdictions. Intervenors must typically demonstrate substantial interest in the proceeding and make effort to coordinate with other intervenors to avoid duplication.
5. In Ontario, a budget submission is only required if the intervenor intends to file evidence and seek a recovery of costs and does not provide specific guidelines or direction to include costs for lawyers, non-expert consultants, or other costs. Some other jurisdictions require budgets to be submitted at the beginning of a proceeding, and to update them if any material differences are anticipated.
6. The OEB does not have formal processes in place in their Rules of Practice and Procedure or Practice Direction on Cost Awards for managing the provision of interim funding. Although interim funding has sometimes been made available, there is no specific application process in place at this time like that used in other jurisdictions. Jurisdictions that offer interim cost awards typically only offer them for lengthy proceedings. Some jurisdictions require that the intervenor demonstrate a financial need for interim funding.
7. The OEB does not offer advance funding. Other jurisdictions may grant advance funding if the intervenor demonstrates the need for financial assistance.
8. The OEB has similar rules to other jurisdictions for evaluating final cost awards including whether the party contributed to a better understanding for the Board, focused on relevant issues, promoted efficiency, and coordinated with other intervenors to avoid duplication. Some other jurisdictions also have rules around consideration of the complexity and importance of issues addressed by the intervenor and adhering to the approved scope and budget of the intervenor.

Recommendations:

1. Improve collaboration and reduce duplication - provide further improvements to the overall culture of active adjudication by considering a number of potential process changes including:
 - a) Revisions to the intervenor application form to require more information on the specific customers or customer classes being represented, and more detailed information on the issues intervenors propose to canvass.
 - b) Specifically directing certain parties with similar interests or issues in a procedural order to collaborate or present a joint intervention to reduce the potential for duplication.
 - c) Directing individuals with narrow or small interests to either collaborate with another intervenor or participate through other means, such as submitting a letter of comment.
 - d) Limiting the number of information requests intervenors can ask.
 - e) Requiring specific information in the final cost award application that details efforts made by parties to collaborate. For example, indicating specific actions they took to reduce duplication such as sharing their draft information requests with other parties to ensure they were not canvassing the same information.
2. Require budget submissions - consider expanding the use of budgets for parties who will be seeking cost awards. Budgets could be updated throughout the proceeding as processes and issues become clarified.
3. Advance funding and interim funding - consider implementing formal application processes for both advanced funding and interim funding. This could involve updates to the OEB's Rules of Practice and Procedure or Practice Direction on Cost Awards, or providing a placeholder for the consideration of interim funding applications in the schedules for longer proceedings. Eligibility could be limited to lengthy proceedings or for intervenors who require financial assistance for their participation in a proceeding. Additional provisions could be made for Indigenous communities or individual landowners.
4. Approval of final cost awards - The OEB already has the ability to reduce cost awards if they are not satisfied sufficient effort was made to collaborate and reduce duplication. However, in practice InterGroup notes that it can be challenging to disallow costs that have already been incurred by intervenors. Implementing some or all of the recommendations in this section may help clarify expectations and identify issues before significant costs have been incurred that might later be subject to disallowances.

2.3 ANALYSIS OF INTERVENOR COST AWARDS

Observations:

1. Average annual cost claims per customer and cost claims per capita are lower than other Canadian jurisdictions.
2. The OEB is currently implementing a pilot project to set a budget for intervenor costs (\$20,000 per intervenor) for cost-of-service applications for small and very small utilities (those with fewer than 30,000 customers). Between 2020/21 and 2023/24 the budget could have resulted in a savings of about \$116,000.
3. The percentage of cost claims awarded is higher than Alberta, but similar to other Canadian jurisdictions.

Recommendations:

1. Consider focussing efforts to manage total intervenor costs or increase collaboration on the largest proceedings.
2. The OEB has the necessary tools available to reduce cost awards when required. However, InterGroup does not recommend stricter reductions in cost awards as a primary method for managing intervenor costs. Instead, InterGroup recommends the OEB consider other policy and procedural changes that could facilitate increased collaboration and potentially reduce duplication.
3. Consider procedural or policy changes that could strengthen and support the culture of active case management and may contribute to more efficient processes.
4. For smaller applications, the budget approach currently being piloted may be a reasonable and efficient way to manage costs for those scales of proceedings. InterGroup recommends the OEB review the results of the pilot project, and consider expanding its use to more types of proceedings.

3.0 PROCESSES RELATED TO APPLICATION FOR AND APPROVAL OF COST AWARDS

InterGroup’s review of processes related to the application for and approval of cost awards focused on how parties in a proceeding apply for and are approved for cost awards in Ontario compared to other jurisdictions.

At the outset it should be noted that formal consumer advocates typically receive funding from other sources and therefore do not apply for costs awards. However, the costs of a formal consumer advocate may still ultimately be recovered from ratepayers or taxpayers through other means. Regulators in jurisdictions with a formal consumer advocate may still have cost award processes for other parties and their processes are included in this review.

In most jurisdictions, only certain parties are eligible to receive cost awards and they must adhere to process guidelines established by the regulator. Preliminary observations related to cost award processes are summarized in the following sections:

1. Cost Award Eligibility (Section 3.1);
2. Cost Award Application Process (Section 3.2);
 - a) Pre-proceeding: Initial Application for Intervenor Status;
 - b) During The Proceeding; and
 - c) Post-proceeding: Determining Final Cost Award Eligibility.

The processes related to the application for and approval of cost awards describe the criteria, required conduct, and filing requirements to receive an award of cost. The processes may be outlined in legislation or the regulator’s rules of practice. This includes summarizing the processes related to the application for and approval of applicant costs.

3.1 COST AWARD ELIGIBILITY

Regulators set the criteria for cost award eligibility including the types of parties who can apply for costs, the types of costs that can be claimed, and expectations on how parties will participate in a proceeding.

InterGroup’s review of cost award eligibility focused on the following:

1. Types of parties eligible to receive a cost award.
2. The criteria parties must satisfy to be eligible for a cost award.
3. The eligible costs that may be claimed in a cost award.

Table 1 summarizes InterGroup’s initial observations and considerations on how cost award eligibility is managed in Ontario and other jurisdictions.

Table 1: Considerations on Cost Award Eligibility

		Ontario	Other Jurisdictions
Types of eligible parties	Parties to the proceeding	Cost awards are available to parties in a proceeding, except those excluded from eligibility (such as applicants, utilities and government), other than in special circumstances determined on a case-by-case basis. ² Other persons participating in a Board process may include individual landowners, companies, associations, or organizations.	<p>In British Columbia, applicants and intervenors can be eligible to receive cost awards, although public utilities and BCUC regulated entities are typically not eligible for cost awards.³</p> <p>In Alberta, three types of parties are typically allowed to claim costs:</p> <ul style="list-style-type: none"> • Applicants, • Eligible intervenors: normally qualifying intervenors who are eligible for full cost recovery; or • Funded participants: certain groups that do not normally qualify such as owners of utilities, utility-related businesses or associations, municipalities, or municipality associations. Funded participants require less stringent qualifying criteria and are eligible for partial cost recovery.⁴ <p>In other jurisdictions, cost awards may only be available to participants who have intervenor status.^{5,6,7}</p>

² OEB Practice Direction on Cost Awards, Section 3.01. Available from: <https://www.oeb.ca/sites/default/files/uploads/documents/regulatorycodes/2023-03/Practice-Direction-on-Cost-Awards-20230401.pdf>

³ BCUC Rules of Practice and Procedure for Participant Cost Awards, Sections 32.01, 33.01, and 34.02(a). Available from: https://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/521582/index.do#_Toc131403754

⁴ Rules on Costs in Utility Rates Proceedings, Sections 1(4)-1(6), 5(1). Available from: https://media.auc.ab.ca/prd-wp-uploads/regulatory_documents/Consultations/2024-02-07-Rule022.pdf

⁵ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 43. Available from: http://www.pubmanitoba.ca/pdf/pandp/rules_pandp_mar07.pdf

⁶ Nova Scotia Utility and Review Board Cost Rules, Section 6(2). Available from: <https://novascotia.ca/just/regulations/regs/URBcosts.htm>

⁷ (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l'énergie, Rule 4. Available from: https://www.regie-energie.qc.ca/storage/app/media/la-regie/lois-reglements-documents-administratifs/interventions-frais-intervenants/Regie_GuidePaiementFrais2020_janvier2020.pdf

Table 1: Considerations on Cost Award Eligibility

		Ontario	Other Jurisdictions
Types of Eligible Parties	Applicants	<p>Cost awards are generally not available to applicants⁸ other than in special circumstances determined by the board.⁹ In Ontario, applicants must provide a breakdown of actual and forecast costs for the preparation and review of the application as part of their revenue requirement applications.¹⁰</p>	<p>Applicants must apply for a cost award in Alberta to recover regulatory costs.¹¹ In Alberta, the AUC reviews costs for intervenors and the applicant on a similar basis and determines who is to pay for the costs of intervenors and applicants and how costs are to be collected (e.g., hearing cost reserve account).¹² All parties who are eligible to obtain costs must adhere to the common AUC tariff, unless authorized to claim costs in excess of the tariffs published in the scale of costs.¹³</p> <p>In British Columbia (BC), applicants can be eligible to receive cost awards although public utilities and BCUC regulated entities are not generally eligible for a cost award.¹⁴ In BC, some applicants recover costs incurred in a hearing through a regulatory deferral account¹⁵ over a specified period and others include forecast costs in the operating budget.¹⁶</p> <p>In MB¹⁷ and Nfld.,¹⁸ applicants recover costs incurred in a hearing through a regulatory deferral account over a specified amortization period.</p> <p>In California, applicants increase rates to collect the amounts awarded to intervenors over a one-year period from the date of the cost award.¹⁹</p>

⁸ OEB Practice Direction on Cost Awards, Section 3.05(a).

⁹ OEB Practice Direction on Cost Awards, Section 3.07.

¹⁰ OEB Filing Requirements for Electricity Transmission Applications, Chapter 2 Revenue Requirement Applications Section 2.8.8. Available from: https://www.oeb.ca/oeb/ Documents/Regulatory/Filing_Reqs_Elec_Transmission_Applications_Ch2.pdf

¹¹ AUC Rules on Costs in Utility Rates Proceedings, Section 3(1).

¹² AUC Decision 26986-D01-2022, Section 5(45). Available from: [https://www2.auc.ab.ca/Proceeding26985/ProceedingDocuments/26985_X\[\] Decision%2026985-D01-2022_000012.pdf](https://www2.auc.ab.ca/Proceeding26985/ProceedingDocuments/26985_X[] Decision%2026985-D01-2022_000012.pdf)

¹³ AUC Rules on Costs in Utility Rates Proceedings, Section 5(3).

¹⁴ BCUC Rules of Practice and Procedure for Participant Cost Awards, Sections 31.01, 33.02.

¹⁵ 2025 Multi-year Rate Plan Application deferral account. BCUC FortisBC Inc. 2024 Annual Review of Rates, Order G-191-23, Section 11 Schedule 11, p. 104. Available from: https://www.cdn.fortisbc.com/libraries/docs/default-source/about-us-documents/regulatory-affairs-documents/electric-utility/230804-fbc-annual-review-2024-rates-application-ff.pdf?sfvrsn=cad2f298_1

¹⁶ BCUC, BC Hydro 2023/25 RRA, Chapter 5F, p. 787, Table 5F-11. Available from: https://docs.bcuc.com/documents/proceedings/2021/doc_64005_b-2-bch-f23-f25-rra-public.pdf

¹⁷ Manitoba Hydro 2023/24 & 2024/25 GRA, Appendix 4.3, p.35. Available from:

https://www.hydro.mb.ca/docs/regulatory_affairs/pdf/electric/gra_2023_2025/full_general_rate_application_2023_24_and_2024_25.pdf

¹⁸ Newfoundland Power's 2022/23 GRA, p. 50. Available from: <http://www.pub.nf.ca/applications/NP2022GRA/apps/From%20NP%20-%202022-2023%20General%20Rate%20Application%20-%20Amended%20Application%20-%202021--12-07.PDF>

¹⁹ Public Utilities Code 1807, Regulation of Public Utilities, Public Utilities Act, State of California. Available from: https://california.public.law/codes/ca_pub_util_code_section_1807

Table 1: Considerations on Cost Award Eligibility

		Ontario	Other Jurisdictions
Types of Eligible Parties	Consumer Advocates	Ontario does not have a consumer advocate.	Jurisdictions with a formal CA are generally funded by other mechanisms (Nfld ²⁰ , NS ²¹ , NB ²² , OH ²³ , NY ²⁴ , AB ²⁵) and do not need to apply for cost awards. In jurisdictions with an informal CA, the consumer advocate may be eligible for cost awards (BC ²⁶ , MB ²⁷ , QC ²⁸).
	Industrial Consumer Associations	Industrial customer associations are generally eligible to receive cost awards in Ontario (e.g., Industrial Gas Users Associations and Association of Major Power Consumers), as they represent the direct interests of consumers. ²⁹	In Alberta industrial customer associations are not eligible for a cost award. ³⁰ In Manitoba, Newfoundland and Labrador ³¹ , and British Columbia ³² industrial customer associations may be eligible for cost awards if they do not solely represent their own business interest. ³³

²⁰ Expenses by the consumer advocate in Newfoundland are to be paid by the utilities. Newfoundland and Labrador Board of Commissioners of Public Utilities Annual Report, 2022, p. 6. Available from: <https://www.gov.nl.ca/jps/files/PUBAnnualReport2021-22.pdf>

²¹ Consumer advocates in Nova Scotia are funded by the regulator. Nova Scotia Electricity Mandate – Consumer Advocate. Document # 217887. Available from:

<https://nsuarb.novascotia.ca/sites/default/files/Communications%20Plan%20-%20Electricity%20Mandate%20-%20Website%20info%20re%20CA%20-%20PGA%20Version%20-%20Jul%2013.pdf>

²² The Public Intervenor in NB submits all expenses to the regulator. New Brunswick Energy & Utilities Board Annual Report 2021-2022, Audited Financial Statements – 2022, p 12. Available from: https://www.legnb.ca/content/house_business/60/1/bills/Annual%20Report%202021-2022,%20New%20Brunswick%20Energy%20and%20Utilities%20Board.pdf

²³ The Ohio office of Consumer Counsel is assessed against each utility in the state. Ohio Revised Code, Section 4911.18. Available from: <https://codes.ohio.gov/ohio-revised-code/chapter-4911>

²⁴ State Operations, All Funds Financial Requirements by Program Appropriations, Department of State, FY 2025 Executive Budget, New York State Division of the Budget. Available from: <https://www.budget.ny.gov/pubs/archive/fy25/ex/agencies/appropdata/StateDepartmentof.pdf>

²⁵ Chapter 6, Financial Information, Office of the Utilities Consumer Advocate, Annual Report 2022-2023. Available from: <https://ucahelps.alberta.ca/documents/UCA%20Annual%20Report%202022-23.pdf>

²⁶ RCIA cost award. BCUC Order Number F-27-24, Section 2.2. Available from: <https://www.ordersdecisions.bcuc.com/bcuc/orders/en/522288/1/document.do>

²⁷ Award of cost for the Manitoba Consumers Coalition. Public Utilities Board, Order No. 143/23, page 8. Available from: <http://www.pubmanitoba.ca/v1/proceedings-decisions/orders/pubs/23-orders/143-23.pdf>

²⁸ An example of the Union des consommateurs receiving an award for a cost claim is provided here. Régie de l'énergie, D-2021-004, R-4127-2020, Table 1, Page 19. January 19, 2021. Available at: https://www.regie-energie.qc.ca/fr/participants/dossiers/R-4127-2020/doc/R-4127-2020-A-0043-Dec-Dec-2021_01_19.pdf

²⁹ OEB Practice Direction on Cost Awards, Section 3.03(a).

³⁰ AUC Rules on Costs in Utility Rates Proceedings, Section 1(6c).

³¹ Award of cost to Industrial Customer Group. P.U.4(2018) Award of Cost. Available from: http://www.pub.nf.ca/PU_orders2018.php

³² Award of costs to the Association of Major Power Customers. BCUC Order Number F-27-24, Section 2.3.

³³ Comments from the applicant on the issue of a party protecting their own business interest for Manitoba Industrial Power Users Group. Manitoba PUB Order No. 97/17, Section 3.0.

Table 1: Considerations on Cost Award Eligibility

		Ontario	Other Jurisdictions
Types of Eligible Parties	Industry Sector Associations	<p>Industry sector associations that are comprised of a broad group of unregulated utilities may be eligible for cost awards in some circumstances. Other industry sector associations that are comprised of a narrower group of regulated utilities (e.g., Electrical Distributors Association, Ontario Energy Association) are generally not eligible for cost awards.³⁴</p> <p>Industry sector associations which represent a group of ratepayers (e.g., Building Owners and Management Association and London Property Management Association) or a policy perspective (e.g., Ontario Sustainable Energy Association³⁵) are typically eligible for cost awards.</p>	<p>In British Columbia³⁶, public utilities and other BCUC regulated entities are not eligible for cost awards. However, some industry sector associations which have utilities in their membership, are eligible for cost awards (e.g. Clean Energy BC). In Alberta³⁷, utilities intervening in other utilities applications and rural electrification associations are not eligible for cost awards. However, associations of utilities are not explicitly ineligible.</p> <p>Other jurisdictions such as California³⁸ and Manitoba³⁹ generally do not allow for cost awards for industry sector associations which are comprised of utilities.</p> <p>In British Columbia and Manitoba, industry sectors which are comprised of ratepayers are generally allowed to receive costs. The BC Sustainable Energy Association (BCSEA) members are involved in the clean energy industry and are eligible to receive costs as the members are ratepayers.⁴⁰ In Manitoba, the General Service Small/General Service Medium Customer Class Group (GSS/GSM) is comprised of small commercial customers and is generally eligible to receive costs.⁴¹</p>

³⁴ OEB Practice Direction on Cost Awards, Section 3.04(a) and 3.05(b).

³⁵ Eligible due to representing a group of consumers and policy perspective relevant to the proceeding. Ontario Energy Board Advanced Regulatory Document Search, Case Number EB-2019-0271, p.2. Available from: <https://www.rds.oeb.ca/CMWebDrawer/Record/662680/File/document>

³⁶ BCUC Rules of Practice and Procedure for Participant Cost Awards, Section 33.02(a).

³⁷ AUC Rules on Costs in Utility Rates Proceedings, Section 4.

³⁸ Intervenor Compensation Program Guide, California Public Utilities Commission, p.9.

³⁹ Manitoba PUB Intervenor Costs Policy, Section 3.1(d).

⁴⁰ BCSEA intervenor application. BCUC BC Hydro 2021 Integrated Resource Plan, Exhibit C1-1, p. 2. Available from: https://docs.bcuc.com/documents/proceedings/2022/doc_65512_c1-1-bcsea-request-intervene.pdf

⁴¹ GSS/GSM cost award. MB PUB Order No. 140/23. Available from: <https://www.pubmanitoba.ca/v1/proceedings-decisions/orders/pubs/23-orders/140-23.pdf>

Table 1: Considerations on Cost Award Eligibility

		Ontario	Other Jurisdictions
Types of eligible parties	Municipalities	Municipalities individually or in a group are generally not eligible for a cost award ⁴² other than in special circumstances determined by the board. ⁴³	Municipalities are generally not eligible to receive a cost award in Alberta ⁴⁴ or British Columbia. ^{45,46} In California, municipalities may be eligible to receive a cost award if they are not publicly owned utilities and participate for the purpose of protecting the health and safety of the residents. ⁴⁷
	Parties representing sole business interests	In determining whether a commercial entity is eligible for a cost award the OEB may consider whether the entity represents its own commercial interest (other than as a rate payer). ⁴⁸	In most jurisdictions cost awards are not available to parties who solely represent their own business interests. ^{49,50,51}
Qualifying criteria	Requiring financial assistance	The OEB does not require parties to demonstrate financial need to be eligible for a cost award.	In some jurisdictions, cost awards are only available to parties who require financial assistance for their participation in a proceeding (e.g., WI ⁵² , NS ⁵³). Wisconsin requires intervenors to provide information on their financial status including revenues, expenses, assets, liabilities, and budget for the current year. ⁵⁴

⁴² OEB Practice Direction on Cost Awards, Section 3.05(h).

⁴³ OEB Practice Direction on Cost Awards, Section 3.07.

⁴⁴ AUC Rules on Costs in Utility Rates Proceedings, Section 1(6e).

⁴⁵ Municipality denied a cost award. BCUC Order Number F-27-24, Section 2.14.

⁴⁶ Rules of Practice and Procedure, British Columbia Utilities Commission, Section 33.02(b). Available from:

https://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/521582/index.do#_Toc131403724

⁴⁷ California Code, Public Utilities Code - PUC § 1802.4. Available from: <https://law.justia.com/codes/california/code-puc/division-1/part-1/chapter-9/article-5/section-1802-4/>

⁴⁸ OEB Practice Direction on Cost Awards, Section 3.04(b).

⁴⁹ Business and commercial entities are ineligible intervenors. AUC Rules on Costs in Utility Rates Proceedings, Section 6(d).

⁵⁰ Rules of Practice and Procedure, British Columbia Utilities Commission, Section 33.02(d).

⁵¹ Manitoba PUB Intervenor Costs Policy, Section 3.1(c). Available from: <http://www.pubmanitoba.ca/v1/about-pub/pubs/int-cost-policy-gra-.pdf>

⁵² Wisconsin State Legislature, Chapter PSC 3.02(b). Available from: https://docs.legis.wisconsin.gov/code/admin_code/psc/3

⁵³ Nova Scotia Utility and Review Board Cost Rules, Section 6(2). Available from: <https://novascotia.ca/just/regulations/regs/URBcosts.htm>

⁵⁴ Wisconsin State Legislature, Chapter PSC 3.03(2)(e).

Table 1: Considerations on Cost Award Eligibility

		Ontario	Other Jurisdictions
Qualifying Criteria	Nature of interest in proceeding	<p>To be eligible to apply for an award of costs, the OEB requires a party to:</p> <ul style="list-style-type: none"> • Represent the interests of consumers in relation to services that are regulated by the Board; • Represent a policy perspective relevant to the Board’s mandate and proceeding; or • Be a person with an interest in land affected by the process.⁵⁵ <p>This requirement is a further definition of the OEB’s substantial interest requirement for obtaining intervenor status, explored further in Table 2.⁵⁶</p>	<p>Most jurisdictions require participating people or parties to have an interest in a proceeding to claim costs:</p> <ul style="list-style-type: none"> • In Nova Scotia and Manitoba, a party must have substantial interest in the outcome of a proceeding as a necessary condition for receiving a cost award.^{57,58} • In Wisconsin, eligibility for cost claims requires a person to represent an interest material to the proceeding and whose interest must be represented for a fair determination in the proceeding.⁵⁹ • In Quebec, the basis of a person’s interest is considered when applying for intervenor status, necessary to receive a cost award.⁶⁰ <p>British Columbia and Alberta do not explicitly require demonstration of a substantial interest in a proceeding.^{61,62}</p>
			<p>Alberta allows for “local intervenor costs” for people or groups who have land affected by a process.⁶³</p>

⁵⁵ OEB Practice Direction on Cost Awards, Section 3.03.

⁵⁶ Rules of Practice and Procedure, Ontario Energy Board, Rule 22.02. Available from: https://www.oeb.ca/sites/default/files/uploads/documents/regulatorycodes/2024-03/OEB_Rules-Practice-and-Procedure_20240306.pdf

⁵⁷ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 43(d).

⁵⁸ Nova Scotia Utility and Review Board Cost Rules, Section 6(2).

⁵⁹ Wisconsin State Legislature, Chapter PSC 3.02(b). Available from: https://docs.legis.wisconsin.gov/code/admin_code/psc/3

⁶⁰ Rules of Procedure of the Régie de l’énergie, Rules 16 and 19. Available from: <https://www.legisquebec.gouv.qc.ca/en/pdf/cr/R-6.01,%20R.%204.1.pdf>

⁶¹ AUC Rules on Costs in Utility Rates Proceedings, Section 3.1.

⁶² Rules of Practice and Procedure, British Columbia Utilities Commission, Rule 9.04.

⁶³ Alberta Utilities Commission Act, Section 22(1). Available from: https://kings-printer.alberta.ca/1266.cfm?page=a37p2.cfm&leg_type=Acts&isbncln=9780779846221&display=html

Table 1: Considerations on Cost Award Eligibility

		Ontario	Other Jurisdictions
Eligible costs	Lawyers, articling students/ paralegals, and analysts/ consultants	Costs may be claimed for lawyers, articling students/paralegals, and analysts/consultants in accordance with the Board’s tariff. ⁶⁴	Costs may be claimed for lawyers, articling students/paralegals, and analysts/consultants at the specified tariff in most jurisdictions. In some jurisdictions, costs above the specified tariff may be claimed if authorized by the Commission. ⁶⁵ In Manitoba, costs may be claimed for information technology services advisors. ⁶⁶
	Overhead fees, administrative costs, and other fees	Costs may not be claimed for overhead fees or administrative costs. This includes time spent by a party’s employees or officers in preparing for or attending Board processes ⁶⁷ or for in-house counsel and supporting employees. ⁶⁸	The BCUC and Manitoba PUB may award other costs that it determines are reasonable and justified. ^{69,70,71}
	Case managers	Fees for case management are eligible in accordance with the Board’s tariff. ⁷²	Fees for case management are generally allowed at a specified tariff. ^{73,74}

⁶⁴ OEB Practice Direction on Cost Awards, Section 6.06, 6.07, 6.08, 6.10.

⁶⁵ AUC Rules on Costs in Utility Rates Proceedings, Section 5(3).

⁶⁶ Manitoba PUB Maximum Rate Schedule. Available from: <http://www.pubmanitoba.ca/v1/about-pub/pubs/maximumrateschedule-2024.pdf>

⁶⁷ OEB Practice Direction on Cost Awards, Section 6.05.

⁶⁸ OEB Practice Direction on Cost Awards, Section 6.09.

⁶⁹ Rules of Practice and Procedure, British Columbia Utilities Commission, Section 34.08.

⁷⁰ An intervenor was awarded \$5,000 to cover overhead costs for participation in the proceeding. BCUC Order Number F-27-24, Section 2.09.

⁷¹ Manitoba PUB Intervenor Costs Policy, Section 8.1.

⁷² OEB Practice Direction on Cost Awards, Section 6.10.

⁷³ (Google translated) Guide de paiement des frais des intervenants 2020, Frais des intervenants, Régie de l’énergie Québec, Section 15 and 16. Available from: https://www.regie-energie.qc.ca/storage/app/media/la-regie/lois-reglements-documents-administratifs/interventions-frais-intervenants/Regie_GuidePaiementFrais2020_janvier2020.pdf

⁷⁴ Rules of Practice and Procedure, British Columbia Utilities Commission, Attachment A, Section 1(d).

Table 1: Considerations on Cost Award Eligibility

		Ontario	Other Jurisdictions
Eligible costs	Other costs	A party that is a natural person may recover all or part of forgone earnings for their participation in a proceeding, but would not eligible for a claim under the Board’s tariff. ⁷⁵	In other jurisdictions, costs generally may not be claimed for indirect expenses such as wages lost by attendance at a hearing. ⁷⁶ Manitoba explicitly forbids claiming costs for lost wages. ⁷⁷ In British Columbia an intervenor is eligible to claim costs for forgone earning and dependent care costs if they are an individual. ⁷⁸

⁷⁵ OEB Practice Direction on Cost Awards, Section 6.04.

⁷⁶ Manitoba PUB Intervenor Costs Policy, Section 5.1.

⁷⁷ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 45.

⁷⁸ Rules of Practice and Procedure, British Columbia Utilities Commission, Section 34.04.01.

3.2 COST AWARD APPLICATION PROCESS

In Ontario and most other jurisdictions, intervenors receive the majority of cost awards. This section describes the processes for intervenors to apply for and receive awards of costs. While other parties may be eligible (e.g., landowners), the cost award processes are typically accessed by intervenors. In many jurisdictions applicants can recover their regulatory costs as a component of their revenue requirement.

The cost award process in this section is described in three stages:

1. Pre-proceeding: initial application for intervenor status;
2. During the proceeding; and
3. Post-proceeding: determining final eligibility for costs.

3.2.1 Pre-proceeding: Initial Application for Intervenor Status

Prior to the beginning of a proceeding, in applying for status to become an intervenor, rules are set out that directly or indirectly affect an intervenor's ability to claim compensation. In most jurisdictions there are rules around establishing an intervenor's interest in a proceeding. To improve the efficiency of the proceeding, many jurisdictions require an issues list to be created, that sets out the scope of an intervenor's participation, or a budget submission, where an intervenor provides an estimate of its costs incurred for its participation. Some jurisdictions also require intervenors to state their intentions for coordinating or cooperating with other intervenors.

Table 2 summarizes the pre-proceeding process of the application for intervenor status.

Table 2: Pre-Proceeding: Application for Intervenor Status

		Ontario	Other Jurisdictions
Requirements for Intervenor Status	Demonstration of substantial interest or affected by decisions	<p>In Ontario an intervenor must have substantial interest in the proceeding.⁷⁹</p> <p>To more easily assess the basis for an intervenor’s interest in a proceeding,⁸⁰ the OEB requires intervenors who participate in three or more adjudicative proceedings in a year to file a standardized “Frequent Intervenor Form” that contains information about a party’s mandate and objectives, the constituency and membership they represent, the types of programs or activities by which they carry out their mandate, their governance structure, and their reporting mechanism.⁸¹</p>	<p>In Nova Scotia, intervenors must demonstrate a real and substantial interest in the subject-matter of a proceeding.⁸²</p> <p>In Alberta, there are multiple requirements that must be met to be eligible to receive cost awards. One of these requirements is a substantial interest in the subject matter of the proceeding.⁸³</p> <p>In British Columbia parties can be eligible if “they are directly or sufficiently affected by the BCUC’s decision” or if they can offer relevant experience, information, or expertise.⁸⁴ In British Columbia, the nature of interest in the proceeding can also limit the scope for participation in the hearing.</p> <p>In Wisconsin, “a person whose substantial interests may be affected by the commission’s action or inaction in a proceeding” is eligible to be an intervenor. Another possible criterion for intervenor status to demonstrate an ability to “promote the proper disposition of issues”.⁸⁵</p>

⁷⁹ Rules of Practice and Procedure, Ontario Energy Board, Rule 22.02. Available from: https://www.oeb.ca/sites/default/files/uploads/documents/regulatorycodes/2024-03/OEB_Rules-Practice-and-Procedure_20240306.pdf

⁸⁰ Annual filings of frequent intervenors, Ontario Energy Board. Retrieved June 14, 2024. Available from: <https://www.oeb.ca/stakeholder-engagement/intervenor-information/annual-filings-frequent-intervenors>

⁸¹ Rules of Practice and Procedure, Ontario Energy Board, Rule 22.07.

⁸² Utility and Review Board Regulations, Utility and Review Board Act Section 34, Nova Scotia. Available from: <https://novascotia.ca/just/regulations/regs/URBurb.htm>

⁸³ Rule 022 Rules on Costs in Utility Rates Proceedings, Alberta Utilities Commission, Rule 1(4).

⁸⁴ Rules of Practice and Procedure, British Columbia Utilities Commission, Rules 9.04 and 9.08. Available from: https://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/521582/index.do#_Toc131403724

⁸⁵ Procedure and Practice, Public Service Commission, Wisconsin State Legislature, PSC 2.21. Available from: https://docs.legis.wisconsin.gov/code/admin_code/psc/2

Table 2: Pre-Proceeding: Application for Intervenor Status

		Ontario	Other Jurisdictions
Requirements for Intervenor Status	Ability to offer expertise or help to solve issues	Not a requirement for intervenor status in Ontario.	<p>In Alberta, there are multiple requirements that must be met in order to be eligible to receive cost awards. One requirement that must be met is that an intervenor has expertise or insight that the applicant or other intervenors do not have and can use that to help solve the issues that are before the commission.⁸⁶</p> <p>In Alberta, funded participant status is available to certain groups that do not normally qualify such as owners of utilities, utility-related businesses or associations, municipalities, or municipality associations. A funded participant must assist the commission in Alberta in understanding issues material to the subject proceeding or file evidence or argument that requires cost recovery.⁸⁷</p> <p>British Columbia and Wisconsin include the ability to offer relevant experience or contribute to the proper disposition of issues as eligibility criteria for intervenor status.^{88, 89}</p>

⁸⁶ Rule 022 Rules on Local Intervenor Costs, Alberta Utilities Commission, Rule 4.

⁸⁷ Rule 022 Rules on Costs in Utility Rates Proceedings, Alberta Utilities Commission, Rule 1(4).

⁸⁸ Rules of Practice and Procedure, British Columbia Utilities Commission, Rules 9.04 and 9.08.

⁸⁹ Procedure and Practice, Public Service Commission, Wisconsin State Legislature, PSC 2.21. Available from: https://docs.legis.wisconsin.gov/code/admin_code/psc/2

Table 2: Pre-Proceeding: Application for Intervenor Status

		Ontario	Other Jurisdictions
Efficiency / Cost Management	Issues lists	<p>The OEB may construct an issues list if it believes that it would assist the OEB by scoping a proceeding. Standard issues lists have been developed by the OEB for leave to construct applications and electricity distribution rate applications. An applicant may file a proposed issues list for consideration by parties and final approval by the OEB.^{90,91}</p> <p>The OEB’s intervenor application form requires applicants to identify issues from the issues list that they expect will be the subject of their intervention. Applicants also have the opportunity to contribute to the issues list by identifying any issues that they believe are relevant and material to the proceeding that are not currently included.⁹²</p>	<p>Some jurisdictions, like Manitoba and Quebec, require intervenors to provide a list of issues they will address in their intervention.^{93,94}</p> <p>Quebec requires intervenors to include conclusions sought or recommendations proposed on those issues in the application for intervenor status.⁹⁵</p> <p>Jurisdictions such as British Columbia and Quebec consider the importance and relevance of issues being addressed by intervenors in their application.^{96,97}</p>
	Intent to apply for costs	<p>The OEB requires intervenors to indicate if they will be applying for a cost award on the intervenor application form.⁹⁸</p>	<p>Other jurisdictions including Manitoba and British Columbia, require intervenors to state their intention of claiming a cost award when applying to become an intervenor.^{99,100}</p> <p>In California, you must file a Notice of Intent that you will be applying for a cost award within 30 days of the Prehearing Conference.¹⁰¹</p>

⁹⁰ Rules of Practice and Procedure, Ontario Energy Board, Rule 28.

⁹¹ Performance standards for processing applications, Ontario Energy Board. Retrieved August 14, 2024. Available from: <https://www.oeb.ca/applications/how-file-application/performance-standards-processing-applications>

⁹² OEB Intervention Form. Retrieved August 14, 2024. Available from: <https://www.oeb.ca/html/intervenor/apply/>

⁹³ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 27. Available from: http://www.pubmanitoba.ca/pdf/pandp/rules_pandp_mar07.pdf

⁹⁴ Rules of Procedure of the Régie de l’énergie, Rules 16 and 19. Available from: <https://www.legisquebec.gouv.qc.ca/en/pdf/cr/R-6.01,%20R.%204.1.pdf>

⁹⁵ Rules of Procedure of the Régie de l’énergie, Rules 16 and 19.

⁹⁶ Rules of Practice and Procedure, British Columbia Utilities Commission, Rule 9.06 and 9.08.

⁹⁷ Rules of Procedure of the Régie de l’énergie, Rules 16 and 19.

⁹⁸ OEB Intervention Form. Retrieved June 14, 2024. Available from: <https://www.oeb.ca/html/intervenor/apply/>

⁹⁹ Intervenor Application Form, PUB Manitoba. Available from: <http://www.pubmanitoba.ca/v1/proceedings-decisions/appl-current/pubs/2019-centra-gra/intervener-application-form-2018.pdf>

¹⁰⁰ Request Intervenor Status, BCUC. Retrieved June 14, 2024. Available from: <https://www.bcuc.com/Forms/RequestToIntervene>

¹⁰¹ California Public Utilities Commission, Intervenor Compensation Program Guide, Notice of Intent to Claim Intervenor Compensation, General Provisions, Page 7. April 2017. Available from: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/icomp-materials/updated-icomp-program-guide-april-2017.pdf>

Table 2: Pre-Proceeding: Application for Intervenor Status

		Ontario	Other Jurisdictions
Efficiency / Cost Management	Budget submission	<p>In Ontario, a budget is only explicitly required to be submitted if the intervenor intends to file evidence and seek a recovery of costs.¹⁰² The budget requires the estimated costs for the expert in connection with the proposed evidence and does not provide any guidelines or directions to include costs for lawyers, non-expert consultants, or other costs.^{103,104,105}</p> <p>The OEB does not explicitly require an intervenor to provide a budget submission.</p>	<p>Jurisdictions like Quebec, Manitoba, and California require budgets to be submitted at the beginning of a proceeding.^{106,107,108}</p> <p>In Manitoba, the budget must include costs for legal, experts, consultants, analysts, and other fees.¹⁰⁹ The Board can provide comment on intervenor budgets.¹¹⁰ The final cost decisions occur at the end of the proceeding.¹¹¹</p> <p>In Alberta, the commission may direct an applicant or intervenor to file a request for costs eligibility.¹¹² The costs eligibility form includes fees for lawyers, experts, and consultants.¹¹³</p> <p>In California, intervening parties, including attorney’s, experts (e.g. accountants, economists, and utility rate analysts), and advocates (e.g. administrative analysts and program managers) must include estimated budgets. A budget estimate is required for each issue a party is intervening on.^{114,115}</p>

¹⁰² Ontario Energy Board Rules of Practice and Procedure, Section 13.03.

¹⁰³ Ontario Energy Board Rules of Practice and Procedure, Appendix A – Intervention Form, question 6, p. II-III.

¹⁰⁴ Evidence submission and budget. Ontario Energy Board Advanced Regulatory Document Search, Case Number EB-2022-0167. Available from: <https://www.rds.oeb.ca/CMWebDrawer/Record/757008/File/document>

¹⁰⁵ Ontario Energy Board Rules of Practice and Procedure, Section 13.04.

¹⁰⁶ (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l’énergie, Rule 11. Available from: https://www.regie-energie.qc.ca/storage/app/media/la-regie/lois-reglements-documents-administratifs/interventions-frais-intervenants/Regie_GuidePaiementFrais2020_janvier2020.pdf

¹⁰⁷ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 27.

¹⁰⁸ Available from: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/rules-of-practice-and-procedure-may-2021.pdf>

¹⁰⁹ Manitoba PUB Template for Intervenor Cost Estimate Cost Award Applications. Available from: <http://www.pubmanitoba.ca/v1/proceedings-decisions/appl-current/pubs/2019-centra-gra/int-costs-form-centra-gra-sample.pdf>

¹¹⁰ Manitoba PUB Intervenor Costs Policy, Section 9.2.6 and 9.2.7.

¹¹¹ Manitoba PUB Intervenor Costs Policy, Section 9.2.6 and 9.2.7.

¹¹² Rule 022 Rules on Local Intervenor Costs, Alberta Utilities Commission, Rule 3.

¹¹³ Rule 022 Costs Eligibility Form, Alberta Utilities Commission. Available from: https://media.auc.ab.ca/prd-wp-uploads/regulatory_documents/Reference/Rule022_CostsEligibilityForm.pdf

¹¹⁴ California Public Utilities Commission, Rules of Practice and Procedure, Section 17.1(c). Available from: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/rules-of-practice-and-procedure-may-2021.pdf>

¹¹⁵ California Public Utilities Commission, Notice of Intent to Claim Intervenor Compensation. March 2023. Available from: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/comp-materials/updated-noi-form-march-2023.docx>

Table 2: Pre-Proceeding: Application for Intervenor Status

		Ontario	Other Jurisdictions
Efficiency / Cost Management	Coordinate with other intervenors / avoid duplication	As part of the intervenor application form, the OEB requires intervenors to state how they will make “reasonable efforts to coordinate their intervention with any other intervenors with similar interests” in order to coordinate the intervention with other intervenors. ¹¹⁶	Jurisdictions like British Columbia and Manitoba have similar rules on coordination, where intervenors are expected to coordinate with other intervenors that represent substantially similar interests and avoid duplication of evidence. ^{117,118} In Manitoba, the commission may order intervenors to present a joint intervention. ¹¹⁹
Other	Regulator judgement	The OEB may “deny intervenor status or grant intervenor status on any conditions it considers appropriate”. ¹²⁰	Other jurisdictions have similar discretion. For example, the BCUC’s rules of practice indicate it may grant intervenor status “subject to conditions it considers appropriate”. ¹²¹

¹¹⁶ Appendix A – Intervention Form, Rules of Practice and Procedure, Ontario Energy Board, Question 7.

¹¹⁷ Rules of Practice and Procedure, British Columbia Utilities Commission, Rule 10.02 and 10.03.

¹¹⁸ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 27.

¹¹⁹ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 4. Available from: http://www.pubmanitoba.ca/pdf/pandp/rules_pandp_mar07.pdf

¹²⁰ Rules of Practice and Procedure, Ontario Energy Board, Rule 22.06.

¹²¹ Rules of Practice and Procedure, British Columbia Utilities Commission, Rule 9.07.

3.2.2 During the Proceeding

During the proceeding regulators in some jurisdictions allow for advance funding or interim funding if an intervenor demonstrates financial need. This is generally only available for longer proceedings. Some jurisdictions require budgets or budget updates throughout a proceeding. Reasons for requiring budgets or budget updates include:

- Advance cost awards;
- Interim cost awards;
- Deviations from an originally submitted budget; or
- At the request of the commission.

Table 3 summarizes InterGroup’s initial observations and considerations on interim cost award processes and budget processes during the proceeding in Ontario and other jurisdictions.

Table 3: During the Proceeding

	Ontario	Other Jurisdictions
Interim cost awards	In Ontario, the OEB may order interim or final cost awards including when they are to be paid. ¹²² There is no specific interim cost award application process but the OEB may approve interim cost awards. In practice, intervenors may submit a letter requesting interim cost awards for longer proceedings. ¹²³	In British Columbia ¹²⁴ and Alberta ¹²⁵ , if applying for an interim cost award, the intervenor must demonstrate financial need. In both jurisdictions interim cost awards are generally only available for longer proceedings. ¹²⁶
Advance Funding	Advance funding is not available for participants in a proceeding.	Advance funding is available to approved intervenors in some jurisdictions. ^{127,128} In Alberta, to be eligible for advance funding an intervenor must demonstrate the need for financial assistance to address relevant issues in a proceeding. ¹²⁹ In Manitoba, an intervenor requesting an advance of funds must have submitted a budget and received comment on the cost estimate and provide invoices on the actual expenditures incurred to the date of the application for advance funds submission. ¹³⁰

¹²² Ontario Energy Board Act, 1998, S.O 1998, c. 15 Schedule B, Section 30(2). Available from: <https://www.ontario.ca/laws/statute/98o15>
¹²³ Ontario Energy Board Advanced Regulatory Document Search, Case Number EB-2022-0200, Procedural Order No. 8, April 16, 2024, p. 1.
¹²⁴ Rules of Practice and Procedure, British Columbia Utilities Commission, Section 37.04.
¹²⁵ AUC Rules of Local Intervenor Costs, Section 4(3c).
¹²⁶ AUC Rules of Local Intervenor Costs, Section 4(3b).
¹²⁷ Rules of Practice and Procedure, British Columbia Utilities Commission, Section 37.05.
¹²⁸ AUC Rules on Costs in Utility Rates Proceedings, Section 3(2).
¹²⁹ AUC Rules on Costs in Utility Rates Proceedings, Section 1(4).
¹³⁰ Manitoba PUB Intervenor Costs Policy, Section 4.2.

Table 3: During the Proceeding

	Ontario	Other Jurisdictions
Submitting or updating budgets	<p>In Ontario, there is no explicit requirement in the Rules of Practice and Procedure or the Practice Direction on Cost Awards to update budgets during a proceeding.</p> <p>In awarding interim costs, the OEB issues a procedural order and mandates the filing of cost claims up to a set date for those seeking interim cost awards.¹³¹</p>	<p>In Manitoba, intervenors are required to provide an updated budget documenting any material differences from the initial estimate provided to the Manitoba commission.¹³² It is the intervenor’s responsibility to provide an updated budget to the PUB when the proposed budget is anticipated to be exceeded.¹³³</p> <p>In Alberta, budgets are required to be submitted if applying for an advance of funds.¹³⁴ The AUC also may request at any time, intervenors to submit a budget for the expected costs of participation in a hearing.¹³⁵</p> <p>In British Columbia, budgets are required to be submitted if applying for an interim cost award or advance of funds.¹³⁶</p>

¹³¹ Ontario Energy Board, Case Number EB-2022-0200, Procedural Order No. 6, June 23, 2023, p. 6.

¹³² Manitoba PUB Intervenor Costs Policy, Section 9.2.9.

¹³³ Pre-Hearing Conference provided direction on intervenors to notify the PUB immediately when then budget will be exceeded by 10% or more. Manitoba PUB Order No. 70-17, p. 24. Available from: <http://www.pubmanitoba.ca/v1/proceedings-decisions/orders/pubs/2017%20orders/70-17.pdf>

¹³⁴ AUC Rules of Local Intervenor Costs, Section 2(1).

¹³⁵ AUC Rules of Local Intervenor Costs, Section 3.

¹³⁶ Rules of Practice and Procedure, British Columbia Utilities Commission, Section 37.01.

3.2.3 Post-Proceeding: Determining Final Cost Award Eligibility

In the post-proceeding process, commissions analyze the eligibility of intervenors to receive costs based on a set criterion. These criteria generally include:

- Ensuring that an intervenor made an adequate contribution;
- Ensuring that an intervenor maintained a level of efficiency in its intervention and did not incur excessive costs; and
- Ensuring that an intervenor adhered to the rules set out by the commission.

In most jurisdictions, regulators also have the ability to revisit any eligibility criteria used earlier in the proceeding to determine eligibility for cost awards or intervenor status in determining the final cost claim for an intervenor.

Table 4 summarizes considerations for the eligibility of cost awards by intervenors post-proceeding.

Table 4: Post-Proceeding: Determining Final Cost Award Eligibility

		Ontario	Other Jurisdictions
Cost award eligibility requirements		The OEB may review the eligibility criteria in awarding costs such as demonstration of substantial interest in the proceeding. ¹³⁷	In other jurisdictions the regulator may revisit the cost award eligibility criteria in determining whether an intervenor should receive a cost award. ^{138,139}
Cost Claim: Adequate Contribution	Contributed to a better understanding and made a significant contribution	The OEB may consider whether an intervenor contributed to a better understanding for the Board of one or more issues. ¹⁴⁰	Many jurisdictions, like Manitoba, British Columbia, and Alberta have a similar rule to the OEB requiring that intervenors contributed to better the understanding of one or more issues. ^{141,142,143} Wisconsin requires intervenors to demonstrate they provided an “adequate presentation of a significant position in which the participant has substantial interest” or they have made a significant contribution to the record. ¹⁴⁴
	Group representation	The OEB does not have an explicit rule on how large a group an intervenor must be representing.	In Manitoba, the intervenor must represent a substantial number of ratepayers. ¹⁴⁵
	Complexity and importance of issues	The OEB does not have an explicit rule on how the complexity of the issues addressed by an intervenor affects cost claims.	When examining an intervenor request for costs, the commission in Quebec takes into account the complexity and importance of the issues addressed by the intervenor. ¹⁴⁶

¹³⁷ Practice Direction on Cost Awards, Ontario Energy Board, 5.01(b).

¹³⁸ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 43(a).

¹³⁹ Rules of Practice and Procedure, British Columbia Utilities Commission, Rule 36.01(c)(vii).

¹⁴⁰ Practice Direction on Cost Awards, Ontario Energy Board, 5.01.

¹⁴¹ Rules of Practice and Procedure, British Columbia Utilities Commission, Rule 36.01(c)(i).

¹⁴² Rule 022 Rules on Costs in Utility Rate Proceedings, Alberta Utilities Commission, Rule 11.1. Available from: https://media.auc.ab.ca/prd-wp-uploads/regulatory_documents/Consultations/Rule022.pdf

¹⁴³ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 43.

¹⁴⁴ Wisconsin Statute 196.31, Citizens Utility Board of Wisconsin, Wisconsin. Available from: <https://docs.legis.wisconsin.gov/statutes/statutes/196>

¹⁴⁵ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 43.

¹⁴⁶ (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l'énergie, Rule 11.

Table 4: Post-Proceeding: Determining Final Cost Award Eligibility

		Ontario	Other Jurisdictions
Cost Claim: Efficiency and Costs	Deviation from Tariffs	The OEB does not have a provision in its Practice Direction on Cost Awards to authorize rates exceeding its published cost award tariff rates. However, it does have the authority, granted by the Rules of Practice and Procedure and Practice Direction on Cost Awards, to issue new Practice Directions ¹⁴⁷ and potentially modify cost awards tariffs as it sees fit. ¹⁴⁸	In British Columbia, if an intervenor would like compensation above the set tariff rates, they must convince the commission that it is necessary for the services required to address the issues in a proceeding. ¹⁴⁹ In Alberta, it must be authorized by the commission. ¹⁵⁰
	Adherence to approved scope and submitted budget	The OEB does not have explicit rules around adhering to a specific scope or a submitted budget.	British Columbia requires that intervenors stay within their originally approved scope and that they incur time proportionate to their approved scope. ¹⁵¹ Quebec requires intervenors to adhere to the originally submitted budget, and any cost overrun of 3% must be justified. ¹⁵² In Manitoba, cost awards may be reduced if the intervenor does not provide a timely notification of a material difference from their original budget estimate. ¹⁵³
	Focused on relevant issues	The OEB may consider whether an intervenor focussed on issues that are relevant and material to the proceeding. ¹⁵⁴	Other jurisdictions like Quebec, Manitoba, Alberta have similar rules requiring that interventions focus on issues that are relevant to a proceeding. ^{155,156,157} Focussing on issues that are not relevant to a proceeding result in a reduction of costs awarded. ¹⁵⁸

¹⁴⁷ Rules of Practice and Procedure, Ontario Energy Board, 4.05. March 6, 2024.

¹⁴⁸ Practice Direction on Cost Awards, Ontario Energy Board, 2.01. April 1, 2023.

¹⁴⁹ Rules of Practice and Procedure, British Columbia Utilities Commission, Rule 34.05.3.

¹⁵⁰ Rule 022 Rules on Costs in Utility Rate Proceedings, Alberta Utilities Commission, Rule 5(3).

¹⁵¹ Rules of Practice and Procedure, British Columbia Utilities Commission, Rule 36.01(c)(vii and viii).

¹⁵² (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l'énergie, Rule 14.

¹⁵³ Intervenor was reduced cost claims due to not notifying the PUB of an overage of costs above 10%. Manitoba PUB Order No. 100-18, Section 5.0. Available from:

<http://www.pubmanitoba.ca/v1/proceedings-decisions/orders/pubs/2018%20orders/100-18.pdf>

¹⁵⁴ Practice Direction on Cost Awards, Ontario Energy Board, 5.01.

¹⁵⁵ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 44.

¹⁵⁶ Rule 022 Rules on Costs in Utility Rate Proceedings, Alberta Utilities Commission, Rule 8(2).

¹⁵⁷ (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l'énergie, Rule 12.

¹⁵⁸ Cost claims were reduced due to pursuing irrelevant issues that prolonged the hearing. AUC Decision 22173-D01-2017, Section 320.

Table 4: Post-Proceeding: Determining Final Cost Award Eligibility

		Ontario	Other Jurisdictions
Cost Claim: Efficiency and Costs	Promoted efficiency	The OEB may consider if an intervenor engages in any conduct that lengthens the process unnecessarily. ¹⁵⁹	Alberta and British Columbia have similar rules encouraging intervenors to refrain from engaging in activity that lengthens proceedings. ^{160,161} British Columbia encourages intervenors to engage in conduct or activity that results in more efficient/shorter proceedings. ¹⁶² In Quebec, you must comply with the procedural schedule. ¹⁶³
	Coordinate with other intervenors / avoid duplication	The OEB considers if parties made reasonable efforts to combine their intervention with one or more similar parties, and co-operate with all other parties. ¹⁶⁴	British Columbia, Manitoba, and Quebec have similar rules encouraging intervenors to ensure that their participation was not repetitive or that they cooperated and coordinated with other intervenors. ^{165,166,167}
Cost Claim: Adherence to Rules	Adhered to regulator rules and directions (e.g., page, time limits, schedule)	The OEB may consider whether an intervenor has followed the Board's orders, rules, codes, guidelines, filing requirements, and directions. ¹⁶⁸	Other jurisdictions, like Alberta and British Columbia, also explicitly state that intervenors must comply with rules, directions, and other materials produced by their commissions. ^{169,170,171}

¹⁵⁹ Practice Direction on Cost Awards, Ontario Energy Board, 5.01.

¹⁶⁰ Rules of Practice and Procedure, British Columbia Utilities Commission, Rule 36.01(c)(iv and v).

¹⁶¹ Rule 022 Rules on Costs in Utility Rate Proceedings, Alberta Utilities Commission, Rule 8(1)(d)(v).

¹⁶² Rules of Practice and Procedure, British Columbia Utilities Commission, Rule 36.01(c)(iii).

¹⁶³ (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l'énergie, Rule 12.

¹⁶⁴ Practice Direction on Cost Awards, Ontario Energy Board, 5.01.

¹⁶⁵ Rules of Practice and Procedure, British Columbia Utilities Commission, Rule 36.01(c)(vi and ii).

¹⁶⁶ (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l'énergie, Rule 11.

¹⁶⁷ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 44.

¹⁶⁸ Practice Direction on Cost Awards, Ontario Energy Board, 5.01.

¹⁶⁹ Rule 001: Rules of Practice, Alberta Utilities Commission, Rule 3.2. Available from: https://media.auc.ab.ca/prd-wp-uploads/regulatory_documents/Consultations/Rule001.pdf

¹⁷⁰ Rule 022 Rules on Costs in Utility Rate Proceedings, Alberta Utilities Commission, Rule 8(1)(d)(ii).

¹⁷¹ Rules of Practice and Procedure, British Columbia Utilities Commission, Rule 36.01(c)(ix).

3.3 RECOMMENDATIONS ON THE PROCESSES RELATED TO APPLICATION FOR AND APPROVAL OF COST AWARDS

Based on InterGroup’s review, the OEB has a comprehensive set of rules and processes for administering cost awards that largely mirrors those used in other jurisdictions. Some jurisdictions have additional practices that the OEB could consider implementing to provide additional tools for managing intervenor costs and regulatory efficiency.

Improving collaboration and reducing duplication

Most jurisdictions have rules that intervenors should collaborate to avoid duplication. Some jurisdictions provide more specific direction for intervenors to work with another party.¹⁷² For example, in Manitoba, the PUB may order intervenors to present a joint intervention.¹⁷³

In InterGroup’s view, the overall culture of active adjudication is a key ingredient to improving collaboration and reducing duplication. The OEB is already attentive to this but further improvements could be assisted by a number of potential process changes, including:

- Revisions to the intervenor application form to require more information on the specific customers or customer classes being represented, and more detailed information on the issues intervenors propose to canvass.
- Specifically directing certain parties with similar interests or issues in a procedural order to collaborate or present a joint intervention to reduce the potential for duplication. For example, in Manitoba, the Public Utilities Board considers whether a potential intervenor represents a substantial number of intervenors that are not otherwise being represented on issues that are within the scope of a hearing. At times, the Manitoba Public Utilities Board has denied intervenor status for some parties and directed them to communicate their concerns with the intervenors who are already representing those issues.¹⁷⁴
- Directing individuals with narrow or small interests to either collaborate with another intervenor or participate through other means, such as submitting a letter of comment.
- Limiting the number of information requests intervenors can ask.
- Requiring specific information in the final cost award application that details efforts made by parties to collaborate. For example, indicating specific actions they took to reduce duplication

¹⁷² For example, in the BC Hydro 2024 Rate Design proceeding, The British Columbia Utilities Commission directed several municipalities to participate as one intervenor group with participation limited to specific topics. Four renewable energy organizations were also directed to participate as one group and limited to specific topics and similarly for the Zone II Ratepayers Group and Gitga’at First Nation. BCUC BC Hydro 2024 Rate Design – Intervenor Registration and Scope of Participation, Exhibit A-3, p. 2. Available from: https://docs.bcuc.com/documents/proceedings/2024/doc_78401_a-3-intervener-registration-participation-scope.pdf

¹⁷³ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 4. Available from: http://www.pubmanitoba.ca/pdf/pandp/rules_pandp_mar07.pdf

¹⁷⁴ The Manitoba Public Utilities Board denied intervenor status for a Mr. Finkle, stating that “... the Board considers, for purposes of regulatory efficiency, whether the proposed intervenor represents a substantial number of ratepayers that are not otherwise represented on issues that are within the scope of this hearing” and that “... the issues are better raised through the Consumers Coalition, which represents the interests of residential ratepayers”. Source: Manitoba Public Utilities Board, Order No. 130/22, Pages 15 and 16. Available from: <https://www.pubmanitoba.ca/v1/proceedings-decisions/orders/pubs/22-orders/130-22.pdf>

such as sharing their draft information requests with other parties to ensure they were not canvassing the same information.

Each of these tools emphasizes the need for intervenors to collaborate and avoid duplication.

Requiring budget submissions

Some jurisdictions require parties who will be seeking cost awards to provide budgets for their intervention for all costs (e.g., lawyers, consultants) and a list of the issues they intend to address at the beginning of a proceeding. InterGroup recommends the OEB consider expanding the use of budgets. This could provide a number of benefits:

- Providing an early indication to the OEB of the potential scale of costs that may be requested for a proceeding.
- Allowing the OEB an opportunity to signal to intervenors at an early stage where they should seek to narrow the scope of their intervention or collaborate with other parties.
- Establishing a benchmark to evaluate the performance of a party seeking costs, to help evaluate whether they contributed usefully to the understanding of the issues that were the basis for their initial budget.

The OEB may need to require budgets to be updated throughout the proceeding as processes and issues become clarified, in the event these updates lead to changes in the intervenors expected final cost claim. For example, Quebec requires justification for any cost overruns over 3% and in Manitoba there is an expectation that budgets will be updated if the scope of issues or budget needs increase.

Advance funding and interim funding

The OEB does not have formal processes in place in their Rules of Practice and Procedure or Practice Direction on Cost Awards for managing the provision of advance or interim funding. Although interim funding has occasionally been made available, there is no specific application process in place at this time like that used in other jurisdictions. For instance, British Columbia has established formal rules concerning the provision of interim cost awards and requires intervenors seeking an interim cost award to complete an Interim Cost Award Application Form.¹⁷⁵

InterGroup recommends the OEB consider implementing formal application processes for both advanced funding and interim funding. This could involve updates to its Rules of Practice and Procedure or Practice Direction on Cost Awards or providing a placeholder for the consideration of interim funding applications in the case schedules for longer proceedings. InterGroup's experience in other jurisdictions, for example in British Columbia, is that formalizing access to interim funding and/or advance funding can help reduce barriers to participation for some participants, for example Indigenous organizations or communities with limited core funding. Eligibility could be limited to lengthy proceedings or for intervenors who require financial assistance for their participation in a proceeding. Additional provisions could be made for Indigenous communities or individual landowners.

¹⁷⁵ Rules of Practice and Procedure, British Columbia Utilities Commission, Section 37.01 and 37.05.

Allowing advance funding would also facilitate receiving early indications of proposed budgets and provide an opportunity to comment on the scale of the proposed budgets and reinforce the need for collaboration.

Applicant Cost Rules

In Ontario, the filing requirements for cost of service applications for electricity distributors require applicants to provide a breakdown of the actual and anticipated regulatory costs for the current application. The applicant must provide information supporting the incremental level of the costs associated with the preparation and review of the current application and over what period the costs are proposed to be recovered.^{176,177} The costs are typically amortized over the term of the application. This process provides the opportunity to review the reasonableness of applicant costs. The OEB does not require applicants to use the same fee tariffs for external legal counsel or consultants; or to maintain a formal deferral account for regulatory costs.

Approval of final cost awards

The OEB already has the ability to reduce cost awards if they are not satisfied sufficient effort was made to collaborate and reduce duplication. However, in practice InterGroup notes that it can be challenging to disallow costs that have already been incurred by intervenors. Implementing some or all of the recommendations in this section may help clarify expectations and identify issues before significant costs have been incurred that might later be subject to disallowances.

¹⁷⁶ Ontario Energy Board, Filing Requirements for Electricity Distribution Rate Applications – 2022 Edition for 2023 Rate Applications, Chapter 2 Cost of Service, Page 32. Available from: <https://www.oeb.ca/sites/default/files/OEB-Filing-Reqs-Chapter-2-2023-20220418.pdf>

¹⁷⁷ E.g. Algoma Power, EB-2019-0019, 2020 Cost of Service, Exhibit 4 – Operating Expenses, Table 15 – OEB Appendix 2-M Regulatory Costs. Available from: <https://www.algomapower.com/sites/algomapower.com/files/2021-05/API%20Exhibit%204%20Operating%20Expenses%2020190603.pdf>

4.0 ANALYSIS OF INTERVENOR COST AWARDS

InterGroup conducted a review of the cost awards granted by the OEB. This review looked at the characteristics of the cost awards, including their size and distribution across different scales of proceedings as well as a comparative analysis of cost awards in other Canadian jurisdictions, including British Columbia, Alberta, and Manitoba.

4.1 AVERAGE COST AWARDS FOR DIFFERENT SCALES OF PROCEEDINGS

InterGroup's review of OEB cost awards analyzed data for 757 interventions over 170 proceedings from 2020/21 to 2023/24.¹⁷⁸ The size of applicant utilities is considered:

- Large applicants – Greater than 30,000 customers and \$500,000 revenue requirement.
- Medium applicants – Greater than 30,000 customers and less than \$500,000 revenue requirement.
- Small applicants – Between 5,000 and 30,000 customers and less than \$500,000 revenue requirement.
- Very small applicants – Less than 5,000 customers and \$500,000 revenue requirement.

The review is centered on analyzing the efficiency and effectiveness of the OEB's adjudicative process. Therefore, only adjudicative proceedings are included in the analysis of intervenor cost awards. A total of 34 non-adjudicative policy and stakeholder consultations totaling \$2,584,000 (\$452,000 in 2020/21, \$907,000 in 2021/22, \$760,000 in 2022/23, and \$466,000 in 2023/24) were excluded. Their exclusion does not affect the conclusions of the review.

Table 5 presents the total cost awards granted by the OEB, sorted by the size of the cost award, from 2020/21 to 2023/24. The eight largest proceedings are shown individually. The remaining proceedings are categorized by the size of their total cost awards. The size of the applicants is specified as well as the number of proceedings is specified for each proceeding category. Figure 1 provides a graphical visualization of Table 5, with the six largest proceedings making up over 50% of the total intervenor costs awards over the period examined from 2020/21 to 2023/24.

Figure 2¹⁷⁹ shows the total OEB cost awards granted by fiscal year, from 2020/21 to 2023/24. The amount of cost awards have ranged from \$3.5 million in 2021/22¹⁸⁰ to \$4.7 million in 2023/24,

¹⁷⁸ OEB intervenor costs include costs incurred by intervenors for third party experts. The cost awards for 2023/24 include \$1,840,000 awarded in the Enbridge Gas Inc. (EB-2022-0200) proceeding in 2024/25. This is included for completeness of this proceeding.

¹⁷⁹ There were three proceedings which had interim and final cost awards spanning multiple years. The Enbridge Gas Inc. Federal Carbon Pricing Program Application (EB-2019-0247) had cost awards of \$20,000 in 2020/21 and \$38,000 in 2021/22 (totaling \$58,000); Hydro One Networks Inc. Rates, Revenue Requirement, and Charge Determinants 2023-2027 (EB-2021-0110) had cost awards of \$6,000 in 2021/22, \$638,000 in 2022/23, and \$367,000 in 2022/23 (totaling \$1.01 million); and Enbridge Gas Inc. 2024-2028 Rates Proceeding (Phase I) (EB-2022-0200) had cost awards of \$1.80 million in 2023/24 and \$1.84 million in 2024/25 (totaling \$3.64 million).

¹⁸⁰ The Minister of Energy's November 2023 letter of direction states, "In 2021-22, Ontario's 5.3 million electricity and natural gas customers paid \$4.4 million to fund the Ontario Energy Board's intervenor process". Figure 2 shows total cost awards in 2021-22 at \$3.5 million, as it excludes \$907,000 in cost awards related to policy and stakeholder consultations. Together, these costs total the \$4.4 million referenced in the letter of direction. From 2019/20 to 2023/24, the average cost awards provided by the OEB, including non-adjudicative policy and stakeholder consultations, was \$4.4 million.

averaging \$4.1 million over the period. Costs reflected in the 2023/24 fiscal year in Figure 2 include the final costs awarded for Enbridge Gas Inc. 2024 Rebasing (EB-2022-0200) proceeding in 2024/25. When excluding the final costs awarded for the Enbridge 2024 Rebasing proceeding, costs in 2023/24 amount to \$2.84 million.

Figure 3 presents the distribution of OEB cost awards for proceedings from fiscal year 2020/21 to 2023/24.^{181, 182} Out of the total 170 proceedings in this time period, 89 (52%) had total costs awarded that were under \$25,000. These cost awards were granted in proceedings for small, medium, and large applicants for both electricity and natural gas utilities. Only nine proceedings received costs awards greater than \$250,000 over these four years.

The 2023/24 costs in Table 5, Figure 1, Figure 2, and Figure 3 all include the final cost award of \$1.8 million for the Enbridge Gas Inc. 2024 Rebasing (EB-2022-0200) proceeding, in addition to the interim cost award of \$1.8 million in the 2023/24 fiscal year, totalling \$3.6 million for the proceeding. While the final decision and order on cost awards for this proceeding was issued in fiscal year 2024/25, parties who filed interim cost awards primarily incurred these costs for activities in 2023/24. For those that did not file interim cost awards, these costs relate to activities extending back to 2022/23. These costs are included to reflect the complete costs for this proceeding.

¹⁸¹ OEB intervenor costs include costs incurred by intervenors and third party experts. A total of 34 policy and stakeholder consultations totaling \$2,584,000 (\$452,000 in 2020/21, \$907,000 in 2021/22, \$760,000 in 2022/23, and \$466,000 in 2023/24) were excluded. Their exclusion does not affect the conclusions of the review.

¹⁸² The cost awards for 2023/24 include \$1,840,000 awarded in the Enbridge Gas Inc. (EB-2022-0200) proceeding in 2024/25. This is included for completeness of this proceeding.

Table 5: OEB Intervenor Costs Awarded by Proceeding (2020/21 - 2023/24) including final Enbridge proceeding cost awards (EB-2022-0200) in 2024/25, \$000's

Row Number	Proceeding	Size of Applicant	Number of Proceedings	Total Awarded to Intervenors
1	Enbridge Gas Inc. (EB-2022-0200)	Large	1	\$3,641 ¹⁸³
2	Enbridge Gas Inc. (EB-2021-0002)	Large	1	\$1,243
3	Hydro One Networks Inc. (EB-2021-0110)	Large	1	\$1,011
4	Toronto Hydro-Electric System Limited (EB-2018-0165)	Large	1	\$827
5	Ontario Power Generation (EB-2020-0290)	Large	1	\$825
6	Enbridge Gas Inc. (EB-2020-0091)	Large	1	\$762
7	Hydro One Networks Inc. (EB-2019-0082)	Large	1	\$725
8	Hydro Ottawa Limited (EB-2019-0261)	Medium	1	\$402
Other Proceedings				
9	\$150,000 – \$341,828	Medium, Large, OEB	9	\$1,848
10	\$100,000 - \$149,999	Medium, Large	13	\$1,515
11	\$50,000 - \$99,999	Small, Medium, Large	29	\$2,077
12	\$0 - \$49,999	Small, Medium, Large, OEB	111	\$1,615
Total			170	\$16,491

¹⁸³ Includes \$1,840 of cost awards from fiscal 2024/2025 provided for completeness of this proceeding. Without this the total for the three years would be \$14,515.

Figure 1: OEB Intervenor Costs Awarded by Proceeding 2020/21 - 2023/24, including final Enbridge proceeding cost awards (EB-2022-0200) in 2024/25, \$000's

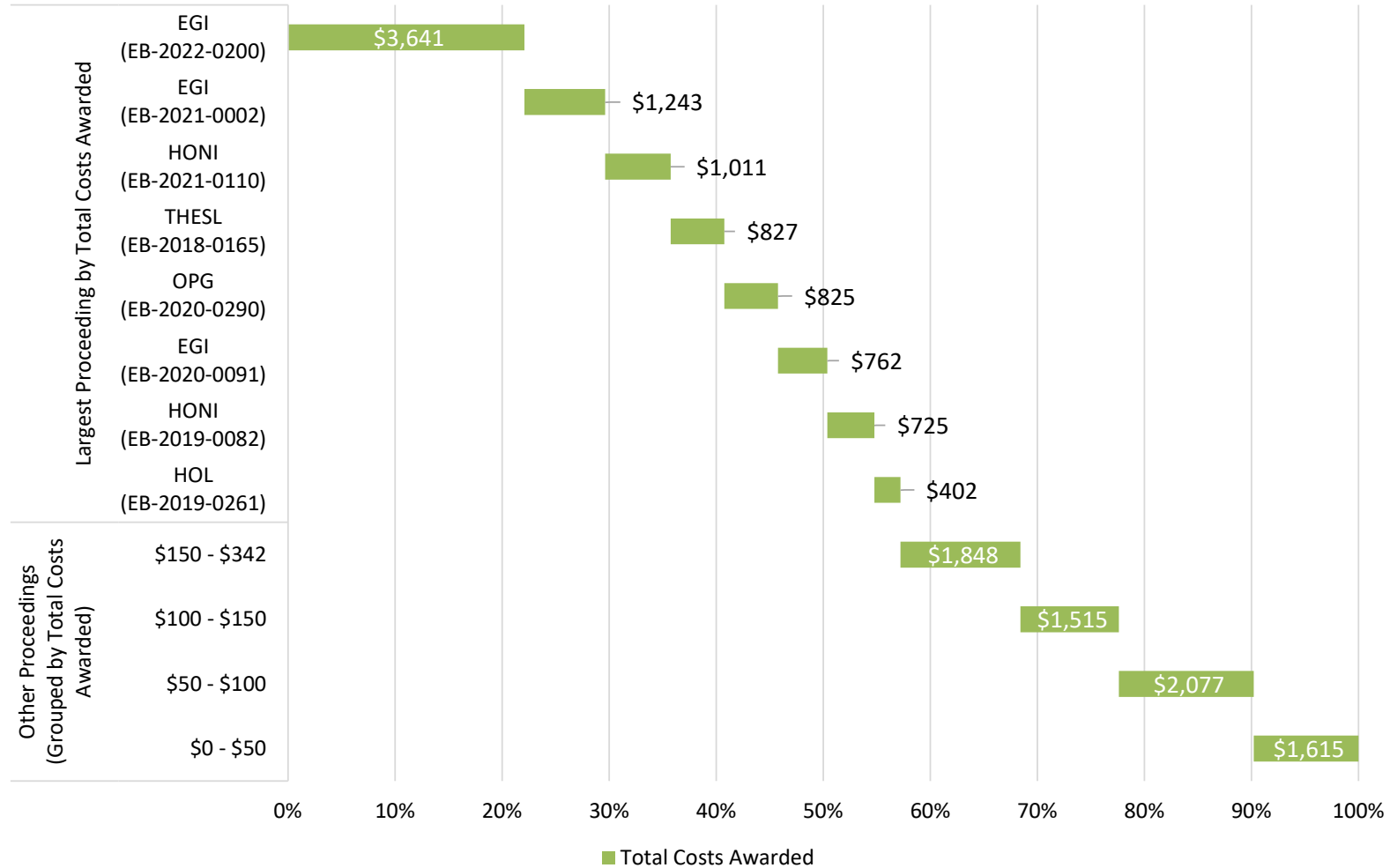


Figure 2: OEB Intervenor Cost Awards 2020/21–2023/24 – including final Enbridge proceeding cost awards for EB-2022-0200 in 2024/25 (\$'000s)

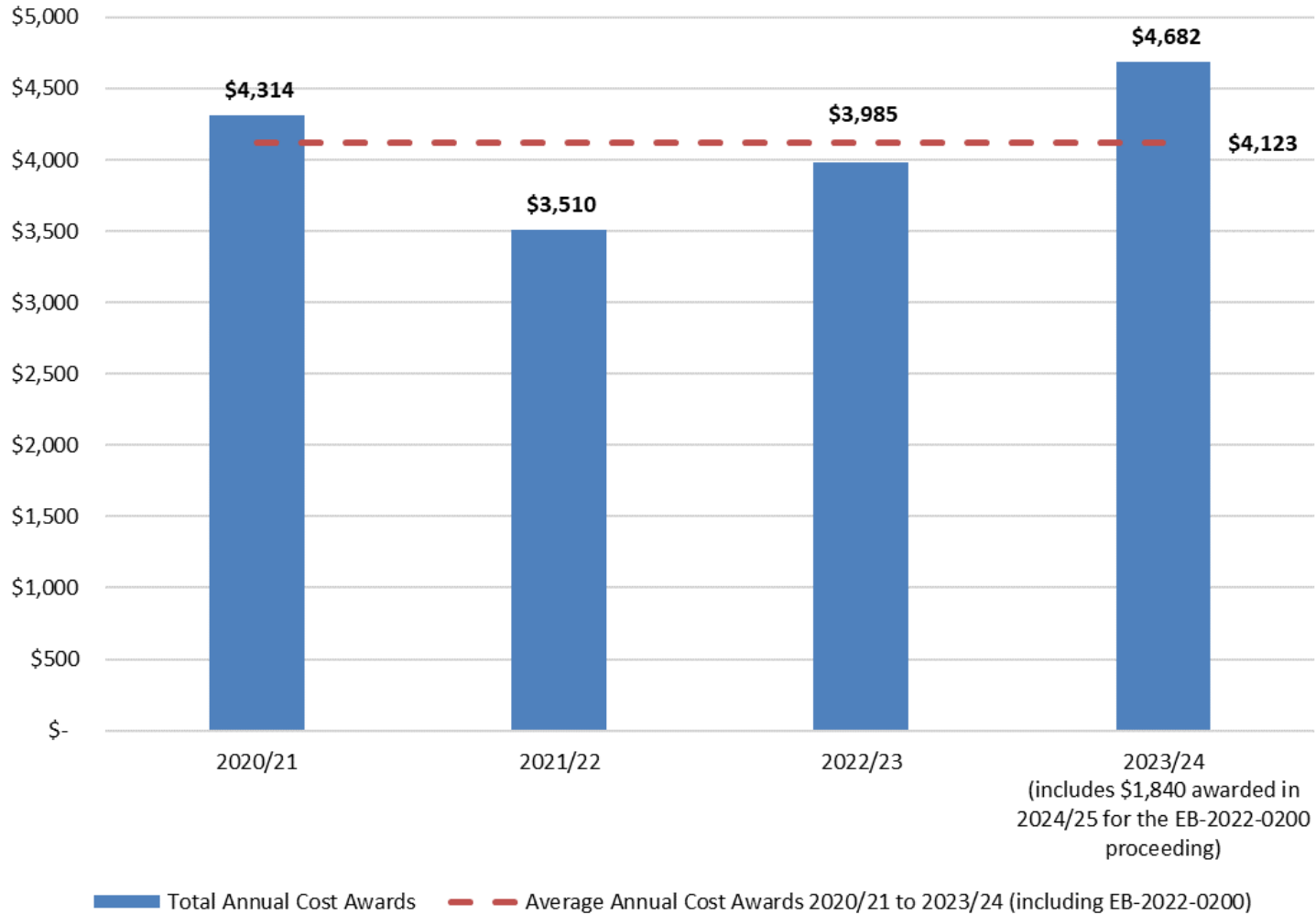
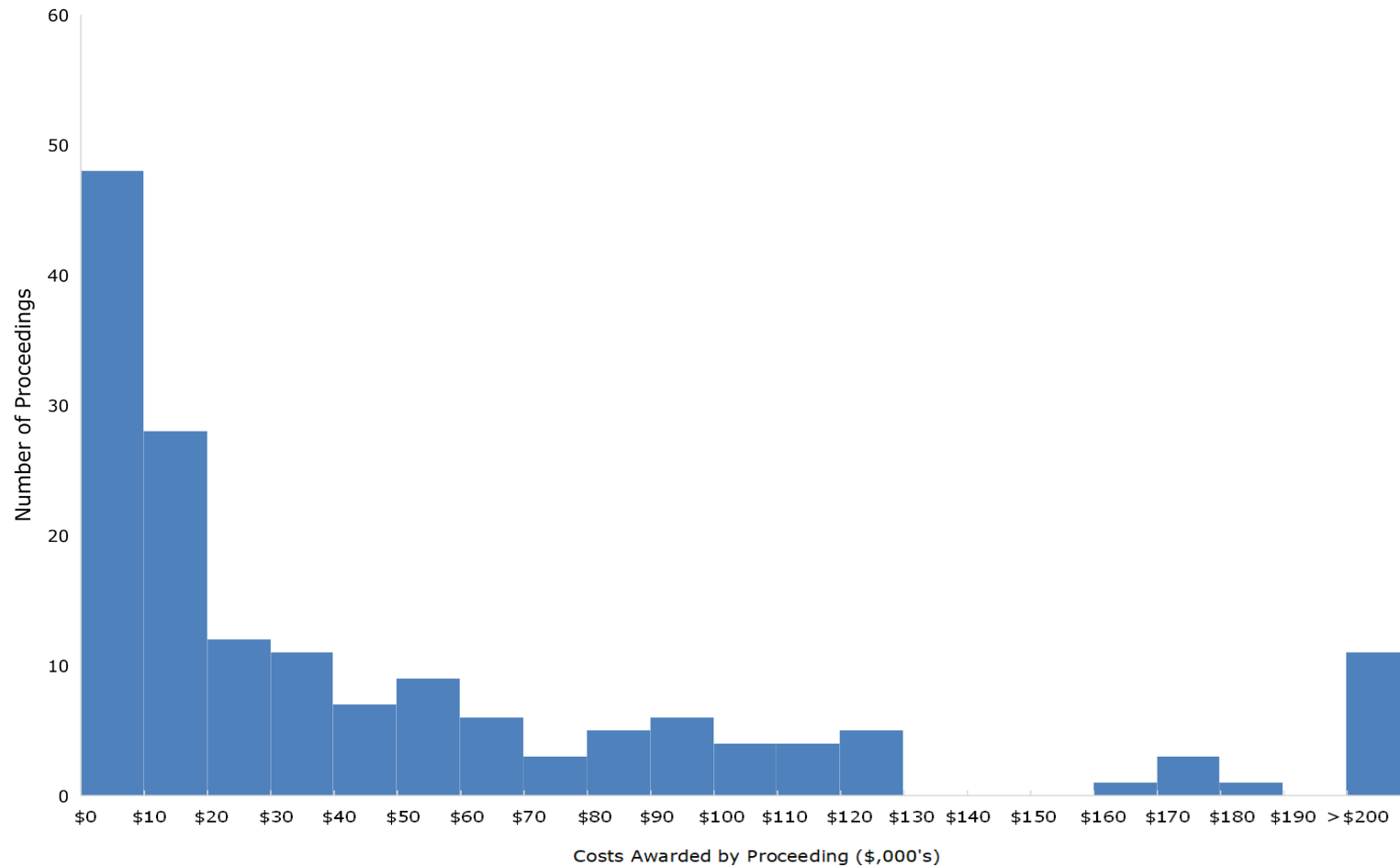


Figure 3: Distribution of OEB Intervenor Cost Awards by Proceeding 2020/21–2023/24 – including final Enbridge proceeding cost awards (EB-2022-0200) in 2024/25 (\$000s)



4.2 AVERAGE COST AWARDS ACROSS JURISDICTIONS

InterGroup conducted a comparison of cost awards granted in Ontario to those in British Columbia (for 2021 through 2023), Alberta (for 2021 through 2023), and Manitoba (for 2019 through 2023).

Data for British Columbia cost awards were sourced from the British Columbia Utilities Commission website, and include interim cost awards. A list of cost awards for Alberta was provided by the Alberta Utilities Commission (AUC), with details of the cost awards retrieved from the cost award decisions on the AUC website. The AUC provides both applicant costs and intervenor costs in its cost award decisions. For the purposes of this analysis, applicant costs were excluded. Advances of funds awarded by the AUC were included for each proceeding. It should also be noted that in Alberta, the Utilities Consumer Advocate does not receive cost awards and is funded through other mechanisms directed by the provincial government.¹⁸⁴ Data from the Manitoba Public Utilities Board (Manitoba PUB) were sourced from cost award decisions on the Manitoba PUB website.

The OEB and Manitoba PUB provide publicly available customer counts, categorized into electric and natural gas customers. The AUC provides a count of “regulated sites”, which are comprised of individual utility customer sites, including both regulated gas and electric sites.¹⁸⁵ For the purposes of this analysis, the regulated site count in Alberta is considered equivalent to the combined natural gas and electric customer counts in Ontario and Manitoba.

Table 6 provides a comparison of the average costs awarded per customer. Ontario has the lowest average annual cost awards per customer, at \$0.4 per customer followed by \$0.7 per customer in Manitoba and \$1.2 per customer in Alberta. The cost per customer is similar for electricity and natural gas customers in Ontario and Manitoba, where data was available. Customer data was not available for British Columbia. InterGroup also calculated the average costs per capita for each jurisdiction. Ontario also has the lowest cost award per capita, at \$0.3 per capita, compared to \$0.5 per capita in Manitoba and British Columbia, and \$0.8 per capita in Alberta.

Table 7 provides the average cost claims and awards per proceeding in Ontario, British Columbia, Alberta, and Manitoba. Alberta has a lower percentage of costs awarded, at 84%, compared to 96% for Ontario and British Columbia and 97% for Manitoba. British Columbia has the lowest cost claim and cost award per proceeding.

Table 8 shows the average cost award per intervention. Ontario has the lowest cost award per intervention when compared to British Columbia, Alberta and Manitoba, with an average cost award of \$22,000, compared to \$30,000, \$114,000 and \$144,000 respectively.

Table 9 shows the three largest proceedings across Ontario, British Columbia, Manitoba, and Alberta. The proceeding with the highest total cost award was phase one of the Enbridge Gas Inc. 2024-2028 Natural Gas Distribution Rates proceeding in Ontario (\$3.6 million). The proceeding was unusually intensive, spanning over one year from the completeness letter to the final decision. The proceeding was divided into phases, with the second phase currently ongoing. The first phase addressed a variety of issues to determine the base revenue requirement for a multi-year term

¹⁸⁴ See Section 148 of the Alberta Electric Utilities Act (https://kings-printer.alberta.ca/1266.cfm?page=E05P1.cfm&leg_type=Acts&isbncln=9780779846368) and Section 28.1(8) of the Gas Utilities Act (https://kings-printer.alberta.ca/1266.cfm?page=G05.cfm&leg_type=Acts&isbncln=9780779848003).

¹⁸⁵ Alberta Utilities Commission, Annual Report Card 2019-2020, Appendix D – Cost per utility customer site, page 36. Available from: <https://media.auc.ab.ca/prd-wp-uploads/2021/12/2019-2020AnnualReportCard.pdf>

during a period of energy transition.¹⁸⁶ This was the first cost-based rate application for Enbridge Gas since the amalgamation of Union Gas and Enbridge Gas Distribution. The proceeding had to address major issues that have emerged over the last 10 years, including those related to the energy transition and those related to amalgamation and harmonization.¹⁸⁷ Interim costs were awarded in 2023/2024 and final cost awards occurred in 2024/2025.

The highest total costs awarded for a proceeding in other jurisdictions ranged from \$1.5 million to \$1.9 million, in line with other large proceedings in Ontario. Typically, Ontario has a larger number of intervenors participating in its largest proceedings compared to other jurisdictions.

¹⁸⁶ Ontario Energy Board, Decision on Issues List & Expert Evidence and Procedural Order No. 2. January 27, 2023. Available from: <https://www.rds.oeb.ca/CMWebDrawer/Record/775869/File/document>

¹⁸⁷ Ontario Energy Board, Decision and Order, EB-2022-0200, Enbridge Gas Inc. Application for 2024 Rates – Phase 1, December 21, 2023. Available from: <https://www.rds.oeb.ca/CMWebDrawer/Record/827754/File/document>

Table 6: Average Annual Intervenor Costs Awarded per Customer and per Capita

Proceeding	Average Annual Intervenor Costs Awarded (\$ Millions)	Number of Customers (Millions)	Average Annual Intervenor Costs Awarded per Customer (\$)	Population ¹⁸⁸ (Millions)	Average Annual Cost Award Per Capita (\$)
Ontario (2020/21 - 2023/24)¹⁸⁹					
Electric	\$1.8	5.4	\$0.3	-	-
Gas	\$2.2	3.9	\$0.6	-	-
Other	\$0.2	-	-	-	-
All Proceedings	\$4.1	9.3	\$0.4	15.6	\$0.3
British Columbia (2021 - 2023)					
All Proceedings	\$2.4	-	-	5.5	\$0.4
Alberta (2021 - 2023)¹⁹⁰					
All Proceedings	\$3.9	3.2	\$1.2	4.7	\$0.8
Manitoba (2019 - 2023)¹⁹¹					
Electric	\$0.4	0.6	\$0.7	-	-
Gas	\$0.2	0.3	\$0.7	-	-
All Proceedings	\$0.7	0.9	\$0.7	1.5	\$0.5

¹⁸⁸ Statistics Canada, Table: 17-10-0005-01, Population estimates on July 1, by age and gender, 2023. February 21, 2024. Available from: <https://www150.statcan.gc.ca/t1/tbl1/en/cv.action?pid=1710000501>

¹⁸⁹ Ontario Energy Board, Annual Report 2022-2023, Page 30. Available from: <https://www.oeb.ca/sites/default/files/OEB-Annual-Report-2022-2023-EN.pdf>

¹⁹⁰ Alberta Utilities Commission, Financing AUC operations. Available from: https://www.auc.ab.ca/regulatory_documents/financing-auc-operations/. Accessed July 9, 2024.

¹⁹¹ Manitoba Hydro, About us. Available from: <https://www.hydro.mb.ca/corporate/>. Accessed July 9, 2024.

Table 7: Average Annual Intervenor Cost Awards per Customer and Per Capita

Jurisdiction	Average Claims Per Proceeding	Average Awards Per Proceeding	% Awarded per Proceeding
Ontario (2020/21 – 2023/24)	\$100,000	\$97,000	97%
British Columbia (2021 – 2023)	\$91,000	\$87,000	97%
Alberta (2021 – 2023)	\$201,000	\$168,000	84%
Manitoba (2019 - 2023)	\$381,000	\$369,000	97%

Table 8: Average Intervenor Cost Claims and Awards per Proceeding

Proceeding	Average Annual Total Costs Awarded	Average Annual Number of Intervenor Cost Awards	Average Cost Award
Ontario (2020/21 - 2023/24)	\$4,123,000	189	\$22,000
British Columbia (2021 – 2023)	\$2,449,000	79	\$31,000
Alberta (2021 - 2023)	\$3,864,000	34	\$114,000
Manitoba (2019 - 2023)	\$664,000	5	\$144,000

Table 9: Costs Awarded in Large Proceedings Across Jurisdictions, \$000's

Proceeding	Number of Intervenors	Claim	Award	% Awarded
Ontario (2020/21 – 2023/24)				
EGI (EB-2022-0200) 2024-2028 Natural Gas Distribution Rates Phase One	14	\$3,650	\$3,641	100%
EGI (EB-2021-0002) Multi-Year Natural Gas Demand Side Management Plan	18	\$1,362	\$1,243	91%
HONI (EB-2021-0110) 2023-2027 Distribution and Transmission Rate Application	15	\$1,039	\$1,011	97%
British Columbia (2021 – 2023)				
BC Hydro (F-29-23A) F2023 to F2025 Revenue Requirements Application	10	\$1,919	\$1,907	99%
BCUC (F-37-23) Generic Cost of Capital Proceeding (Stage 1)	5	\$454	\$454	100%
BCUC (F-26-23 & F-36-23) Advanced Metering Infrastructure Project	5	\$440	\$439	100%
Alberta (2021 – 2023)				
AUC (28375) Third Generation Performance Based Regulation	2	\$1,560	\$1,546	99%
AESO (26711) Bulk, Regional, and Modernized Demand Opportunity Service Rate Design Application	7	\$1,434	\$1,294	90%
Altalink (26985) 2022-2023 General Tariff Applications and 2020 Direct Assigned Capital Deferral Account Reconciliation	1	\$864	\$592	69%
Manitoba (2019 – 2023)				
Manitoba Hydro 2023/24 - 2024/25 GRA	5	\$1,712	\$1,684	98%
Centra Gas Manitoba Inc. 2019/20 General Rate Application	2	\$762	\$714	94%
Manitoba Hydro 2019/20 General Rate Application	4	\$397	\$363	91%

4.3 OEB INTERVENOR BUDGET PILOT PROJECT

The OEB is currently implementing a pilot project to set a budget for intervenor costs (\$20,000 per intervenor) for cost of service applications for very small and small utilities (those with fewer than 30,000 customers).

- Between 2020/21 and 2023/24 the budget would have applied to 14 cost of service proceedings for small/very small utilities with a total of 31 interventions. Out of those 31 interventions, 13 had cost claims over \$20,000.
- The total amount claimed from these proceedings without the budget in place was \$606,065, with the budget in place this could have been reduced to \$489,622, for a savings of \$116,443.

4.4 QUALITATIVE AND QUANTITATIVE BENEFITS OF INTERVENTIONS

Previous reports produced by the OEB have noted the benefits intervenors bring to consumers in Ontario.^{192,193,194} Ontario's current slate of intervenors can represent a diverse set of viewpoints for the OEB to consider during a proceeding.¹⁹⁵ Allowing access to a range of participants provides a venue for different parties to express their views and have their concerns heard.

Over the last 15 years (2009-2023), the revenue requirements for electricity distributors was reduced by an average of 3%, or \$23 million annually, following the regulatory review process of cost of service applications involving both intervenors and OEB staff. These savings typically persist over the rate term of the applications. The annual reductions in applied-for revenue requirements are shown in Table 10. The increase from the applied-for to the approved revenue requirement in 2023 was largely due to the unique circumstances of the Hydro One Networks Inc. 2023-2027 Rates proceeding.¹⁹⁶ The information in Table 10 indicates only the annual savings, not the total savings over the term of the application.

Other jurisdictions have also tracked cost reductions in revenue requirements compared to the cost of interventions. For example, a 2013 report by the California State Auditor on the state's intervenor compensation program provided examples of savings for utility customers. In one case, an intervenor saved utility customers \$354 million while being awarded \$784,000. In another instance, an intervenor saved utility customers \$130 million and received \$586,000 in compensation.¹⁹⁷

¹⁹² Ontario Energy Board, Action Plan, page 5. September 22, 2022. Available from:

<https://www.oeb.ca/sites/default/files/Intervenor-Framework-Action-Plan-Report-20220922.pdf>

¹⁹³ Ontario Energy Board, Framework for Review of Intervenor Processes and Cost Awards, page 7. March 2022. Available from:

<https://www.oeb.ca/sites/default/files/Framework-for-Review-of-Intervenor-Processes-and-Cost-Awards.pdf>

¹⁹⁴ Ontario Energy Board, Top Quartile Regulator Report – Phase 1, Effectiveness, page 47. March 2021. Available from:

<https://www.oeb.ca/sites/default/files/OEB-top-quartile-regulator-report-20210331.pdf>

¹⁹⁵ Ontario Energy Board, Action Plan, page 5. September 22, 2022 Available from:

<https://www.oeb.ca/sites/default/files/Intervenor-Framework-Action-Plan-Report-20220922.pdf>

¹⁹⁶ Data provided by the Ontario Energy Board.

¹⁹⁷ California State Auditor Report 2012-118, page 6. Available from: https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/icompl-materials/californiastateauditorreport_072013.pdf

Table 10: OEB Cost of Service Applications - Applied for and Approved Revenue Requirements, \$Millions

Year	Applied For Revenue Requirement	Approved Revenue Requirement	Variance
2009	\$413.1	\$394.0	-\$19.1
2010	\$1,984.6	\$1,958.3	-\$26.4
2011	\$885.8	\$817.0	-\$68.8
2012	\$285.2	\$269.9	-\$15.4
2013	\$587.6	\$545.9	-\$41.8
2014	\$223.4	\$219.4	-\$4.0
2015	\$2,343.6	\$2,254.5	-\$89.1
2016	\$319.8	\$310.2	-\$9.6
2017	\$377.3	\$358.3	-\$19.0
2018	\$1,564.9	\$1,527.8	-\$37.1
2019	\$49.4	\$48.0	-\$1.4
2020	\$950.5	\$894.8	-\$55.6
2021	\$377.5	\$364.6	-\$12.9
2022	\$147.7	\$143.1	-\$4.6
2023	\$1,748.4	\$1,806.7	\$58.3
Total	\$12,258.7	\$11,912.5	-\$346.2
Average	\$817.2	\$794.2	-\$23.1

The Utilities Consumer Advocate (UCA) in Alberta, also reports on the savings achieved through their interventions in proceedings. The UCA claims that in 2022-23, the evidence and arguments they provided resulted in cost reductions of \$63 million, resulting in \$22 worth of cost disallowances for every \$1 spent on UCA regulatory affairs. The UCA reported on comparable figures in 2021-22 (\$36) and 2020-21 (\$90).¹⁹⁸

However, revenue requirement reductions alone do not capture the full benefit provided by intervenors. There are many issues where intervenors contribute to the review process that do not result in changes to revenue requirements, such as commenting on terms and conditions of service or rate design improvements. Interventions also provide a venue for customers to address non-financial issues and concerns such as potential changes to customer service rules or quality of service. Ontario's cohort of experienced intervenors provide a diverse range of perspectives for the OEB to consider. The complement of experienced intervenors means that the learning curve for each new proceeding is truncated, helping support regulatory and timeline efficiency.

4.5 RECOMMENDATIONS FOR AVERAGE COST AWARDS FOR DIFFERENT SCALES OF PROCEEDINGS

Based on the review conducted to date, it does not appear that Ontario has unusually large total cost awards or cost awards on a per customer or per capita basis.

InterGroup notes that more than 50% of costs awarded in the sample period in Ontario were granted in 6 out of 170 proceedings. The largest proceedings in Ontario tended to have more intervenors receiving cost awards than in other jurisdictions. Based on this, if there is interest in managing total intervenor costs or increasing collaboration and reducing duplication, efforts could focus on the largest proceedings.

Alberta appears to have a practice of reducing cost award applications to a greater degree than the OEB typically has, while the BCUC and Manitoba PUB appear to award roughly the same percentage of cost applications as the OEB. The OEB has the necessary tools available to reduce cost awards when required. However, InterGroup does not recommend stricter disallowances in cost awards at the end of proceeding as a primary method for managing intervenor costs. Instead, InterGroup recommends the OEB consider other policy and procedural changes that could facilitate increased collaboration and potentially reduce duplication. Enhanced expectations established at the beginning of proceedings can also facilitate disallowances at the end of proceedings if warranted.

InterGroup recommends the OEB consider procedural or policy changes that could strengthen and support the culture of active case management and may contribute to more efficient processes. These are described in more detail in section 3.3 of this report and the Milestone 2 report.

¹⁹⁸ Office of the Utilities Consumer Advocate, Annual Report 2022-2023, Pages 6 and 10. Available from: <https://ucahelps.alberta.ca/documents/UCA%20Annual%20Report%202022-23.pdf>

For smaller applications, the budget approach currently being piloted may be a reasonable and efficient way to manage costs for those scales of proceedings. InterGroup recommends the OEB review the results of the pilot project, and consider expanding its use to more types of proceedings.

Attachment 3: Application Cost Data and Approval Process Summary Tables

Table C1: Ontario – Cost Award Eligibility

Ontario Energy Board		
Types of Eligible Parties	Intervenor	<p>Cost awards are available to parties in a proceeding, except those excluded from eligibility (such as applicants, utilities and government), other than in special circumstances determined on a case-by-case basis.¹ Other persons participating in a Board process may include individual landowners, companies, associations, or organizations.</p> <p>Industrial customer associations are generally eligible to receive cost awards in Ontario (e.g., Industrial Gas Users Associations and Association of Major Power Consumers), as they represent the direct interests of consumers.²</p> <p>Industry sector associations that are comprised of a broad group of unregulated utilities may be eligible for cost awards in some circumstances. Other industry sector associations that are comprised of a narrower group of regulated utilities (e.g., Electrical Distributors Association, Ontario Energy Association) are generally not eligible for cost awards.³</p> <p>Industry sector associations which represent a group of ratepayers (e.g., Building Owners and Management Association and London Property Management Association) or a policy perspective (e.g., Ontario Sustainable Energy Association⁴) are typically eligible for cost awards.</p> <p>Municipalities individually or in a group are generally not eligible for a cost award⁵ other than in special circumstances determined by the board.⁶</p> <p>In determining whether a commercial entity is eligible for a cost award the OEB may consider whether the entity represents its own commercial interest (other than as a rate payer).⁷</p>

¹ OEB Practice Direction on Cost Awards, Section 3.01. Available from:

<https://www.oeb.ca/sites/default/files/uploads/documents/regulatorycodes/2023-03/Practice-Direction-on-Cost-Awards-20230401.pdf>

² OEB Practice Direction on Cost Awards, Section 3.03(a).

³ OEB Practice Direction on Cost Awards, Section 3.04(a) and 3.05(b).

⁴ Eligible due to representing a group of consumers and policy perspective relevant to the proceeding. Ontario Energy Board Advanced Regulatory Document Search, Case Number EB-2019-0271, p.2. Available from: <https://www.rds.oeb.ca/CMWebDrawer/Record/662680/File/document>

⁵ OEB Practice Direction on Cost Awards, Section 3.05(h).

⁶ OEB Practice Direction on Cost Awards, Section 3.07.

⁷ OEB Practice Direction on Cost Awards, Section 3.04(b).

Table C1: Ontario – Cost Award Eligibility

Ontario Energy Board		
Types of Eligible Parties	Consumer Advocate	Ontario does not have a consumer advocate.
	Applicant	Cost awards are generally not available to applicants ⁸ other than in special circumstances determined by the board. ⁹ In Ontario, applicants must provide a breakdown of actual and forecast for the preparation and review of the application as part of their revenue requirement applications. ¹⁰
Qualifying Criteria	Requiring Financial Assistance	The OEB does not require parties to demonstrate financial need to be eligible for a cost award.
	Nature of interest in proceeding	To be eligible to apply for an award of costs, the OEB requires a party to: <ul style="list-style-type: none"> • Represent the interests of consumers in relation to services that are regulated by the Board; • Represent a policy perspective relevant to the Board’s mandate and proceeding, or • Be a person with an interest in land affected by the process.¹¹
Eligible Costs	Lawyers, articling students/ paralegals, and analysts/ consultants	Costs may be claimed for lawyers, articling students/paralegals, and analysts/consultants in accordance with the Board’s tariff. ¹²

⁸ OEB Practice Direction on Cost Awards, Section 3.05(a). Available from:

<https://www.oeb.ca/sites/default/files/uploads/documents/regulatorycodes/2023-03/Practice-Direction-on-Cost-Awards-20230401.pdf>

⁹ OEB Practice Direction on Cost Awards, Section 3.07.

¹⁰ OEB Filing Requirements for Electricity Transmission Applications, Chapter 2 Revenue Requirement Applications Section 2.8.8. Available from:

https://www.oeb.ca/oeb/Documents/Regulatory/Filing_Reqs_Elec_Transmission_Applications_Ch2.pdf

¹¹ OEB Practice Direction on Cost Awards, Section 3.03.

¹² OEB Practice Direction on Cost Awards, Section 6.06, 6.07, 6.08, 6.10.

Table C1: Ontario – Cost Award Eligibility

Ontario Energy Board		
Eligible Costs	Overhead fees, administrative costs, and other fees	Costs may not be claimed for overhead fees or administrative costs. This includes time spent by a party’s employees or officers in preparing for or attending Board processes ¹³ or for in-house counsel and supporting employees. ¹⁴
	Case managers	Fees for case management are eligible in accordance with the Board’s tariff. ¹⁵
	Other costs	A party that is a natural person may recover all or part of forgone earnings for their participation in a proceeding, but would not be eligible for a claim under the Board’s tariff. ¹⁶

¹³ OEB Practice Direction on Cost Awards, Section 6.05. Available from:

<https://www.oeb.ca/sites/default/files/uploads/documents/regulatorycodes/2023-03/Practice-Direction-on-Cost-Awards-20230401.pdf>

¹⁴ OEB Practice Direction on Cost Awards, Section 6.09.

¹⁵ OEB Practice Direction on Cost Awards, Section 6.10.

¹⁶ OEB Practice Direction on Cost Awards, Section 6.04.

Table C2: Ontario – Processes Related to Intervention

Ontario Energy Board		
Application for Intervenor Status	Demonstration of substantial interest or affected by decisions	In Ontario an intervenor must have substantial interest in the proceeding. ¹⁷ To more easily assess the basis for an intervenor’s interest in a proceeding, ¹⁸ the OEB requires intervenors who participate in three or more adjudicative proceedings in a year to file a standardized “Frequent Intervenor Form” that contains information about a party’s mandate and objectives, the constituency and membership they represent, the types of programs or activities by which they carry out their mandate, their governance structure, and their reporting mechanism. ¹⁹
	Ability to offer expertise or help to solve issues	Not a requirement for intervenor status in Ontario.
	Issues List	The OEB may construct an issues list if it believes that it would assist the OEB by scoping a proceeding. Standard issues lists have been developed by the OEB for leave to construct applications and electricity distribution rate applications. An applicant may file a proposed issues list for consideration by parties and final approval by the OEB. ^{20,21} The OEB’s intervenor application form requires applicants to identify issues from the issues list that they expect will be the subject of their intervention. Applicants also have the opportunity to contribute to the issues list by identifying any issues that they believe are relevant and material to the proceeding that are not currently included. ²²
	Intent to apply for costs	The OEB requires intervenors to indicate if they will be applying for a cost award on the intervenor application form. ²³

¹⁷ Rules of Practice and Procedure, Ontario Energy Board, Rule 22.02. Available from:

https://www.oeb.ca/sites/default/files/uploads/documents/regulatorycodes/2024-03/OEB_Rules-Practice-and-Procedure_20240306.pdf

¹⁸ Annual filings of frequent intervenors, Ontario Energy Board. Retrieved June 14, 2024. Available from: <https://www.oeb.ca/stakeholder-engagement/intervenor-information/annual-filings-frequent-intervenors>

¹⁹ Rules of Practice and Procedure, Ontario Energy Board, Rule 22.07.

²⁰ Rules of Practice and Procedure, Ontario Energy Board, Rule 28.

²¹ Performance standards for processing applications, Ontario Energy Board. Retrieved August 14, 2024. Available from:

<https://www.oeb.ca/applications/how-file-application/performance-standards-processing-applications>

²² OEB Intervention Form. Retrieved August 14, 2024. Available from: <https://www.oeb.ca/html/intervenor/apply/>

²³ OEB Intervention Form.

Table C2: Ontario – Processes Related to Intervention

Ontario Energy Board		
Application for Intervenor Status	Budget submission	<p>In Ontario, a budget is only explicitly required to be submitted if the intervenor intends to file evidence and seek a recovery of costs.²⁴ The budget requires the estimated costs for the expert in connection with the proposed evidence and does not provide any guidelines or directions to include costs for lawyers, non-expert consultants, or other costs.^{25,26,27}</p> <p>The OEB does not explicitly require an intervenor to provide a budget submission.</p>
	Coordinate with other intervenors / avoid duplication	<p>As part of the intervenor application form, the OEB requires intervenors to state how they will make “reasonable efforts to coordinate their intervention with any other intervenors with similar interests” in order to coordinate the intervention with other intervenors.²⁸</p>
	Regulator judgement	<p>The OEB may “deny intervenor status or grant intervenor status on any conditions it considers appropriate”.²⁹</p>
Submitting or Updating Budgets		<p>In Ontario, there is no explicit requirement in the Rules of Practice and Procedure or the Practice Direction on Cost Awards to update budgets during a proceeding.</p> <p>In awarding interim costs, the OEB issues a procedural order and mandates the filing of cost claims up to a set date for those seeking interim cost awards.³⁰</p>

²⁴ Ontario Energy Board Rules of Practice and Procedure, Section 13.03. Available from: https://www.oeb.ca/sites/default/files/uploads/documents/regulatorycodes/2024-03/OEB_Rules-Practice-and-Procedure_20240306.pdf

²⁵ Ontario Energy Board Rules of Practice and Procedure, Appendix A – Intervention Form, question 6, p. II-III.

²⁶ Evidence submission and budget. Ontario Energy Board Advanced Regulatory Document Search, Case Number EB-2022-0167. Available from: <https://www.rds.oeb.ca/CMWebDrawer/Record/757008/File/document>

²⁷ Ontario Energy Board Rules of Practice and Procedure, Section 13.04.

²⁸ Appendix A – Intervention Form, Rules of Practice and Procedure, Ontario Energy Board, Question 7.

²⁹ Rules of Practice and Procedure, Ontario Energy Board, Rule 22.06.

³⁰ Ontario Energy Board, Case Number EB-2022-0200, Procedural Order No. 6, June 23, 2023, p. 6.

Table C2: Ontario – Processes Related to Intervention

Ontario Energy Board	
Interim Funding Eligibility	In Ontario, the OEB may order interim or final cost awards including when they are to be paid. ³¹ There is no specific interim cost award application process but the OEB may approve interim cost awards. In practice, intervenors may submit a letter requesting interim cost awards for longer proceedings. ³²
Advance Funding Eligibility	Advance funding is not available for participants in a proceeding.

³¹ Ontario Energy Board Act, 1998, S.O 1998, c. 15 Schedule B, Section 30(2). Available from: <https://www.ontario.ca/laws/statute/98o15>

³² Ontario Energy Board Advanced Regulatory Document Search, Case Number EB-2022-0200, Procedural Order No. 8, April 16, 2024, p. 1.

Table C3: Ontario – Final Cost Award Eligibility

Ontario Energy Board		
Cost award eligibility requirements		The OEB may review the eligibility criteria in awarding costs such as demonstration of substantial interest in the proceeding. ³³
Adequate Contribution	Contributed to a better understanding and made a significant contribution	The OEB may consider whether an intervenor contributed to a better understanding for the Board of one or more issues. ³⁴
	Group representation	The OEB does not have an explicit rule on how large a group an intervenor must be representing.
	Complexity and importance of issues	The OEB does not have an explicit rule on how the complexity of the issues addressed by an intervenor affects cost claims.
Efficiency and Costs	Deviation from Tariffs	The OEB does not have a provision in its Practice Direction on Cost Awards to authorize rates exceeding its published cost award tariff rates. However, it does have the authority, granted by the Rules of Practice and Procedure and Practice Direction on Cost Awards, to issue new Practice Directions ³⁵ and potentially modify cost awards tariffs as it sees fit. ³⁶
	Adherence to approved scope and submitted budget	The OEB does not have explicit rules around adhering to a specific scope or a submitted budget.
	Focused on relevant issues	The OEB may consider whether an intervenor focussed on issues that are relevant and material to the proceeding. ³⁷
	Promoted efficiency	The OEB may consider if an intervenor engages in any conduct that lengthens the process unnecessarily. ³⁸

³³ Practice Direction on Cost Awards, Ontario Energy Board, 5.01(b).

³⁴ Practice Direction on Cost Awards, Ontario Energy Board, 5.01.

³⁵ Rules of Practice and Procedure, Ontario Energy Board, 4.05. March 6, 2024. Available from: https://www.oeb.ca/sites/default/files/uploads/documents/regulatorycodes/2024-03/OEB_Rules-Practice-and-Procedure_20240306.pdf

³⁶ Practice Direction on Cost Awards, Ontario Energy Board, 2.01. April 1, 2023.

³⁷ Practice Direction on Cost Awards, Ontario Energy Board, 5.01.

³⁸ Practice Direction on Cost Awards, Ontario Energy Board, 5.01.

Table C3: Ontario – Final Cost Award Eligibility

Ontario Energy Board		
Efficiency and Costs	Coordinate with other intervenors / avoid duplication	The OEB considers if parties made reasonable efforts to combine their intervention with one or more similar parties, and co-operate with all other parties. ³⁹
Adhered to regulator rules and directions (e.g., page, time limits, schedule)		The OEB may consider whether an intervenor has followed the Board’s orders, rules, codes, guidelines, filing requirements, and directions. ⁴⁰
Applicants		Cost awards are generally not available to applicants ⁴¹ other than in special circumstances determined by the board. ⁴²

³⁹ Practice Direction on Cost Awards, Ontario Energy Board, 5.01. Available from: <https://www.oeb.ca/sites/default/files/uploads/documents/regulatorycodes/2023-03/Practice-Direction-on-Cost-Awards-20230401.pdf>

⁴⁰ Practice Direction on Cost Awards, Ontario Energy Board, 5.01.

⁴¹ OEB Practice Direction on Cost Awards, Section 3.05(a).

⁴² OEB Practice Direction on Cost Awards, Section 3.07.

Table C4: Newfoundland & Labrador – Cost Award Eligibility

Newfoundland and Labrador Board of Commissioners of Public Utilities		
Types of Eligible Parties	Intervenor	Intervenors are eligible for cost awards. ⁴³ Intervenors are considered parties in a proceeding and expected to be full participants in the hearing. ⁴⁴ Intervenors must ensure that the scope and nature of their participation aligns with the parameters established by the Board and is consistent with the interest expressed in their submission. Intervenors are required to be familiar with and respect the rules of procedures and the timelines established by the Board. ⁴⁵ In Newfoundland and Labrador ⁴⁶ industrial customer associations may be eligible for cost awards. Municipalities may also be eligible for cost awards. ⁴⁷
	Consumer Advocate	The consumer advocate does not apply for cost awards. All costs relating to the consumer advocate shall be borne by the Newfoundland & Labrador Board of Commissioners of Public Utilities. ^{48,49} All expenses of the board shall be estimated by the board annually and assessed upon and borne by the public utilities. ^{50,51} The costs are recovered from customers through rates.
	Applicant	Applicants do not apply for cost awards. Applicants may recover costs incurred in a hearing through a regulatory deferral account over a specified amortization period. ⁵²

⁴³ Board of Commissioners of Public Utilities Hearing Participation Guidelines, p. 2. Available from: <http://pub.nf.ca/download/Hearing%20Participation%20Guidelines.pdf>

⁴⁴ Board of Commissioners of Public Utilities Hearing Participation Guidelines, p. 2.

⁴⁵ Board of Commissioners of Public Utilities Hearing Participation Guidelines, p. 2.

⁴⁶ Award of cost to Industrial Customer Group. P.U.4(2018) Award of Cost. Available from: http://www.pub.nf.ca/PU_orders2018.php

⁴⁷ Award of cost to Municipalities. P.U.21(2021) Award of Cost. Available from: http://www.pub.nf.ca/PU_orders2021.php

⁴⁸ Section 117(3), Chapter P-47 – Public Utilities Act, RSNL 1990. Available from: <https://www.assembly.nl.ca/legislation/sr/statutes/p47.htm>

⁴⁹ Newfoundland and Labrador Board of Commissioners of Public Utilities Annual Report, 2022, p. 6. Available from: <https://www.gov.nl.ca/jps/files/PUBAnnualReport2021-22.pdf>

⁵⁰ Section 13(1), Chapter P-47 – Public Utilities Act, RSNL 1990.

⁵¹ Order No. P.U. 3(2022), Section 2.6.1, p. 14. Available from: [http://www.pub.nf.ca/PU/orders/2022/P.U.%2003\(2022\).PDF](http://www.pub.nf.ca/PU/orders/2022/P.U.%2003(2022).PDF)

⁵² Newfoundland Power's 2022/23 GRA, p. 50. Available from: <http://www.pub.nf.ca/applications/NP2022GRA/apps/From%20NP%20-%202022-2023%20General%20Rate%20Application%20-%20Amended%20Application%20-%202021--12-07.PDF>

Table C4: Newfoundland & Labrador – Cost Award Eligibility

Newfoundland and Labrador Board of Commissioners of Public Utilities		
Qualifying Criteria	Requiring Financial Assistance	The Board does not require parties to demonstrate financial need to be eligible for a cost award.
	Nature of interest in proceeding	Intervenors must ensure that the scope and nature of their participation aligns with the parameters established by the Board and is consistent with the interest expressed in their submission. ⁵³
Eligible Costs		There are no explicit rules on the types of eligible costs or tariffs for intervenors.

⁵³ Board of Commissioners of Public Utilities Hearing Participation Guidelines, p. 2. Available from: <http://pub.nf.ca/download/Hearing%20Participation%20Guidelines.pdf>

Table C5: Newfoundland & Labrador – Processes Related to Intervention

Newfoundland and Labrador Board of Commissioners of Public Utilities		
Application for Intervenor Status	Demonstration of substantial interest or affected by decisions	An Intervenor shall provide a statement of the interest in the matter and the proposed disposition. ⁵⁴
	Ability to offer expertise or help to solve issues	An intervenor shall provide a statement of the facts they propose to show in evidence, reasons why the Board should decide in the manner advocated, and the qualifications of expert witnesses, if any. ⁵⁵
	Issues List	The Board may require parties to attend a pre-hearing conference for the purpose of simplifying the issues, evidence, or disposition of the matter. ⁵⁶
	Intent to apply for costs	There is no explicit requirement to declare intent to apply for costs.
	Budget submission	There is no explicit requirement for a budget submission.
	Coordinate with other intervenors / avoid duplication	There is no explicit requirement for intervenors to collaborate with other intervenors but in determining final cost award, the Board will consider whether the interest presented by the intervenor was unique and not otherwise represented. ⁵⁷
	Regulator judgement	The Board may determine to limit the scope of an intervenor’s role in the proceeding. ⁵⁸
Submitting or Updating Budgets		There is no explicit requirement for intervenors to submit or update budgets.
Interim Funding Eligibility		Intervenor funding is only available at the end of a hearing. ⁵⁹
Advance Funding Eligibility		Intervenor funding is only available at the end of a hearing. ⁶⁰

⁵⁴ Newfoundland and Labrador Regulation 39/96, Section 9(b)(i and ii). Available from: <https://www.assembly.nl.ca/Legislation/sr/Regulations/rc969039.htm#9>

⁵⁵ Newfoundland and Labrador Regulation 39/96, Section 9(b)(iii-v).

⁵⁶ Newfoundland and Labrador Regulation 39/96, Section 16(a).

⁵⁷ Board of Commissioners of Public Utilities Hearing Participation Guidelines, p. 2. Available from: <http://pub.nf.ca/download/Hearing%20Participation%20Guidelines.pdf>

⁵⁸ Board of Commissioners of Public Utilities Hearing Participation Guidelines, p. 2.

⁵⁹ Newfoundland and Labrador Board of Commissioners of Public Utilities Hearing Participation Guidelines, p. 2.

⁶⁰ Newfoundland and Labrador Board of Commissioners of Public Utilities Hearing Participation Guidelines, p. 2.

Table C6: Newfoundland & Labrador – Final Cost Award Eligibility

Newfoundland and Labrador Board of Commissioners of Public Utilities		
Cost award eligibility requirements		Cost award eligibility requirements are similar to factors considered by the Board in determining a final cost award.
Adequate Contribution	Contributed to a better understanding and made a significant contribution	Newfoundland and Labrador Board of Commissioners of Public Utilities will consider whether the intervenor participated responsibly, contributed to the Board’s understanding of the issues, and whether the interest presented by the intervenor was unique and not otherwise represented in determining whether to make an award of costs. ⁶¹
	Group representation	There is no explicit rule on how large a group an intervenor must be representing.
	Complexity and importance of issues	There is no explicit rule on how the complexity of the issues addressed by an intervenor affects cost claims.
Efficiency and Costs	Deviation from Tariffs	There is no posted tariff for intervenors.
	Adherence to approved scope and submitted budget	There is no explicit rule for adherence to approved scope or intervenors to submit a budget.
	Focused on relevant issues	There is no explicit rule for intervenors to focus on relevant issues but cost awards may be adjusted if issues are not directly related to the proceeding. ⁶²
	Promoted efficiency	There is no explicit requirement for promoting efficiency.
	Coordinate with other intervenors / avoid duplication	The Board will consider whether the interest presented by the intervenor was unique and not otherwise represented. ⁶³

⁶¹ Newfoundland and Labrador Board of Commissioners of Public Utilities Hearing Participation Guidelines, p. 2. Available from: <http://pub.nf.ca/download/Hearing%20Participation%20Guidelines.pdf>

⁶² CIMFP Exhibit P-01876, 2006 General Rate Application – Newfoundland and Labrador Hydro, p. 68. Available from: <https://www.muskatfallsinquiry.ca/files/P-01876.pdf>

⁶³ Board of Commissioners of Public Utilities Hearing Participation Guidelines, p. 2.

Table C6: Newfoundland & Labrador – Final Cost Award Eligibility

Newfoundland and Labrador Board of Commissioners of Public Utilities	
Adhered to regulator rules and directions (e.g., page, time limits, schedule)	Intervenors are required to be familiar with the and respect the rules of procedure and the established dates and deadlines in a proceeding. ⁶⁴
Applicants	Applicants do not apply for cost awards. Applicants may recover costs incurred in a hearing through a regulatory deferral account over a specified amortization period. ⁶⁵

⁶⁴ Board of Commissioners of Public Utilities Hearing Participation Guidelines, p. 2. Available from: <http://pub.nf.ca/download/Hearing%20Participation%20Guidelines.pdf>

⁶⁵ Newfoundland Power's 2022/23 GRA, p. 50. Available from: <http://www.pub.nf.ca/applications/NP2022GRA/apps/From%20NP%20-%202022-2023%20General%20Rate%20Application%20-%20Amended%20Application%20-%202021--12-07.PDF>

Table C7: Nova Scotia – Cost Award Eligibility

Nova Scotia Utility and Review Board		
Types of Eligible Parties	Intervenor	The Board may award costs to a non-profit, public interest intervenor with limited financial resources. ⁶⁶ The Board will not normally consider an award of cost unless at least one party requests it. ⁶⁷
	Consumer Advocate	The consumer advocate does not apply for cost awards. The <i>Public Utilities Act</i> , states the Nova Scotia Utility and Review Board may fix fees and expenses of a consumer advocate or small business advocate in performing their functions and duties. ^{68,69} Consumer advocates are paid by the Nova Scotia Utility and Review Board, with costs recovered from the utility making the application or through a general assessment against the industry. ⁷⁰ The costs are recovered from customers through rates.
	Applicant	In Nova Scotia, applicants do not apply for cost awards. Applicants recover costs through rates, for example, through regulatory expense accounts. ⁷¹
Qualifying Criteria	Requiring Financial Assistance	The Board may award costs to a non-profit, public interest intervenor with limited financial resources. ⁷²
	Nature of interest in proceeding	The Board may awards costs to an intervenor who have substantial interest and will be affected by the proceeding. ⁷³
Eligible Costs		There are no explicit rules on types of eligible costs.

⁶⁶ Nova Scotia Utility and Review Board Cost Rules, Section 6(2). Available from: <https://novascotia.ca/just/regulations/regs/URBcosts.htm>

⁶⁷ Nova Scotia Utility and Review Board Cost Rules, Section 3(1).

⁶⁸ Section 91(3) of the Nova Scotia *Public Utilities Act*, R.S., c.380, 1989. Available from: <https://nslegislature.ca/sites/default/files/legc/statutes/public%20utilities.pdf>

⁶⁹ Section 92(4) of the Nova Scotia *Public Utilities Act*, R.S., c.380, 1989.

⁷⁰ Nova Scotia Electricity Mandate – Consumer Advocate. Document # 217887. Available from: <https://nsuarb.novascotia.ca/sites/default/files/Communications%20Plan%20-%20Electricity%20Mandate%20-%20Website%20info%20re%20OCA%20-%20PGA%20Version%20-%20Jul%2013.pdf>

⁷¹ Nova Scotia Power, 2022 General Rate Application, Matter No. M10431, N-10, p. 323.

⁷² Nova Scotia Utility and Review Board Cost Rules, Section 6(2).

⁷³ Nova Scotia Utility and Review Board Cost Rules, Section 6(2)(a)(b).

Table C8: Nova Scotia – Processes Related to Intervention

Nova Scotia Utility and Review Board		
Application for Intervenor Status	Demonstration of substantial interest or affected by decisions	A person requesting to intervene shall set out the facts and reasons why the person has an interest in the application. ⁷⁴
	Ability to offer expertise or help to solve issues	Not a requirement for intervenor status in Nova Scotia.
	Issues List	The Board may invite parties to propose issues or to suggest amendments to any formulated issues. ⁷⁵ Any party who proposes an issue shall explain the relevance of the issue to the application. ⁷⁶
	Intent to apply for costs	There is no rule for intervenors to indicate for an intent to apply for costs.
	Budget submission	There is no explicit rule for a budget submission.
	Coordinate with other intervenors / avoid duplication	There is no rule for the requirement for intervenors to collaborate.
	Regulator judgement	The Board may accept or disallow an intervention. ⁷⁷
Submitting or Updating Budgets		There are no explicit rules on requirements to submit or update budgets.
Interim Funding Eligibility		There are no explicit rules on interim funding availability.
Advance Funding Eligibility		There are no explicit rules on advance funding availability.

⁷⁴ Nova Scotia Utility and Review Board Rules of Practice and Procedure, Section 11(1)(c). Available from: https://nsuarb.novascotia.ca/sites/default/files/board_regulatory_rules.pdf

⁷⁵ Nova Scotia Utility and Review Board Rules of Practice and Procedure, Section 19(2).

⁷⁶ Nova Scotia Utility and Review Board Rules of Practice and Procedure, Section 19(3).

⁷⁷ Nova Scotia Utility and Review Board Rules of Practice and Procedure, Section 11(2).

Table C9: Nova Scotia – Final Cost Award Eligibility

Nova Scotia Utility and Review Board		
Adequate Contribution	Contributed to a better understanding and made a significant contribution	A cost award will consider whether an intervenor contributed to a better understanding of the issues by the Board. ⁷⁸
	Group representation	There is no explicit rule on how large a group an intervenor must be representing.
	Complexity and importance of issues	There is no explicit rule on how the complexity of the issues addressed by an intervenor affects cost claims.
Efficiency and Costs	Deviation from Tariffs	There is no posted tariff for intervenors.
	Adherence to approved scope and submitted budget	There is no explicit rule for adherence to approved scope or intervenors to submit a budget.
	Focused on relevant issues	The Board may find a party who continued to deal with issues which the Board advised are irrelevant to not contribute to a better understanding of issues by the Board. ⁷⁹
	Promoted efficiency	There is no explicit requirement for promoting efficiency.
	Coordinate with other intervenors / avoid duplication	There is no requirement for coordinating with other intervenors.
Adhered to regulator rules and directions (e.g., page, time limits, schedule)		The Board will consider whether an intervenor participated in the hearing in a responsible way when making an award of cost. ⁸⁰
Applicants		In Nova Scotia, applicants do not apply for cost awards. Applicants recover costs through rates, for example, through regulatory expense accounts. ⁸¹

⁷⁸ Nova Scotia Utility and Review Board Cost Rules, Section 6(2)(d). Available from: <https://novascotia.ca/just/regulations/regs/URBcosts.htm>

⁷⁹ Nova Scotia Utility and Review Board Cost Rules, Section 5(2)(e).

⁸⁰ Nova Scotia Utility and Review Board Cost Rules, Section 6(2)(c).

⁸¹ Nova Scotia Power, 2022 General Rate Application, Matter No. M10431, N-10, p. 323.

Table C10: New Brunswick – Cost Award Eligibility

New Brunswick Energy and Utilities Board		
Types of Eligible Parties	Intervenor	The New Brunswick Energy and Utilities Board may order the costs of and incidental to any proceeding by paid to a party in the proceeding. ⁸² Rules of cost awards are currently under review to be amended to the rules of procedure. ⁸³
	Consumer Advocate	The Public Intervenor does not apply for cost awards. The Public Intervenor shall submit an annual budget setting out the operating expenses to the Attorney General for approval ^{84,85} . The Public Intervenor then submits an accounting of all operating expenses to the Board. The Board assesses the direct and common expenses of the Public Intervenor to utilities which are recovered through rates. ⁸⁶
	Applicant	In New Brunswick, applicants do not apply for cost awards. Applicants recover costs associated with preparing for and participating in a proceeding through rates. For example, NB Power includes regulatory costs in their OM&A in hired services for legal, expert, and technical costs to support the regulatory process ⁸⁷ and in corporate costs. ⁸⁸

⁸² New Brunswick Energy and Utilities Board Energy and Utilities Board Act, Section 47.1(2). Available from: <https://laws.gnb.ca/en/pdf/cs/E-9.18.pdf>

⁸³ New Brunswick Energy and Utilities Board Notice – Establishment of Process, Rules of Procedure – Cost Awards. Available from: <https://nbeub.ca/uploads/2023%2012%2020%20-%20Notice%20-%20Rules%20of%20Procedure%20-%20Cost%20Awards.pdf>

⁸⁴ Chapter 28 – An Act Respecting a Public Intervenor for the Energy Sector, Section 2. Available from: <https://laws.gnb.ca/en/pdf/cs/2013.%20C.28.pdf>

⁸⁵ New Brunswick Energy & Utilities Board Annual Report 2021-2022, Audited Financial Statements – 2022, p 12. Available from: https://www.legnb.ca/content/house_business/60/1/bills/Annual%20Report%202021-2022.%20New%20Brunswick%20Energy%20and%20Utilities%20Board.pdf

⁸⁶ Chapter E-9.18 – Energy and Utilities Board Act, Section 50. Available from: <https://laws.gnb.ca/en/showfulldoc/cs/E-9.18/20200628>

⁸⁷ NB Power Corporation 2020/21 General Rate Application, Matter 0458, NBP01.03, p. 58.

⁸⁸ NB Power Corporation 2020/21 General Rate Application, Matter 0458, NBP01.03, p. 63

Table C11: New Brunswick – Processes Related to Intervention

New Brunswick Energy and Utilities Board		
Application for Intervenor Status	Demonstration of substantial interest or affected by decisions	A person filing an intervenor request must have substantial interest in the proceeding, including why that interest should justify the granting of intervenor status. ⁸⁹
	Ability to offer expertise or help to solve issues	Not a requirement for intervenor status in New Brunswick.
	Issues List	Intervenors are to indicate which issues they intend to address. ⁹⁰
	Intent to apply for costs	There is no require to declare an intent to apply for cost award.
	Budget submission	There is no explicit requirement for submitting a budget.
	Coordinate with other intervenors / avoid duplication	There is no rule for parties to coordinate to avoid duplication.
	Regulator judgement	The Board may in its discretion at any time dispense or vary any rules outlined in the Rules of Procedure in whole or in part. ⁹¹
Submitting or Updating Budgets		There is no rule for submitting or updating budgets.
Interim Funding Eligibility		There are no explicit rules on interim funding availability.
Advance Funding Eligibility		There are no explicit rules on advance funding availability.

⁸⁹ New Brunswick Energy and Utilities Board Rules of Procedure, Section 3.2.1 and 3.2.4(b). Available from: <https://nbeub.ca/uploads/2019%2010%2001%20-%20REVISED%20Rules%20of%20Procedure%20-%20Effective%20November%201%202019.pdf>

⁹⁰ New Brunswick Energy and Utilities Board Rules of Procedure, Section 3.2.4(c).

⁹¹ New Brunswick Energy and Utilities Board Rules of Procedure, Section 1.2.3.

Table C12: New Brunswick – Final Cost Award Eligibility

New Brunswick Energy and Utilities Board	
Cost award eligibility requirements	Rules of cost awards are currently under review to be amended to the rules of procedure. ⁹²
Applicants	In New Brunswick, applicants do not apply for cost awards. Applicants recover costs associated with preparing for and participating in a proceeding through rates. For example, NB Power includes regulatory costs in their OM&A in hired services for legal, expert, and technical costs to support the regulatory process ⁹³ and in corporate costs. ⁹⁴

⁹² New Brunswick Energy and Utilities Board Notice – Establishment of Process, Rules of Procedure – Cost Awards. Available from: <https://nbeub.ca/uploads/2023%2012%2020%20-%20Notice%20-%20Rules%20of%20Procedure%20-%20Cost%20Awards.pdf>

⁹³ NB Power Corporation 2020/21 General Rate Application, Matter 0458, NBP01.03, p. 58.

⁹⁴ NB Power Corporation 2020/21 General Rate Application, Matter 0458, NBP01.03, p. 63

Table C13: Michigan – Cost Award Eligibility

Michigan Public Service Commission		
Types of Eligible Parties	Intervenor	<p>Intervenors do not apply for cost awards. In Michigan, intervenors are eligible to apply for grant funding for intervenor compensation. There is \$750,000 available annually for intervenor compensation. Funding for intervenors is available from the utility consumer representation fund which is remitted by utilities on an annual basis based on the number of customers they serve.⁹⁵</p> <p>Grants are only available to parties who advocate the interests of residential energy utility customers concerning energy costs or rates and not for the representation of individual interests.⁹⁶ Grant funding shall also be available to local government entities or nonprofits representing environmental justice communities, communities with the highest energy burdens, and identifiable types of residential customers whose interests may differ including various social and economic classes and areas of the state. Considerations may be made to award grants to more than one applicant representing various social and economic classes with similar issues to achieve this type of representation.⁹⁷</p> <p>Grants are not eligible to organizations which one of the interests it represents is of a utility or its investors or employees. Similarly, grants are not eligible to organizations that represent the interests of one or more businesses or industries that receive utility service with the business interest in connection with the profit-seeking manufacture, sale, or distribution of goods or services.⁹⁸ For this reason, industrial consumer associations and industry sector associations are generally not eligible to receive grant funding.</p> <p>Organizations which are comprised of local government entities that represent the interests of residential consumers may be eligible to receive grant funding.^{99,100}</p>

⁹⁵ Total remittances by utilities in 2022, with the remainder being allocated to the Attorney General. Utility Consumer Representation Fund Annual Report – 2022, p. 2. Available from: https://www.michigan.gov/lara/-/media/Project/Websites/lara/about/Legislative-Reports/Statutory-Required-Reports/FY2022/2022-UCPB-Annual-Report_FINAL.pdf?rev=2af936dce74448c0a8659d068c0599ca&hash=65A033E7F3046F5D99231E56D556F492

⁹⁶ Michigan Public Service Commission Act 304, P.A. of 1982, Section 460.6m(17a). Available from: [https://www.legislature.mi.gov/\(S\(lgvw2x55gzefle55x5js1c45\)\)/documents/mcl/pdf/mcl-chap460.pdf](https://www.legislature.mi.gov/(S(lgvw2x55gzefle55x5js1c45))/documents/mcl/pdf/mcl-chap460.pdf)

⁹⁷ Michigan Public Service Commission Act 304, P.A. of 1982, Section 460.6m(12).

⁹⁸ Michigan Public Service Commission Act 304, P.A. of 1982, Section 460.6m(11).

⁹⁹ Michigan Municipal Association for Utility Issues (MI-MAUI) was granted funding on several occasions. Utility Consumer Representation Fund Annual Report – 2021, p. 4. Available from: https://www.michigan.gov/lara/-/media/Project/Websites/lara/about/ucpb/UCRF-Annual-Report-2021_Final.pdf?rev=71e3818160594583b8fac8e09947bea3&hash=EC322887EE16ED5E5503BDA091A0037A

¹⁰⁰ Michigan Public Service Commission Act 304, P.A. of 1982, Section 460.6m(11).

Table C13: Michigan – Cost Award Eligibility

Michigan Public Service Commission		
Types of Eligible Parties	Consumer Advocate	The consumer advocate does not apply for cost awards. Each energy utility that has applied to the commission for the initiation of an energy cost recovery proceeding shall remit to the Utility Consumer Representation Fund annually ¹⁰¹ . Funding is available to the Attorney General (consumer advocate) to compensate for intervening in rate cases.
	Applicant	In Michigan, applicants do not apply for cost awards. Applicants recover costs associated with preparing for and participating in a proceeding through rates. Applicants recover costs related to in connection with formal cases in regulatory commission expense accounts. ^{102,103}
Qualifying Criteria	Requiring Financial Assistance	There is no explicit requirement for demonstrating the need for financial assistance to be eligible for grant funding.
	Nature of interest in proceeding	The board shall consider the uniqueness or innovativeness of an intervenors position or point of view as it relates to advocating for residential utility consumers in determining grant funding eligibility. ¹⁰⁴
Eligible Costs	Lawyers, articling students/ paralegals, and analysts/ consultants	Grant funding may only be used for costs of staff, hired consultants, and counsel. ¹⁰⁵

¹⁰¹ Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6m(2). Available from:

[https://www.legislature.mi.gov/\(S\(lgvw2x55gzefle55x5js1c45\)\)/documents/mcl/pdf/mcl-chap460.pdf](https://www.legislature.mi.gov/(S(lgvw2x55gzefle55x5js1c45))/documents/mcl/pdf/mcl-chap460.pdf)

¹⁰² See code 928 – Regulatory Commission Expenses. Code of Federal Regulations, Part 101 – Uniform System of Accounts. Available from:

<https://www.ecfr.gov/current/title-18/chapter-1/subchapter-C/part-101>

¹⁰³ DTE Gas Company 2020 Application to increase rates, p. 16. Available from: <https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KF6wNAAT>

¹⁰⁴ Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6m(12)(f).

¹⁰⁵ Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6m(18).

Table C13: Michigan – Cost Award Eligibility

Michigan Public Service Commission		
Eligible Costs	Overhead fees, administrative costs, and other fees	There is no explicit rule for the provision of overhead fees or administrative costs.
	Case managers	There is no explicit rule for the provision of case management fees.
	Other costs	Grant funding may be used for research related to the participation in a proceeding. ¹⁰⁶

¹⁰⁶ Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6m(18). Available from: [https://www.legislature.mi.gov/\(S\(lqvw2x55gzefle55x5js1c45\)\)/documents/mcl/pdf/mcl-chap460.pdf](https://www.legislature.mi.gov/(S(lqvw2x55gzefle55x5js1c45))/documents/mcl/pdf/mcl-chap460.pdf)

Table C14: Michigan – Processes Related to Intervention

Michigan Public Service Commission		
Application for Intervenor Status	Demonstration of substantial interest or affected by decisions	To obtain intervenor status and intervenor must set out clearly and concisely the facts supporting the alleged right or interest, the proposed grounds of the proposed intervention and the position in the proceeding to fully and completely advise the parties and the commission of the specific issues or law to be raised or controverted. ¹⁰⁷ The board shall consider the uniqueness or innovativeness of an intervenors position or point of view as it relates to advocating for residential utility consumers in determining grant funding eligibility. ¹⁰⁸
	Ability to offer expertise or help to solve issues	The board shall consider evidence of the intervenors competence, experience, and commitment to advancing the interests of residential utility consumers in determining grant funding eligibility. ¹⁰⁹
	Issues List	A prehearing conference may be held where parties identify and simply the factual and legal issues to be resolved. ¹¹⁰ A recipient of a grant shall prepare for and participate in all discussions among parties to facilitate the settlement or narrowing of the contested issues in a proceeding to minimize litigation costs for all parties. ¹¹¹
	Intent to apply for costs	An intervenor applying for a grant must indicate how they meet the eligibility requirements and how they intend to use the funding to participate in the proceeding. ¹¹²
	Budget submission	A grant recipient shall file a report no later than 90 days following the end of the year or a shorter period for which the grant is made and include information on expenditures for employees, contract for services costs, costs of materials and supplies, and filing fees and other costs required to effectively represent residential utility customers. ¹¹³

¹⁰⁷ Michigan Office of Administrative Hearing and Rules, Section 792.10410. Available from: <https://ars.apps.lara.state.mi.us/AdminCode/DownloadAdminCodeFile?FileName=R%20792.10101%20to%20R%20792.11903.pdf>

¹⁰⁸ Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6m(12)(f). Available from: [https://www.legislature.mi.gov/\(S\(lqvw2x55qzefle55x5js1c45\)\)/documents/mcl/pdf/mcl-chap460.pdf](https://www.legislature.mi.gov/(S(lqvw2x55qzefle55x5js1c45))/documents/mcl/pdf/mcl-chap460.pdf)

¹⁰⁹ Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6m(12)(a and e).

¹¹⁰ Michigan Office of Administrative Hearing and Rules, Section 792.10421(1)(a).

¹¹¹ Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6m(19).

¹¹² Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6m(11).

¹¹³ Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6m(20).

Table C14: Michigan – Cost Award Application Process

Michigan Public Service Commission		
Application for Intervenor Status	Coordinate with other intervenors / avoid duplication	A prehearing conference may be held where parties providing for joint, coordinated, or consolidated presentation by parties having similar interests to avoid duplication of evidence and for producing and exchanging proposed exhibits and prepared testimony of proposed witnesses. ¹¹⁴ The board shall coordinate the funded activities of grant recipients with those of the attorney general to avoid duplication of effort and maximize the number of hearings and proceedings with intervenor participation. ¹¹⁵
	Regulator judgement	There is no explicit rule for regulator judgement in determining intervenor status or grant eligibility.
Submitting or Updating Budgets		A grant recipient shall file a report no later than 90 days following the end of the year or a shorter period for which the grant is made and include information on expenditures for employees, contract for services costs, costs of materials and supplies, and filing fees and other costs required to effectively represent residential utility customers. ¹¹⁶ The Utility Consumer Participation Board may award the grants in phases allowing grantees to refine and modify grant requests prior to full consideration and approval. ¹¹⁷ The Board also encourages grantees to return to the board if demands of the case require additional resources. ¹¹⁸
Interim Funding Eligibility		There are no explicit rules on interim funding availability.
Advance Funding Eligibility		Advance funding may also be made available to enable an applicant to participate in a proceeding. ¹¹⁹

¹¹⁴ Michigan Office of Administrative Hearing and Rules, Section 792.10421(1)(f and h). Available from: <https://ars.apps.lara.state.mi.us/AdminCode/DownloadAdminCodeFile?FileName=R%20792.10101%20to%20R%20792.11903.pdf>

¹¹⁵ Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6m(17c). Available from: [https://www.legislature.mi.gov/\(S\(lqvw2x55gzefle55x5js1c45\)\)/documents/mcl/pdf/mcl-chap460.pdf](https://www.legislature.mi.gov/(S(lqvw2x55gzefle55x5js1c45))/documents/mcl/pdf/mcl-chap460.pdf)

¹¹⁶ Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6m(20).

¹¹⁷ Utility Consumer Representation Fund Annual Report – 2022, Section 2.3, p. 8. Available from: https://www.michigan.gov/lara/-/media/Project/Websites/lara/about/Legislative-Reports/Statutory-Required-Reports/FY2022/2022-UCPB-Annual-Report_FINAL.pdf?rev=2af936dce74448c0a8659d068c0599ca&hash=65A033E7F3046F5D99231E56D556F492

¹¹⁸ Utility Consumer Representation Fund Annual Report - 2021, Section 2.4, p 5. Available from: https://www.michigan.gov/lara/-/media/Project/Websites/lara/about/ucpb/UCRF-Annual-Report-2021_Final.pdf?rev=71e3818160594583b8fac8e09947bea3&hash=EC322887EE16ED5E5503BDA091A0037A

¹¹⁹ Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6l(14).

Table C15: Michigan – Final Cost Award Eligibility

Michigan Public Service Commission		
Cost award eligibility requirements		Final approval of a grant will consider the eligibility requirements set out in the application for grant funding. ¹²⁰
Adequate Contribution	Contributed to a better understanding and made a significant contribution	The report made by the intervenor which documents all grant expenditures is to include a detailed list of the regulatory issues raised by the intervenor and how each issue was determined by the commission. ¹²¹
	Group representation	There is no explicit requirement on how large a group an intervenor must be representing.
	Complexity and importance of issues	There is no explicit requirement on the complexity and importance of issues for consideration in awarding a grant.
Efficiency and Costs	Deviation from Tariffs	There are no tariffs that intervenors must adhere to.
	Adherence to approved scope and submitted budget	There is no explicit requirement for the intervenor to adhere to the approved scope in the grant application.
	Focused on relevant issues	The board will consider whether the regulatory issues raised by the grant recipient and how each issue was determined by the commission. ¹²²
	Promoted efficiency	There is no explicit requirement for promoting efficiency in determining a final grant approval.

¹²⁰ Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6m(12). Available from: [https://www.legislature.mi.gov/\(S\(lqvw2x55gzefle55x5js1c45\)\)/documents/mcl/pdf/mcl-chap460.pdf](https://www.legislature.mi.gov/(S(lqvw2x55gzefle55x5js1c45))/documents/mcl/pdf/mcl-chap460.pdf)

¹²¹ Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6m(20b).

¹²² Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6m(20b).

Table C15: Michigan – Final Cost Award Eligibility

Michigan Public Service Commission		
Efficiency and Costs	Coordinate with other intervenors / avoid duplication	In determining a grant award, the board will consider the anticipated involvement of the attorney general (consumer advocate) and whether the proposed activities of the intervenor would be duplicative or supplemental to the activities of the attorney general. ¹²³ The board may direct two or more intervenors to file jointly and award a grant to be managed cooperatively. ¹²⁴
Adhered to regulator rules and directions (e.g., page, time limits, schedule)		There are no explicit rules on considerations for adhering to regulator rules in determining to award a grant to an intervenor.
Applicants		In Michigan, applicants do not apply for cost awards. Applicants recover costs associated with preparing for and participating in a proceeding through rates. Applicants recover costs related to in connection with formal cases in regulatory commission expense accounts. ^{125,126}

¹²³ Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6m(12b). Available from: [https://www.legislature.mi.gov/\(S\(lqvw2x55qzefle55x5js1c45\)\)/documents/mcl/pdf/mcl-chap460.pdf](https://www.legislature.mi.gov/(S(lqvw2x55qzefle55x5js1c45))/documents/mcl/pdf/mcl-chap460.pdf)

¹²⁴ Michigan Public Service Commission Act 304, P.A of 1982, Section 460.6m(13).

¹²⁵ See code 928 – Regulatory Commission Expenses. Code of Federal Regulations, Part 101 – Uniform System of Accounts. Available from: <https://www.ecfr.gov/current/title-18/chapter-1/subchapter-C/part-101>

¹²⁶ DTE Gas Company 2020 Application to increase rates, p. 16. Available from: <https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KF6wNAAT>

Table C16: Oregon – Cost Award Eligibility

Oregon Public Utilities Commission		
Types of Eligible Parties	Intervenor	<p>Intervenors do not apply for cost awards. In Oregon, intervenors are eligible to apply for grant funding for intervenor compensation. In Oregon, utilities may enter into a written agreement with an organization that represents broad customer interests in regulatory proceedings.¹²⁷ Eligible intervenors are organizations that represent the following interests:</p> <ul style="list-style-type: none"> • The broad interests of consumers, including the consumer advocate (Citizens’ Utility Board of Oregon) and nonprofit organizations¹²⁸; • The interests of low-income residential customers or environmental justice communities, are eligible for Justice funding agreements.¹²⁹ <p>A party must become pre-certified or case certified for particular proceeding to be eligible to receive grants under an agreement.¹³⁰ For justice funding agreements, no more than five eligible organizations will be pre-certified each year.</p> <p>Industrial consumer associations and industry sector associations are not eligible for grant funding.¹³¹ Grant funding is not available to intervenors who represent narrow interests or issues that are ancillary to the representation of the customers as consumers of utility interest.¹³²</p> <p>Justice funding is available to tribal, rural, or coastal communities.¹³³</p>

¹²⁷ The Oregon Revised Statutes, Vol. 19(57), Section 757.072(1) – Utility Regulation Generally. Available from: https://www.oregonlegislature.gov/bills_laws/ors/ors757.html

¹²⁸ Oregon Public Utility Commission, Chapter 860-001-0120(1). Available from: <https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=4027>

¹²⁹ Environmental justice communities include communities of colour, experiencing lower incomes, tribal, rural, or coastal communities, communities with limited infrastructure, and other communities underrepresented in public processes and adversely affected by environmental and health hazards. Oregon Public Utility Commission, Chapter 860-001-0840(1)(a).

¹³⁰ Pre-certified organizations are those that meet the eligibility criteria for funding and are approved for pre-certification remains pre-certified for general grant funding agreements and for one year for justice funding agreements. Oregon Public Utility Commission, Chapter 860-001-0120, 860-001-0120(2), 860-001-0120(3) and 860-001-0850(1 and 7).

¹³¹ The Oregon Revised Statutes, Vol. 19(57), Section 757.072(2) – Utility Regulation Generally.

¹³² Oregon Public Utility Commission, Chapter 860-001-0120(3)(b)(B).

¹³³ Oregon Public Utility Commission, Chapter 860-001-0810(8) and 860-001-0840(1)(a).

Table C16: Oregon – Cost Award Eligibility

Oregon Public Utilities Commission		
Types of Eligible Parties	Consumer Advocate	The consumer advocate does not apply for cost awards. A utility providing electricity or natural gas may enter into a written agreement to provide financial assistance to the Oregon Citizens' Utility Board (consumer advocate) in Commission proceedings. ¹³⁴
	Applicant	In Oregon, applicants do not apply for cost awards. Applicants recover costs associated with preparing for and participating in a proceeding through rates. Applicants recover costs related to in connection with formal cases in regulatory commission expense accounts. ^{135,136} A utility may seek to recover rates in connection with the funding grants through a deferred account. ¹³⁷
Qualifying Criteria	Requiring Financial Assistance	There is no explicit rule for intervenors to demonstrate need of financial assistance to participate in a proceeding.
	Nature of interest in proceeding	An intervenor must demonstrate the ability to substantively contribute to the record on behalf of customer interests related to the issues in the proceeding. ¹³⁸
Eligible Costs	Lawyers, articling students/ paralegals, and analysts/ consultants	Grant funding eligible expenses include costs for lawyers, consultants, and expert witnesses. ¹³⁹

¹³⁴ Oregon Administrative Rules, Chapter 860(1), Section 860-001-0120. Available from:

<https://records.sos.state.or.us/ORSOSWebDrawer/Recordhtml/9481579>

¹³⁵ See code 928 – Regulatory Commission Expenses. Code of Federal Regulations, Part 101 – Uniform System of Accounts. Available from:

<https://www.ecfr.gov/current/title-18/chapter-I/subchapter-C/part-101>

¹³⁶ PacifiCorp's Request for General Rate Revision, Docket UE 433, p. 1,316. Available from: <https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KF6wNAAT>

¹³⁷ Oregon Public Utility Commission, Chapter 860-001-850(8) and 860-001-900(1)(a).

¹³⁸ Oregon Public Utility Commission, Chapter 860-001-0120(4)(e) and 860-001-0830(1)(c).

¹³⁹ Oregon Public Utility Commission, Chapter 860-001-0870(1)(a and b).

Table C16: Oregon – Cost Award Eligibility

Oregon Public Utilities Commission		
Eligible Costs	Overhead fees, administrative costs, and other fees	Grant funding eligible expenses include apportioned wages for in-house staff and operational support directly related to participation in the proceeding. ¹⁴⁰
	Case managers	There are no explicit rules for case manager expenses.
	Other costs	Other eligible costs may include costs of acquiring studies or supplies directly related to the proceeding, costs for education, organization, and preparation for and facilitation of community members participation in proceedings, and costs for participation in workshops and other information Commission activities prior to an eligible proceeding. ¹⁴¹

¹⁴⁰ Oregon Public Utility Commission, Chapter 860-001-0870(1)(a and b). Available from: <https://records.sos.state.or.us/ORSOSWebDrawer/Recordhtml/9481579>

¹⁴¹ Oregon Public Utility Commission, Chapter 860-001-0870(1)(d, e, g, and h).

Table C17: Oregon – Processes Related to Intervention

Oregon Public Utilities Commission		
Application for Intervenor Status	Demonstration of substantial interest or affected by decisions	A petition to intervene must contain the nature and extent of interest in the proceeding. ¹⁴²
	Ability to offer expertise or help to solve issues	A petition to intervene must document any special knowledge or expertise that would assist the Commission in resolving issues in the proceeding. ¹⁴³
	Issues List	A petition to intervene must contain the issues the petitioner intends to raise. ¹⁴⁴ A conference may be held to identify, simplify, and clarify issues or eliminate irrelevant or immaterial issues. ¹⁴⁵
	Intent to apply for costs	An intervenor must apply for grant funding to receive funding for the participation in a proceeding. ¹⁴⁶
	Budget submission	For intervenors applying for a grant, a budget is to be submitted showing the statement of work and estimated expenses. ¹⁴⁷ The total aggregate financial assistance available to all organizations that represent the interests of low-income residential customers or residential customers that are members of environmental justice communities may not exceed \$500,000 annually. ¹⁴⁸
	Coordinate with other intervenors / avoid duplication	Intervenors who represent low-income residential customers or environmental justice groups who receive grant funding are encouraged to make reasonable efforts to coordinate activities and combine efforts and resources including before submitting proposed budgets or after receiving grants. However, such cooperative efforts will not affect the amounts of their grants. ¹⁴⁹

¹⁴² Oregon Public Utility Commission, Chapter 860-001-300(d). Available from: <https://records.sos.state.or.us/ORSOSWebDrawer/Recordhtml/9481579>

¹⁴³ Oregon Public Utility Commission, Chapter 860-001-300(f).

¹⁴⁴ Oregon Public Utility Commission, Chapter 860-001-300(e).

¹⁴⁵ Oregon Public Utility Commission, Chapter 860-001-590(b and c).

¹⁴⁶ The Oregon Revised Statutes, Vol. 19(57), Section 757.072(1) – Utility Regulation Generally. Available from: https://www.oregonlegislature.gov/bills_laws/ors/ors757.html

¹⁴⁷ Oregon Public Utility Commission, Chapter 860-001-850(4)(d) and 860-001-860(4).

¹⁴⁸ The Oregon Revised Statutes, Vol. 19(57), Section 757.072(2) – Utility Regulation Generally.

¹⁴⁹ Oregon Public Utility Commission, Chapter 860-001-840(3).

Table C17: Oregon – Processes Related to Intervention

Oregon Public Utilities Commission		
Application for Intervenor Status	Regulator judgement	The Commission or administrative law judge may modify or waive any rules for good cause shown. ¹⁵⁰
Submitting or Updating Budgets		For intervenors applying for a grant, a budget is to be submitted showing the statement of work and estimated expenses. ¹⁵¹ A budget may be amended and a request for additional funding submitted if unforeseen changes in the scope or complexity of issues resulted in unexpected costs. ¹⁵²
Interim Funding Eligibility		A request for payment may be made as a progress payment prior to the completion of the activity, but may not exceed 50% of the approved budget amount. ¹⁵³
Advance Funding Eligibility		A request for payment may be made as a progress payment prior to the completion of the activity, but may not exceed 50% of the approved budget amount. ¹⁵⁴

¹⁵⁰ Oregon Public Utility Commission, Chapter 860-001-0000(2). Available from: <https://records.sos.state.or.us/ORSOSWebDrawer/Recordhtml/9481579>

¹⁵¹ Oregon Public Utility Commission, Chapter 860-001-850(4)(d) and 860-001-860(4).

¹⁵² Oregon Public Utility Commission, Chapter 860-001-850(8) and 860-001-860(12).

¹⁵³ Oregon Public Utility Commission, Chapter 860-001-890(5).

¹⁵⁴ Oregon Public Utility Commission, Chapter 860-001-890(5).

Table C18: Oregon – Final Cost Award Eligibility

Oregon Public Utilities Commission		
Cost award eligibility requirements		Intervenors applying for environmental justice case funding are subject to the grant funding eligibility requirements. ¹⁵⁵ Case fund eligibility for organizations that represent broad residential customer interests must demonstrate that no pre-certified intervenor participating in the proceeding adequately represents the specific interests of the customers represented by the organization. ¹⁵⁶
Adequate Contribution	Contributed to a better understanding and made a significant contribution	An intervenor must demonstrate the ability to substantively contribute to the record on behalf of customer interests related to the issues in the proceeding to receive grant funding. ¹⁵⁷
	Group representation	There is no explicit requirement on how large a group an intervenor must be representing.
	Complexity and importance of issues	An environmental justice case funding application may be denied if the proposal is not consistent with the breadth and complexity of issues. ¹⁵⁸
Efficiency and Costs	Deviation from Tariffs	There are no explicit tariffs for grant funding.
	Adherence to approved scope and submitted budget	A party must adhere to their submitted budget but may file to amend their budget. ^{159,160}
	Focused on relevant issues	A grant may be terminated if a party failed to represent the interests of the customers they are supposed to represent. ¹⁶¹
	Promoted efficiency	There is no explicit requirement for promoting efficiency in determining a final grant approval.

¹⁵⁵ Oregon Public Utility Commission, Chapter 860-001-120(4) and 860-001-860(9). Available from:

<https://records.sos.state.or.us/ORSOSWebDrawer/Recordhtml/9481579>

¹⁵⁶ Oregon Public Utility Commission, Chapter 860-001-120(4)(f)(A).

¹⁵⁷ Oregon Public Utility Commission, Chapter 860-001-0120(4)(e) and 860-001-0830(1)(c).

¹⁵⁸ Oregon Public Utility Commission, Chapter 860-001-860(9)(a).

¹⁵⁹ Oregon Public Utility Commission, Chapter 860-001-850(8) and 860-001-860(12).

¹⁶⁰ Oregon Public Utility Commission, Chapter 860-001-850(8) and 860-001-860(12).

¹⁶¹ Oregon Public Utility Commission, Chapter 860-001-130(1)(b) and 860-001-840(4)(b).

Table C18: Oregon – Final Cost Award Eligibility

Oregon Public Utilities Commission		
Efficiency and Costs	Coordinate with other intervenors / avoid duplication	Intervenors who represent low-income residential customers or environmental justice groups who receive grant funding are encouraged to make reasonable efforts to coordinate activities and combine efforts and resources including before submitting proposed budgets or after receiving grants. However, such cooperative efforts will not affect the amounts of their grants. ¹⁶²
Adhered to regulator rules and directions (e.g., page, time limits, schedule)		A grant may be terminated if a party failed to comply with Commission orders or rules in a material way. ¹⁶³
Applicants		In Oregon, applicants do not apply for cost awards. Applicants recover costs associated with preparing for and participating in a proceeding through rates. Applicants recover costs related to in connection with formal cases in regulatory commission expense accounts. ^{164,165} A utility may seek to recover rates in connection with the funding grants through a deferred account. ¹⁶⁶

¹⁶² Oregon Public Utility Commission, Chapter 860-001-840(3). Available from:

<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=4027>

¹⁶³ Oregon Public Utility Commission, Chapter 860-001-130(1)(c) and 860-001-840(4)(c).

¹⁶⁴ See code 928 – Regulatory Commission Expenses. Code of Federal Regulations, Part 101 – Uniform System of Accounts. Available from:

<https://www.ecfr.gov/current/title-18/chapter-1/subchapter-C/part-101>

¹⁶⁵ PacifiCorp’s Request for General Rate Revision, Docket UE 433, p. 1,316. Available from: [https://mi-](https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KF6wNAAT)

[psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KF6wNAAT](https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000KF6wNAAT)

¹⁶⁶ Oregon Public Utility Commission, Chapter 860-001-850(8) and 860-001-900(1)(a).

Table C19: Ohio – Cost Award Eligibility

Public Utilities Commission of Ohio		
Types of Eligible Parties	Intervenor	<p>There are currently no rules with respect to reimbursement of costs for intervenors in Ohio.¹⁶⁷</p> <p>In a jurisdiction with no established intervenor funding mechanism, the Federal Energy Regulatory Commission states intervenors are eligible for funding for costs incurred for their participation in a rate proceeding if they meet the following conditions:¹⁶⁸</p> <ul style="list-style-type: none"> • They have or represent an interest which would not otherwise be adequately represented and which representation is necessary for a fair determination in the proceeding. • Persons with the same or similar interests have a common legal representative. • Do not have the financial means to participate in the proceeding without compensation.
	Consumer Advocate	In Ohio, the consumer counsel operating fund is an amount equal to the appropriation of the office of consumers’ counsel in each fiscal year to be apportioned and assessed against each public utility within the state. ¹⁶⁹
	Applicant	In Ohio, applicants do not apply for cost awards. Applicants recover costs associated with preparing for and participating in a proceeding through rates. Applicants recover costs related to in connection with formal cases in regulatory commission expense accounts. ^{170,171}

¹⁶⁷ Ohio Legislative Service Commission, Governor’s Office of Energy Justice, p. 12. Available from:

<https://www.legislature.ohio.gov/download?key=18182&format=pdf>

¹⁶⁸ Public Utilities Regulation Policies, Act of 1978, Section 122(2)(A and B) and 122(b)(1). Available from: <https://www.ferc.gov/media/public-utility-regulatory-policies-act-1978>

¹⁶⁹ Ohio Revised Code, Section 4911.18. Available from: <https://codes.ohio.gov/ohio-revised-code/chapter-4911>

¹⁷⁰ See code 928 – Regulatory Commission Expenses. Code of Federal Regulations, Part 101 – Uniform System of Accounts. Available from: <https://www.ecfr.gov/current/title-18/chapter-1/subchapter-C/part-101>

¹⁷¹ See State Regulatory Commission Expense. Cincinnati Gas and Electric Company Application to Increase Rates 2005, Case Number 05-0059-EL-AIR, p. 68. Available from: [https://dis.puc.state.oh.us/ViewImage.aspx?CMID=YBI4FJUQU@JIH\(\)HY](https://dis.puc.state.oh.us/ViewImage.aspx?CMID=YBI4FJUQU@JIH()HY)

Table C19: Ohio – Cost Award Eligibility

Public Utilities Commission of Ohio		
Qualifying Criteria	Requiring Financial Assistance	There are currently no rules with respect to reimbursement of costs for intervenors in Ohio. ¹⁷² To be eligible for compensation as set out in the <i>Public Utilities Regulation Act</i> , a person must demonstrate the need for financial assistance to be able to participate in the proceeding. ¹⁷³
	Nature of interest in proceeding	To be eligible for compensation as set out in the <i>Public Utilities Regulation Act</i> , a person must represent an interest which would not otherwise be adequately represented and which representation is necessary for a fair determination in the proceeding. ¹⁷⁴
Eligible Costs	Lawyers, articling students/ paralegals, and analysts/ consultants	The <i>Public Utilities Regulation Act</i> states costs may be claimed for lawyers and expert witness fees. ¹⁷⁵
	Overhead fees, administrative costs, and other fees	The <i>Public Utilities Regulation Act</i> states costs may be claimed for costs incurred in preparation and advocacy of such position in a proceeding. ¹⁷⁶
	Case managers	There is no explicit rule for claiming costs for cost managers.
	Other costs	There is no explicit rule for claiming costs other costs.

¹⁷² Ohio Legislative Service Commission, Governor’s Office of Energy Justice, p. 12. Available from: <https://www.legislature.ohio.gov/download?key=18182&format=pdf>

¹⁷³ Public Utilities Regulation Policies, Act of 1978, Section 122(2)(B). Available from: <https://www.ferc.gov/media/public-utility-regulatory-policies-act-1978>

¹⁷⁴ Public Utilities Regulation Policies, Act of 1978, Section 122(b)(1).

¹⁷⁵ Public Utilities Regulation Policies, Act of 1978, Section 122(a)(1).

¹⁷⁶ Public Utilities Regulation Policies, Act of 1978, Section 122(a)(1).

Table C20: Ohio – Processes Related to Intervention

Public Utilities Commission of Ohio		
Application for Intervenor Status	Demonstration of substantial interest or affected by decisions	A person may intervene in a proceeding upon showing they have a substantial interest in the proceeding, and the proceeding may impair or impede their ability to protect their interest unless the interest is adequately represented by existing parties. ¹⁷⁷
	Ability to offer expertise or help to solve issues	The commission will consider whether the intervenor will significantly contribute to the full development and equitable resolution of issues in the proceeding in determining whether to permit intervention. ¹⁷⁸
	Issues List	A prehearing conference may be held where parties identify and mark exhibits to be offered in the proceeding or clarify and settle the issues involved in the proceeding. ¹⁷⁹
	Intent to apply for costs	There are currently no rules with respect to reimbursement of costs for intervenors or procedures for applying for costs. ¹⁸⁰
	Budget submission	There are no rules for cost award and budgets are not explicitly required in Ohio.
	Coordinate with other intervenors / avoid duplication	The commission will consider the extent to which an intervenor’s proposed intervention is represented by existing parties. ¹⁸¹ The commission may grant limited intervention for an intervenor to participate with respect to one or more issues or may require parties with substantially similar interests to consolidate their examination of witnesses or presentation of testimony. ¹⁸²
	Regulator judgement	The commission may waive any requirement for good cause shown. ¹⁸³

¹⁷⁷ Ohio Revised Code, Section 4901-1-11(A)(2). Available from: <https://codes.ohio.gov/ohio-administrative-code/chapter-4901-1>

¹⁷⁸ Ohio Revised Code, Section 4901-1-11(B)(4).

¹⁷⁹ Ohio Revised Code, Section 4901-1-26(A)(4 and 6).

¹⁸⁰ Ohio Legislative Service Commission, Governor’s Office of Energy Justice, p. 12. Available from: <https://www.legislature.ohio.gov/download?key=18182&format=pdf>

¹⁸¹ Ohio Revised Code, Section 4901-1-11(B)(5).

¹⁸² Ohio Revised Code, Section 4901-1-11(D).

¹⁸³ Ohio Revised Code, Section 4901-1-38(B).

Table C20: Ohio – Processes Related to Intervention

Public Utilities Commission of Ohio	
Submitting or Updating Budgets	There are no rules for cost award and budgets are not explicitly required in Ohio.
Interim Funding Eligibility	There are no rules for cost award, including interim funding eligibility.
Advance Funding Eligibility	There are no rules for cost award, including advance funding eligibility.

Table C21: Ohio – Final Cost Award Eligibility

Public Utilities Commission of Ohio	
Cost award eligibility requirements	<p>There are currently no rules with respect to reimbursement of costs for intervenors in Ohio.¹⁸⁴</p> <p>The <i>Public Utilities Regulation Act</i> states costs may for eligible intervenors for their participation in a proceeding.¹⁸⁵ Intervenors are eligible for funding for costs incurred for their participation in a rate proceeding if they meet the following conditions:¹⁸⁶</p> <ul style="list-style-type: none"> • They have or represent an interest which would not otherwise be adequately represented and which representation is necessary for a fair determination in the proceeding. • Persons with the same or similar interests have a common legal representative. • Do not have the financial means to participate in the proceeding without compensation.
Applicants	<p>In Ohio, applicants do not apply for cost awards. Applicants recover costs associated with preparing for and participating in a proceeding through rates. Applicants recover costs related to in connection with formal cases in regulatory commission expense accounts.^{187,188}</p>

¹⁸⁴ Ohio Legislative Service Commission, Governor’s Office of Energy Justice, p. 12. Available from:

<https://www.legislature.ohio.gov/download?key=18182&format=pdf>

¹⁸⁵ Public Utilities Regulation Policies, Act of 1978, Section 122(a)(1). Available from: <https://www.ferc.gov/media/public-utility-regulatory-policies-act-1978>

¹⁸⁶ Public Utilities Regulation Policies, Act of 1978, Section 122(2)(A and B) and 122(b)(1).

¹⁸⁷ See code 928 – Regulatory Commission Expenses. Code of Federal Regulations, Part 101 – Uniform System of Accounts. Available from:

<https://www.ecfr.gov/current/title-18/chapter-1/subchapter-C/part-101>

¹⁸⁸ See State Regulatory Commission Expense. Cincinnati Gas and Electric Company Application to Increase Rates 2005, Case Number 05-0059-EL-AIR, p. 68. Available from: [https://dis.puc.state.oh.us/ViewImage.aspx?CMID=YBI4FJUQU@JIH\(\)HY](https://dis.puc.state.oh.us/ViewImage.aspx?CMID=YBI4FJUQU@JIH()HY)

Table C22: United Kingdom – Cost Award Eligibility

Office of Gas and Electricity Markets (ofgem)		
Types of Eligible Parties	Intervenor	<p>Ofgem in the United Kingdom is a non-adjudicative regulator. There is no established intervenor funding mechanism for the ofgem RIIO-2 (Revenue – Incentives + Innovation + Outputs, version 2)¹⁸⁹ model for setting price controls in the rates utilities charge consumers.</p> <p>The RIIO-2 model places an emphasis on stakeholder inputs on utility business plans from the perspective of existing and future consumers, on issues of affordability, protection of consumers in vulnerable circumstances, and sustainability.¹⁹⁰</p> <p>Each utility must establish independent customer engagement groups to provide challenge on a utility’s Business Plan with respect to whether it addresses the needs and preferences of consumers.¹⁹¹</p> <p>Citizens Advice and other stakeholders¹⁹² sit on the Ofgem challenge group to review utility companies’ business plans and undertake a comparative assessment of the companies to assist with Ofgem’s benchmarking of companies and assess the costs across companies within a sector.¹⁹³ Recommendations of utility business plans to Ofgem will not serve as a commitment by the Ofgem in considering price controls but will provide the necessary independent analysis to support their decisions.¹⁹⁴</p> <p>The challenge groups serve a comparable function to intervenors present in proceedings in Canada and the United States. There is no explicit rule on the established funding mechanism for the challenge groups.</p>

¹⁸⁹ Ofgem – Price controls explained, p.1. Available from:

https://www.ofgem.gov.uk/sites/default/files/docs/2013/03/price_control_explained_march13_web.pdf

¹⁹⁰ Ofgem 2021. Guidance – RIIO-ED2 Enhanced Engagement Guidance Document Version 2, Section 3.30. Available from:

https://www.ofgem.gov.uk/sites/default/files/docs/2021/04/ed2_enhanced_engagement_guidance_v2- clean version - for publication.pdf

¹⁹¹ Section 2.9, Enhanced Stakeholder Engagement Guidance for RIIO-ED2 – Version 2.

¹⁹² Ofgem 2018. Report – RIIO-2 Challenge Group Terms of Reference Vol 1, Section 3.2. Available from:

https://www.ofgem.gov.uk/sites/default/files/docs/2018/11/riio-2_challenge_group_terms_of_reference.pdf

¹⁹³ Ofgem 2021. Guidance – RIIO-ED2 Enhanced Engagement Guidance Document Version 2, Section 3.31.

¹⁹⁴ Ofgem 2018. RIIO-2 Challenge Group Terms of Reference Vol 1, Section 2.4.

Table C22: United Kingdom – Cost Award Eligibility

Office of Gas and Electricity Markets (ofgem)		
Types of Eligible Parties	Consumer Advocate	The consumer advocate does not apply for cost awards. Being a charitable organization, Citizens’ Advice receives donations from several government departments, through grant income, corporate donations, and other income sources. ¹⁹⁵
	Applicant	Applicants do not apply for cost awards. Ofgem in the United Kingdom is a non-adjudicative regulator. Utilities are regulated by the RIIO-2 (Revenue – Incentives + Innovation + Outputs, version 2) model for setting price controls in the rates utilities charge consumers. Utilities are required to develop business plans in support of determining a fair return on equity for their services. One example of a business plan for UK Power Networks includes business support costs which is inclusive of regulatory costs associated with regulation and other business-related activities. ^{196,197}

¹⁹⁵ Citizens’ Advice Annual Report 2022/23, p. 63.

¹⁹⁶ UK Power Networks, RIIO-ED2 Business Plan 2023-2028, p. 196. Available from: https://d16gag4vfpk8c6.cloudfront.net/app/uploads/2021/12/UKPN-RIIO-ED2-Plan-Ofgem-Updated-INTERACTIVE_Final.pdf

¹⁹⁷ Business support costs – Finance & Regulation, Ofgem Business Plan Data Templates for South Eastern Power Networks (SPN), p. 9. Available from: https://library.ukpowernetworks.co.uk/Library/GetPdf?pdfUrl=Ofgem_RIGs_Data_Tables%2FSPN_RIGs_Data_Tables.pdf

Table C23: United Kingdom – Processes Related to the Role of Challenge Groups in the RIIO-2 Price Controls

Office of Gas and Electricity Markets (ofgem)		
RIIO-2 Challenge Group	Membership	<p>The challenge group members will sign contracts with Ofgem and will consist of an independent chair, representatives for Sustainability First, Citizens Advice (the consumer advocate), and the National Infrastructure Commission, and independent members from various disciplines (e.g., regulatory finance and economics, banking, commercial, academia, consumers, legal, innovators).¹⁹⁸</p> <p>Ofgem invites organizational representatives were invited by Ofgem, and the individual members were recruited through an open and transparent process.¹⁹⁹</p>
	Ofgem	Ofgem representatives attend meetings to act as a point of contact between the Group and Ofgem policy teams. ²⁰⁰
	Utility Business Plan Challenge Reports	<p>The primary function of the challenge groups is to review all network utility business plans, including recommendations, identifying specific areas or issues where the network’s company’s plans are weak or not properly justified.²⁰¹</p> <p>Challenge groups also undertake a comparative assessment of the companies to assist with Ofgem’s benchmarking of companies and assess the costs across companies within a sector.²⁰² Recommendations of utility business plans to Ofgem will not serve as a commitment by the Ofgem in considering price controls but will provide the necessary independent analysis to support their decisions.²⁰³</p> <p>The challenge group is expected to engage with the utility at the outset and to provide feedback on the business plans to allow companies to update the plans prior to final submission with Ofgem.²⁰⁴</p>

¹⁹⁸ Ofgem 2018. Report – RIIO-2 Challenge Group Terms of Reference Vol 1, Section 3.2. Available from: https://www.ofgem.gov.uk/sites/default/files/docs/2018/11/riio-2_challenge_group_terms_of_reference.pdf

¹⁹⁹ Ofgem 2018. Report – RIIO-2 Challenge Group Terms of Reference Vol 1, Section 3.3.

²⁰⁰ Ofgem 2018. Report – RIIO-2 Challenge Group Terms of Reference Vol 1, Section 3.16.

²⁰¹ Ofgem 2018. Report – RIIO-2 Challenge Group Terms of Reference Vol 1, Section 4.2.

²⁰² Ofgem 2021. Guidance – RIIO-ED2 Enhanced Engagement Guidance Document Version 2, Section 3.31. Available from: https://www.ofgem.gov.uk/sites/default/files/docs/2021/04/ed2_enhanced_engagement_guidance_v2-clean_version_-_for_publication.pdf

²⁰³ Ofgem 2018. Report – RIIO-2 Challenge Group Terms of Reference Vol 1, Section 2.4.

²⁰⁴ Ofgem 2021. Guidance – RIIO-ED2 Enhanced Engagement Guidance Document Version 2, Section 3.32.

Table C23: United Kingdom – Processes Related to the Role of Challenge Groups in the RIIO-2 Price Controls

Office of Gas and Electricity Markets (ofgem)		
Utilities	Customer Engagement Groups	<p>Utilities are required to establish independent customer engagement groups, that will challenge the utilities business plans and whether they address the needs and preferences of consumers and other stakeholders. They have a role in providing scrutiny or recommendations throughout the development of the business plan.²⁰⁵</p> <p>The customer engagement groups are required to produce independent reports on the utility business plans that is to be provided to Ofgem and the challenge group.²⁰⁶ The report should highlight areas of agreement and disagreement, including to how the company has responded to feedback raised by the customer engagement group throughout the development of the business plan.²⁰⁷</p>
Open Hearings		<p>Following receiving reports from the challenge group and the customer engagement group, Ofgem will hold an open hearing to hold a panel-led Q&A, to discuss areas of contention with the business plan.²⁰⁸</p> <p>Once final business plans have been submitted, Ofgem will encourage stakeholder participation through a call for evidence, seeking feedback on any aspects of the business plan.²⁰⁹</p>

²⁰⁵ Ofgem 2021. Guidance – RIIO-ED2 Enhanced Engagement Guidance Document Version 2, Section 3.2 and 3.3. Available from: https://www.ofgem.gov.uk/sites/default/files/docs/2021/04/ed2_enhanced_engagement_guidance_v2-clean_version_-_for_publication.pdf

²⁰⁶ Ofgem 2021. Guidance – RIIO-ED2 Enhanced Engagement Guidance Document Version 2, Section 3.11.

²⁰⁷ Ofgem 2021. Guidance – RIIO-ED2 Enhanced Engagement Guidance Document Version 2, Section 3.12.

²⁰⁸ Ofgem 2021. Guidance – RIIO-ED2 Enhanced Engagement Guidance Document Version 2, Section 4.6.

²⁰⁹ Ofgem 2021. Guidance – RIIO-ED2 Enhanced Engagement Guidance Document Version 2, Section 4.10.

Table C24: United Kingdom – Final Cost Award Eligibility

Office of Gas and Electricity Markets (ofgem)	
Cost award eligibility requirements	Ofgem in the United Kingdom is a non-adjudicative regulator. There is no intervenor funding or explicit rule on the established funding mechanism for the challenge groups.
Applicant	Applicants do not apply for cost awards. Utilities are required to develop business plans in support of determining a fair return on equity for their services. One example of a business plan for UK Power Networks includes business support costs which is inclusive of regulatory costs associated with regulation and other business-related activities. ^{210,211}

²¹⁰ UK Power Networks, RIIO-ED2 Business Plan 2023-2028, p. 196. Available from:

https://d16gag4vfpk8c6.cloudfront.net/app/uploads/2021/12/UKPN-RIIO-ED2-Plan-Ofgem-Updated-INTERACTIVE_Final.pdf

²¹¹ Business support costs – Finance & Regulation, Ofgem Business Plan Data Templates for South Eastern Power Networks (SPN), p 9. Available from:
https://library.ukpowernetworks.co.uk/Library/GetPdf?pdfUrl=Ofgem_RIGs_Data_Tables%2FSPN_RIGs_Data_Tables.pdf

Table C25: Québec – Cost Award Eligibility

Régie de l'énergie du Québec		
Types of Eligible Parties	Intervenor	An intervenor must submit a request for payment of fees to their request for intervention which should be accompanied by a budget and the issues they intend to address. ²¹²
	Consumer Advocate	Consumer advocates in Quebec are eligible to receive cost awards as intervenors. ²¹³
	Applicant	Applicants in Quebec do not receive cost awards. ²¹⁴
Qualifying Criteria	Requiring Financial Assistance	There is no requirement for demonstration of requiring financial assistance.
	Nature of interest in proceeding	An intervenor must indicate their nature of interest in the proceeding by indicating the list of issues they intend to address. ²¹⁵
Eligible Costs	Lawyers, articling students/ paralegals, and analysts/ consultants	Costs may be claimed for lawyers, law interns, expert witnesses, and analysts. ²¹⁶

²¹² (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l'énergie, Rule 4. Available from: https://www.regie-energie.qc.ca/storage/app/media/la-regie/lois-reglements-documents-administratifs/interventions-frais-intervenants/Regie_GuidePaiementFrais2020_janvier2020.pdf

²¹³ An example of the Union des consommateurs receiving an award for a cost claim is provided here. Régie de l'énergie, D-2021-004, R-4127-2020, Table 1, Page 19. January 19, 2021. Available at: https://www.regie-energie.qc.ca/fr/participants/dossiers/R-4127-2020/doc/R-4127-2020-A-0043-Dec-Dec-2021_01_19.pdf

²¹⁴ Rules of Procedure of the Régie de l'énergie, Rule 42. Available from: <https://www.legisquebec.gouv.qc.ca/en/document/cr/R-6.01,%20r.%204.1%20/>

²¹⁵ (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l'énergie, Rule 4.

²¹⁶ (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l'énergie, Rule 15.

Table C25: Québec – Cost Award Eligibility

Régie de l'énergie du Québec		
Eligible Costs	Overhead fees, administrative costs, and other fees	A 3% fixed allowance is granted for related expenses. ²¹⁷
	Case managers	Costs may be claimed for coordinators, up to a maximum equivalent of 7% of all eligible hours for the worker. ²¹⁸
	Other costs	Costs may be claimed for work sessions, including for speakers in a work session. ²¹⁹

²¹⁷ (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l'énergie, Rule 19. Available from: https://www.regie-energie.qc.ca/storage/app/media/la-regie/lois-reglements-documents-administratifs/interventions-frais-intervenants/Regie_GuidePaiementFrais2020_janvier2020.pdf

²¹⁸ (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l'énergie, Rule 15 and 16.

²¹⁹ (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l'énergie, Rule 17 and 18.

Table C26: Québec – Processes Related to Intervention

Régie de l'énergie du Québec		
Application for Intervenor Status	Demonstration of substantial interest or affected by decisions	The Régie may consider the importance and implication of the matter when determining a cost award. ²²⁰
	Ability to offer expertise or help to solve issues	The Régie may consider the experience and expertise of the intervenor's resources when considering a cost award. ²²¹
	Issues List	The Régie may consider the importance and relevance of issues being addressed by intervenors in their application. ²²²
	Intent to apply for costs	An intervenor is required to submit a request for payment of fees with their request for intervention. ²²³
	Budget submission	A budget is required to be submitted that includes a detailed estimate of the costs required by the intervenor with details of costs for lawyers, expert witnesses, analysts, coordinators, translation and stenography costs. ²²⁴ The budget must also adhere to tariffs set by the Régie.
	Coordinate with other intervenors / avoid duplication	There is no explicit rule for coordination with other intervenors to avoid duplication.
	Regulator judgement	When examining a budget or a request for payment of costs, the Régie shall judge the necessary and reasonable nature of the costs claimed or budget. ²²⁵

²²⁰ (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l'énergie, Rule 11(a). Available from: https://www.regie-energie.qc.ca/storage/app/media/la-regie/lois-reglements-documents-administratifs/interventions-frais-intervenants/Regie_GuidePaiementFrais2020_janvier2020.pdf

²²¹ (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l'énergie, Rule 11(e).

²²² Rules of Procedure of the Régie de l'énergie, Rules 16 and 19. Available from: <https://www.legisquebec.gouv.qc.ca/en/document/cr/R-6.01.%20r.%204.1%20/>

²²³ (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l'énergie, Rule 11(e).

²²⁴ (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l'énergie, Rule 5.

²²⁵ (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l'énergie, Rule 11.

Table C26: Québec – Processes Related to Intervention

Régie de l'énergie du Québec	
Submitting or Updating Budgets	There is no explicit rule for updating budgets but the Régie requires any cost overrun of more than 3% to be justified. ²²⁶
Interim Funding Eligibility	In the event of a lengthy proceeding, a participant may request interim costs. ²²⁷
Advance Funding Eligibility	There are no explicit rules on advance funding availability.

²²⁶ (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l'énergie, Rule 14. Available from: https://www.regie-energie.gc.ca/storage/app/media/la-regie/lois-reglements-documents-administratifs/interventions-frais-intervenants/Regie_GuidePaiementFrais2020_janvier2020.pdf

²²⁷ (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l'énergie, Rule 9.

Table C27: Québec – Final Cost Award Eligibility

Régie de l'énergie du Québec		
Cost award eligibility requirements		In evaluating a cost award request, the Régie will consider whether the request for costs are similar to the budget and if an overrun are justified. ²²⁸
Adequate Contribution	Contributed to a better understanding and made a significant contribution	The Régie may consider whether the intervention provided relevant elements during the Régie's deliberations when determining an award of cost. ²²⁹
	Group representation	There is no explicit requirement on how large a group an intervenor must be representing.
	Complexity and importance of issues	The Régie may consider the degree of complexity and importance of issues addressed by the intervenor when determining an award of cost. ²³⁰
Efficiency and Costs	Deviation from Tariffs	Cost claims must comply with the tariffs established by the Régie. ²³¹
	Adherence to approved scope and submitted budget	The Régie may consider whether the intervenor adhered to the overall budget and, if applicable, the maximum budget set by the Régie when determining an award of cost. ²³²
	Focused on relevant issues	The Régie may consider whether the stakeholder had overlapping or repetitive tasks with other stakeholders ²³³ and if the intervention was targeted and limited to the issues relevant to the proceeding. ²³⁴
	Promoted efficiency	The Régie may consider whether the intervenor acted responsibly, including following deadlines and other directives by the Régie. ²³⁵

²²⁸ (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l'énergie, Rule 14. Available from: https://www.regie-energie.qc.ca/storage/app/media/la-regie/lois-reglements-documents-administratifs/interventions-frais-intervenants/Regie_GuidePaiementFrais2020_janvier2020.pdf

²²⁹ (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l'énergie, Rule 12(a).

²³⁰ (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l'énergie, Rule 11(d).

²³¹ (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l'énergie, Rule 5.

²³² (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l'énergie, Rule 11(g and h).

²³³ (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l'énergie, Rule 11(f).

²³⁴ (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l'énergie, Rule 12(b).

²³⁵ (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l'énergie, Rule 12(e and f).

Table C27: Québec – Final Cost Award Eligibility

Régie de l'énergie du Québec		
Efficiency and Costs	Coordinate with other intervenors / avoid duplication	There is no explicit rule for the coordination of intervenors to avoid duplication.
	Adhered to regulator rules and directions (e.g., page, time limits, schedule)	The Régie may consider whether the intervenor acted responsibly, including following deadlines and other directives by the Régie. ²³⁶
	Applicants	Applicants in Quebec do not receive cost awards. ²³⁷

²³⁶ (Translated with Google Translate) Guide De Paiement Des Frais 2020, Régie de l'énergie, Rule 12(e and f). Available from: https://www.regie-energie.qc.ca/storage/app/media/la-regie/lois-reglements-documents-administratifs/interventions-frais-intervenants/Regie_GuidePaiementFrais2020_janvier2020.pdf

²³⁷ Rules of Procedure of the Régie de l'énergie, Rule 42. Available from: <https://www.legisquebec.gouv.qc.ca/en/document/cr/R-6.01,%20r.%204.1%20/>

Table C28: Manitoba – Cost Award Eligibility

Manitoba Public Utilities Board		
Types of Eligible Parties	Intervenor	<p>Intervenors may apply for cost awards. An intervenor is a party other than the applicant who has filed for registration and intends to participate in the production and testing of evidence in a proceeding.²³⁸ An award of cost may only be made to an intervenor to a proceeding.²³⁹</p> <p>In Manitoba, industrial customer associations may be eligible for cost awards if they do not solely represent their own business interest.²⁴⁰</p> <p>The Board generally does not allow for cost awards for industry sector associations which are comprised of utilities. However, industry sectors which are comprised of ratepayers are generally allowed to receive costs.²⁴¹ The General Service Small/General Service Medium Customer Class Group (GSS/GSM) is comprised of small commercial customers and is generally eligible to receive costs.²⁴²</p> <p>Cost awards are not available to parties who solely represent their own business interests.²⁴³</p>
	Consumer Advocate	<p>The consumer advocate in Manitoba is eligible to receive cost awards as an intervenor.²⁴⁴</p>

²³⁸ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 1(k). Available from: http://www.pubmanitoba.ca/pdf/pandp/rules_pandp_mar07.pdf

²³⁹ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 43.

²⁴⁰ Comments from the applicant on the issue of a party protecting their own business interest for Manitoba Industrial Power Users Group. Manitoba PUB Order No. 97/17, Section 3.0.

²⁴¹ Manitoba PUB Intervenor Costs Policy, Section 3.1(d). Available from: <http://www.pubmanitoba.ca/v1/about-pub/pubs/int-cost-policy-gra-.pdf>

²⁴² GSS/GSM cost award. MB PUB Order No. 140/23. Available from: <https://www.pubmanitoba.ca/v1/proceedings-decisions/orders/pubs/23-orders/140-23.pdf>

²⁴³ Manitoba PUB Intervenor Costs Policy, Section 3.1(c).

²⁴⁴ Award of cost for the Manitoba Consumers Coalition. Public Utilities Board, Order No. 143/23, page 8. Available from: <http://www.pubmanitoba.ca/v1/proceedings-decisions/orders/pubs/23-orders/143-23.pdf>

Table C28: Manitoba – Cost Award Eligibility

Manitoba Public Utilities Board		
Types of Eligible Parties	Applicant	Applicants do not apply for cost awards in Manitoba. In Manitoba, applicants recover costs incurred in a hearing through a regulatory deferral account over a specified amortization period. ²⁴⁵
Qualifying Criteria	Requiring Financial Assistance	The Board may consider whether the intervenor has insufficient financial resources to present the case in determining an award of costs. ²⁴⁶
	Nature of interest in proceeding	The Board may consider whether an intervenor had a substantial interest in the outcome of a proceeding. ²⁴⁷
Eligible Costs	Lawyers, articling students/ paralegals, and analysts/ consultants	Eligible costs may include the fees of consultants, expert witnesses, and counsel associated with the intervention, but shall not include indirect expenses such as wages lost by attendance at a hearing. ²⁴⁸
	Overhead fees, administrative costs, and other fees	There is no rule permitting overhead or administrative costs.
	Case managers	There is no tariff specified for case managers.
	Other costs	Information technologists have a separate tariff schedule. ²⁴⁹

²⁴⁵ Manitoba Hydro 2023/24 & 2024/25 GRA, Appendix 4.3, p.35. Available from:

https://www.hydro.mb.ca/docs/regulatory_affairs/pdf/electric/gra_2023_2025/full_general_rate_application_2023_24_and_2024_25.pdf

²⁴⁶ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 43(c). Available from:

http://www.pubmanitoba.ca/pdf/pandp/rules_pandp_mar07.pdf

²⁴⁷ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 43(d).

²⁴⁸ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 45(1).

²⁴⁹ Manitoba Public Utilities Board Maximum Rate Schedule. Available from: <https://www.pubmanitoba.ca/v1/about-pub/pubs/maximumrateschedule-2024.pdf>

Table C29: Manitoba – Processes Related to Intervention

Manitoba Public Utilities Board		
Application for Intervenor Status	Demonstration of substantial interest or affected by decisions	The intervenor shall indicate the specific issues they wish to intervene on. ²⁵⁰ The Board must have a clear understanding of the issues that are to be addressed by an intervenor and the purpose for the requested intervention. ²⁵¹ In order to receive a cost award an intervenor must have a substantial interest in the outcome of a proceeding. ²⁵²
	Ability to offer expertise or help to solve issues	In consideration of an award of costs, the Board will consider whether the intervenor made a significant contribution to the proceeding that contributed to a better understanding by all parties and of issues before the Board. ²⁵³
	Issues List	Intervenors are to identify the specific issues they seek to intervene. ²⁵⁴
	Intent to apply for costs	Intervenors are to submit a budget if they intend to seek an award of cost. ²⁵⁵
	Budget submission	Budgets are required to be submitted at the beginning of a proceeding. ²⁵⁶ In Manitoba, the budget must include costs for legal, experts, consultants, analysts, and other fees. ²⁵⁷ The Board can provide comment on intervenor budgets. ²⁵⁸ The final cost decisions occur at the end of the proceeding. ²⁵⁹

²⁵⁰ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 27(1)(a). Available from: http://www.pubmanitoba.ca/pdf/pandp/rules_pandp_mar07.pdf

²⁵¹ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 27(2)(a).

²⁵² Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 43(d).

²⁵³ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 43(a).

²⁵⁴ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 27(1)(a).

²⁵⁵ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 27(1)(b).

²⁵⁶ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 27.

²⁵⁷ Manitoba PUB Template for Intervenor Cost Estimate Cost Award Applications. Available from: <http://www.pubmanitoba.ca/v1/proceedings-decisions/appl-current/pubs/2019-centra-gra/int-costs-form-centra-gra-sample.pdf>

²⁵⁸ Manitoba PUB Intervenor Costs Policy, Section 9.2.6 and 9.2.7. Available from: <http://www.pubmanitoba.ca/v1/about-pub/pubs/int-cost-policy-gra.pdf>

²⁵⁹ Manitoba PUB Intervenor Costs Policy, Section 9.2.6 and 9.2.7.

Table C29: Manitoba – Processes Related to Intervention

Manitoba Public Utilities Board		
Application for Intervenor Status	Coordinate with other intervenors / avoid duplication	In Manitoba intervenors are expected to coordinate with other intervenors that represent substantially similar interests and avoid duplication of evidence. ²⁶⁰ The Board may order intervenors to present a joint intervention. ²⁶¹
	Regulator judgement	There is no explicit rule for regulator judgement in determining intervenor status.
Submitting or Updating Budgets		In Manitoba, intervenors are required to provide an updated budget documenting any material differences from the initial estimate provided to the Manitoba commission. ²⁶² It is the intervenor's responsibility to provide an updated budget to the PUB when the proposed budget is anticipated to be exceeded. ²⁶³
Interim Funding Eligibility		There are no explicit rules on interim funding availability.
Advance Funding Eligibility		In Manitoba, an intervenor requesting an advance of funds must have submitted a budget and received comment on the cost estimate and provide invoices on the actual expenditures incurred to the date of the application for advance funds submission. ²⁶⁴

²⁶⁰ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 27(5). Available from: http://www.pubmanitoba.ca/pdf/pandp/rules_pandp_mar07.pdf

²⁶¹ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 4.

²⁶² Manitoba PUB Intervenor Costs Policy, Section 9.2.9. Available from: <http://www.pubmanitoba.ca/v1/about-pub/pubs/int-cost-policy-gra-.pdf>

²⁶³ Pre-Hearing Conference provided direction on intervenors to notify the PUB immediately when then budget will be exceeded by 10% or more.

Manitoba PUB Order No. 70-17, p. 24. Available from: <http://www.pubmanitoba.ca/v1/proceedings-decisions/orders/pubs/2017%20orders/70-17.pdf>

²⁶⁴ Manitoba PUB Intervenor Costs Policy, Section 4.2.

Table C30: Manitoba – Final Cost Award Eligibility

Manitoba Public Utilities Board		
Cost award eligibility requirements		The Board may revisit the cost award eligibility criteria in determining whether an intervenor should receive a cost award. ²⁶⁵
Adequate Contribution	Contributed to a better understanding and made a significant contribution	The Board may consider whether the intervenor made a significant contribution that is relevant and contributed to a better understanding by all parties and of issues before the Board. ²⁶⁶
	Group representation	The Board may consider whether the intervenor has substantial interest in the outcome of the proceeding and represents the interests of a substantial number of ratepayers. ²⁶⁷
	Complexity and importance of issues	There is no explicit rule on how the complexity of issues addressed by an intervenor affects cost claims.
Efficiency and Costs	Deviation from Tariffs	The Board will award costs in accordance with the Tariffs, unless otherwise provided by the Board. ²⁶⁸
	Adherence to approved scope and submitted budget	In Manitoba, cost awards may be reduced if the intervenor does not provide a timely notification of a material difference from their original budget estimate. ²⁶⁹
	Focused on relevant issues	The Board may consider whether the intervenor focused on relevant issues when determining an award of cost. ²⁷⁰
	Promoted efficiency	The Board may consider whether the intervenor conducted in activity that lengthens proceedings. ²⁷¹

²⁶⁵ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 43(a). Available from:

http://www.pubmanitoba.ca/pdf/pandp/rules_pandp_mar07.pdf

²⁶⁶ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 43(a).

²⁶⁷ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 43(d).

²⁶⁸ Manitoba PUB Intervenor Costs Policy, Section 5.3. Available from: <http://www.pubmanitoba.ca/v1/about-pub/pubs/int-cost-policy-gra-.pdf>

²⁶⁹ Intervenor was reduced cost claims due to not notifying the PUB of an overage of costs above 10%. Manitoba PUB Order No. 100-18, Section 5.0.

Available from: <http://www.pubmanitoba.ca/v1/proceedings-decisions/orders/pubs/2018%20orders/100-18.pdf>

²⁷⁰ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 44(f).

²⁷¹ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 44.

Table C30: Manitoba – Final Cost Award Eligibility

Manitoba Public Utilities Board		
Efficiency and Costs	Coordinate with other intervenors / avoid duplication	Intervenors are expected to make reasonable efforts to cooperate with other intervenors to avoid duplication or to combine submissions with intervenors covering similar issues. ²⁷²
Adhered to regulator rules and directions (e.g., page, time limits, schedule)		Intervenors are expected to comply with directions by the Board. ²⁷³
Applicants		In Manitoba ²⁷⁴ applicants recover costs incurred in a hearing through a regulatory deferral account over a specified amortization period.

²⁷² Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 44(c). Available from: http://www.pubmanitoba.ca/pdf/pandp/rules_pandp_mar07.pdf

²⁷³ Rules of Practice and Procedure, Manitoba Public Utilities Board, Rule 44(e).

²⁷⁴ Manitoba Hydro 2023/24 & 2024/25 GRA, Appendix 4.3, p.35. Available from: https://www.hydro.mb.ca/docs/regulatory_affairs/pdf/electric/gra_2023_2025/full_general_rate_application_2023_24_and_2024_25.pdf

Table C31: Alberta – Cost Award Eligibility

Alberta Utilities Commission		
Types of Eligible Parties	Intervenor	<p>In Alberta, three types of parties are typically allowed to claim costs:</p> <ul style="list-style-type: none"> • Applicants, • Eligible intervenors: normally qualifying intervenors who are eligible for full cost recovery; or • Funded participants: certain groups that do not normally qualify such as owners of utilities, utility-related businesses or associations, municipalities, or municipality associations. Funded participants require less stringent qualifying criteria and are eligible for partial cost recovery.²⁷⁵ <p>In Alberta industrial customer associations are not eligible for a cost award.²⁷⁶ Utilities intervening in other utilities applications and rural electrification associations are not eligible for a cost award. However, associations of utilities are not explicitly ineligible.²⁷⁷</p> <p>Municipalities are generally not eligible to receive a cost award in Alberta.²⁷⁸</p> <p>Cost awards are not available to parties who solely represent their own business interests.²⁷⁹</p>
	Consumer Advocate	<p>The consumer advocate is funded 80% by the Alberta Balancing Pool and 20% by Natural Gas Utilities and therefore does not need to apply for cost awards.²⁸⁰ The Balancing Pool is funded by electricity distributors and other similar companies.^{281,}</p>

²⁷⁵ AUC Rules on Costs in Utility Rates Proceedings, Sections 1(4)-1(6), 5(1). Available from: https://media.auc.ab.ca/prd-wp-uploads/regulatory_documents/Consultations/2024-02-07-Rule022.pdf

²⁷⁶ AUC Rules on Costs in Utility Rates Proceedings, Section 1(6c).

²⁷⁷ AUC Rules on Costs in Utility Rates Proceedings, Section 4.

²⁷⁸ AUC Rules on Costs in Utility Rates Proceedings, Section 1(6e).

²⁷⁹ Business and commercial entities are ineligible intervenors. AUC Rules on Costs in Utility Rates Proceedings, Section 6(d).

²⁸⁰ Chapter 6, Financial Information, Office of the Utilities Consumer Advocate, Annual Report 2022-2023. Available from:

<https://ucahelps.alberta.ca/documents/UCA%20Annual%20Report%202022-23.pdf>

²⁸¹ Section 81, Electric Utilities Act, Alberta. Available from: https://kings-printer.alberta.ca/1266.cfm?page=E05P1.cfm&leg_type=Acts&isbncln=9780779846238&display=html

Table C31: Alberta – Cost Award Eligibility

Alberta Utilities Commission		
Types of Eligible Parties	Applicant	Applicants must apply for a cost award in Alberta to recover regulatory costs. ²⁸² In Alberta, the AUC reviews costs for intervenors and the applicant, determines who is to pay for the costs of intervenors and applicants and how costs are to be collected (e.g., hearing cost reserve account). ²⁸³ Parties who are eligible to obtain costs must adhere to the common AUC tariff, unless authorized to claim costs in excess of the scale of costs. ²⁸⁴
Qualifying Criteria	Requiring Financial Assistance	An eligible intervenor is an intervenor that does not have the means to raise sufficient financial resources to adequately participate in the proceeding. ²⁸⁵
	Nature of interest in proceeding	An eligible intervenor is an intervenor that represents a group that has a substantial interest in the outcome of the proceeding. ²⁸⁶
Eligible Costs	Lawyers, articling students/ paralegals, and analysts/ consultants	Costs may be claimed for lawyers, articling students, and analysts/consultants in accordance with the Commissions tariffs unless authorized to claim costs in excess of the tariffs in a proceeding. ²⁸⁷
	Overhead fees, administrative costs, and other fees	Legal fee tariffs are deemed to include all overhead charges. Consultants, analysts, and experts may include reasonable fees for work performed by administrative staff at a rate of \$60/hour. ²⁸⁸ Overhead charges based on the percentage of the fees or disbursements claimed will not be accepted.
	Case managers	There is no specified tariff for case managers.
	Other costs	There are no notable other costs identified that may be claimed.

²⁸² AUC Rules on Costs in Utility Rates Proceedings, Section 3(1). Available from: https://media.auc.ab.ca/prd-wp-uploads/regulatory_documents/Consultations/2024-02-07-Rule022.pdf

²⁸³ AUC Decision 26986-D01-2022, Section 5(45). Available from: [https://www2.auc.ab.ca/Proceeding26985/ProceedingDocuments/26985_X\[\]_Decision%2026985-D01-2022_000012.pdf](https://www2.auc.ab.ca/Proceeding26985/ProceedingDocuments/26985_X[]_Decision%2026985-D01-2022_000012.pdf)

²⁸⁴ AUC Rules on Costs in Utility Rates Proceedings, Section 5(3).

²⁸⁵ AUC Rules on Costs in Utility Rates Proceedings, Section 1(4)(b).

²⁸⁶ AUC Rules on Costs in Utility Rates Proceedings, Section 1(4)(a).

²⁸⁷ AUC Rules on Costs in Utility Rates Proceedings, Section 5(3) and Appendix A, p. 6.

²⁸⁸ AUC Rules on Costs in Utility Rates Proceedings, Appendix A(2), p. 6.

Table C32: Alberta – Processes Related to Intervention

Alberta Utilities Commission		
Application for Intervenor Status	Demonstration of substantial interest or affected by decisions	Intervenors must demonstrate substantial interest in the subject matter of the proceeding to be eligible to receive cost awards. ²⁸⁹
	Ability to offer expertise or help to solve issues	The Commission will consider whether an intervenor has expertise or insight that the applicant or other intervenors do not have and can use that to help solve the issues that are before the commission in determining a cost decision. ²⁹⁰
	Issues List	The Commission shall issue directions on procedure, which may include a process for establishing a preliminary list of issues for the hearing. ²⁹¹ A party that wishes to modify a finalized list of issues must demonstrate that the circumstances of the proceeding require it. ²⁹²
	Intent to apply for costs	There is no requirement for intervenors to declare an intent to apply for costs when applying for intervenor status.
	Budget submission	In Alberta, the commission may direct an applicant or intervenor to file a request for costs eligibility. ²⁹³ The costs eligibility form includes fees for lawyers, experts, and consultants. ²⁹⁴
	Coordinate with other intervenors / avoid duplication	In determining final cost award the AUC will consider whether the intervenor asked duplicative information requests or questions and otherwise failed to coordinate with other participants. ²⁹⁵
	Regulator judgement	There is no explicit rule for regulator judgement in determining intervenor status.

²⁸⁹ Rule 022 Rules on Costs in Utility Rates Proceedings, Alberta Utilities Commission, Rule 1(4). Available from: https://media.auc.ab.ca/prd-wp-uploads/regulatory_documents/Consultations/2024-02-07-Rule022.pdf

²⁹⁰ Rule 022 Rules on Costs in Utility Rates Proceedings, Alberta Utilities Commission, Rule 8(1)(b).

²⁹¹ Rule 001 Rules of Practice, Alberta Utilities Commission, Rule 14.4. Available from: https://media.auc.ab.ca/prd-wp-uploads/regulatory_documents/Consultations/Rule001.pdf

²⁹² Rule 001 Rules of Practice, Alberta Utilities Commission, Rule 14.6.

²⁹³ Rule 022 Rules on Costs in Utility Rates Proceedings, Alberta Utilities Commission, Rule 3. Available from: https://media.auc.ab.ca/prd-wp-uploads/regulatory_documents/Consultations/Rule022.pdf

²⁹⁴ Rule 022 Costs Eligibility Form, Alberta Utilities Commission. Available from: https://media.auc.ab.ca/prd-wp-uploads/regulatory_documents/Reference/Rule022_CostsEligibilityForm.pdf

²⁹⁵ Rule 022 Rules on Costs in Utility Rates Proceedings, Alberta Utilities Commission, Rule 8(1)(d)(iii).

Table C32: Alberta – Processes Related to Intervention

Alberta Utilities Commission	
Submitting or Updating Budgets	In Alberta, budgets are required to be submitted if applying for an advance of funds. ²⁹⁶ The AUC also may request at any time, intervenors to submit a budget for the expected costs of participation in a hearing. ²⁹⁷
Interim Funding Eligibility	In Alberta, if applying for an interim cost award, the intervenor must demonstrate financial need. ²⁹⁸ Interim cost awards are generally only available for longer proceedings. ²⁹⁹
Advance Funding Eligibility	Advance funding is available to approved intervenors. ³⁰⁰ In Alberta, to be eligible for advance funding an intervenor must demonstrate the need for financial assistance to address relevant issues in a proceeding. ³⁰¹

²⁹⁶ AUC Rules on Costs in Utility Rates Proceedings, Section 2(1). Available from: https://media.auc.ab.ca/prd-wp-uploads/regulatory_documents/Consultations/Rule022.pdf

²⁹⁷ AUC Rules of Local Intervenor Costs, Section 3. Available from: https://media.auc.ab.ca/prd-wp-uploads/regulatory_documents/Consultations/Rule009.pdf

²⁹⁸ AUC Rules of Local Intervenor Costs, Section 4(3c).

²⁹⁹ AUC Rules of Local Intervenor Costs, Section 4(3b).

³⁰⁰ AUC Rules on Costs in Utility Rates Proceedings, Section 3(2). Available from: https://media.auc.ab.ca/prd-wp-uploads/regulatory_documents/Consultations/2024-02-07-Rule022.pdf

³⁰¹ AUC Rules on Costs in Utility Rates Proceedings, Section 1(4).

Table C33: Alberta – Final Cost Award Eligibility

Alberta Utilities Commission		
Cost award eligibility requirements		There is no rule for considering whether the intervenor met the cost award eligibility requirements in determining a final award of cost.
Adequate Contribution	Contributed to a better understanding and made a significant contribution	The Commission may consider whether the intervenor brought expertise or insight on the issues facing the Commission in the proceeding and if they contributed to a better understanding of the issues. ³⁰²
	Group representation	There is no explicit requirement on how large a group an intervenor must be representing.
	Complexity and importance of issues	There is no explicit rule on how the complexity of issues addressed by an intervenor affects cost claims.
Efficiency and Costs	Deviation from Tariffs	In Alberta, all costs must be in accordance with the tariffs, unless otherwise authorized by the Commission. ³⁰³
	Adherence to approved scope and submitted budget	The AUC may request at any time, intervenors to submit a budget for the expected costs of participation in a hearing. ³⁰⁴ In determining final cost award, the AUC will consider whether the costs are reasonable. ³⁰⁵
	Focused on relevant issues	The Commission may consider whether the intervenor pursued irrelevant issues in determining a final cost award. ³⁰⁶ Focussing on issues that are not relevant to a proceeding result in a reduction of costs awarded. ³⁰⁷
	Promoted efficiency	Alberta will consider whether intervenors refrained from engaging in activity that lengthens proceedings. ³⁰⁸

³⁰² AUC Rules on Costs in Utility Rates Proceedings, Section 8(1)(b). Available from: https://media.auc.ab.ca/prd-wp-uploads/regulatory_documents/Consultations/2024-02-07-Rule022.pdf

³⁰³ AUC Rules on Costs in Utility Rate Proceedings, Alberta Utilities Commission, Rule 5(3).

³⁰⁴ AUC Rules on Costs in Utility Rates Proceedings, Section 5(4).

³⁰⁵ AUC Rules on Costs in Utility Rates Proceedings, Section 8(1)(c).

³⁰⁶ AUC Rules on Costs in Utility Rates Proceedings, Section 8(1)(d)(i).

³⁰⁷ Cost claims were reduced due to pursuing irrelevant issues that prolonged the hearing. AUC Decision 22173-D01-2017, Section 320.

³⁰⁸ AUC Rules on Costs in Utility Rate Proceedings, Alberta Utilities Commission, Rule 8(1)(d)(v).

Table C33: Alberta – Final Cost Award Eligibility

Alberta Utilities Commission		
Efficiency and Costs	Coordinate with other intervenors / avoid duplication	In determining final cost awards the AUC will consider whether the intervenor asked duplicative information requests or questions and otherwise failed to coordinate with other participants. ³⁰⁹
Adhered to regulator rules and directions (e.g., page, time limits, schedule)		Alberta has rules that explicitly state that intervenors must comply with rules, directions, and other materials produced by the Commission. ^{310,311}
Applicants		In Alberta, the AUC reviews costs for the applicant, determines who is to pay for the costs of applicants and how costs are to be collected (e.g., hearing cost reserve account). ³¹² Parties who are eligible to obtain costs must adhere to the common AUC tariff, unless authorized to claim costs in excess of the scale of costs. ³¹³

³⁰⁹ AUC Rules on Costs in Utility Rates Proceedings, Alberta Utilities Commission, Rule 8(1)(d)(iii). Available from: https://media.auc.ab.ca/prd-wp-uploads/regulatory_documents/Consultations/2024-02-07-Rule022.pdf

³¹⁰ Rule 001: Rules of Practice, Alberta Utilities Commission, Rule 3.2. Available from: https://media.auc.ab.ca/prd-wp-uploads/regulatory_documents/Consultations/Rule001.pdf

³¹¹ AUC Rules on Costs in Utility Rate Proceedings, Alberta Utilities Commission, Rule 8(1)(d)(ii).

³¹² AUC Decision 26986-D01-2022, Section 5(45). Available from: [https://www2.auc.ab.ca/Proceeding26985/ProceedingDocuments/26985_X\[\]_Decision%2026985-D01-2022_000012.pdf](https://www2.auc.ab.ca/Proceeding26985/ProceedingDocuments/26985_X[]_Decision%2026985-D01-2022_000012.pdf)

³¹³ AUC Rules on Costs in Utility Rates Proceedings, Section 5(3).

Table C34: British Columbia – Cost Award Eligibility

British Columbia Utilities Commission		
Types of Eligible Parties	Intervenor	<p>In British Columbia, applicants and intervenors can be eligible to receive cost awards, although public utilities and BCUC regulated entities are typically not eligible for cost awards.³¹⁴</p> <p>In British Columbia, industrial customer associations³¹⁵ may be eligible for cost awards if they do not solely represent their own business interest.³¹⁶</p> <p>In British Columbia³¹⁷, public utilities and other BCUC regulated entities are not eligible for cost awards. However, some industry sector associations which have utilities in their membership, are eligible for cost awards (e.g. Clean Energy BC). The BC Sustainable Energy Association (BCSEA) members are involved in the clean energy industry and are eligible to receive costs as the members are ratepayers.³¹⁸ The British Columbia Municipal Electrical Utilities (BCMEU) includes municipal distribution utilities which are wholesale customers of FortisBC. They received cost awards in multiple proceedings prior to 2013³¹⁹ but since 2022 are ineligible to receive a cost award.³²⁰</p> <p>Municipalities are generally not eligible to receive a cost award in British Columbia.³²¹</p> <p>Cost awards are not available to parties who solely represent their own business interests.³²²</p>

³¹⁴ BCUC Rules of Practice and Procedure for Participant Cost Awards, Sections 32.01, 33.01, and 34.02(a). Available from: https://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/521582/index.do#_Toc131403754

³¹⁵ Award of costs to the Association of Major Power Customers. BCUC Order Number F-27-24, Section 2.3. Available from: <https://www.ordersdecisions.bcuc.com/bcuc/orders/en/522288/1/document.do>

³¹⁶ BCUC Rules of Practice and Procedure for Participant Cost Awards, Sections 33.02(d).

³¹⁷ BCUC Rules of Practice and Procedure for Participant Cost Awards, Section 34.02(a).

³¹⁸ BCSEA intervenor application. BCUC BC Hydro 2021 Integrated Resource Plan, Exhibit C1-1, p. 2. Available from: https://docs.bcuc.com/documents/proceedings/2022/doc_65512_c1-1-bcsea-request-intervene.pdf

³¹⁹ BCMEU cost award. FortisBC Inc. 2012 and 2013 Revenue Requirements Application. Available from: <https://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/118359/index.do?q=BCMEU+cost+award>

³²⁰ BCUC Rules of Practice and Procedure for Participant Cost Awards, Sections 32.01, 33.01, and 34.02(a). Available from: https://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/521582/index.do#_Toc131403754

³²¹ Municipality denied a cost award. BCUC Order Number F-27-24, Section 2.14.

³²² BCUC Rules of Practice and Procedure for Participant Cost Awards, Section 34.02(d).

Table C34: British Columbia – Cost Award Eligibility

British Columbia Utilities Commission		
Types of Eligible Parties	Consumer Advocate	In British Columbia, the consumer advocate (RCIA) may be eligible for cost awards. ³²³
	Applicant	In British Columbia, applicants can be eligible to receive cost awards although public utilities and BCUC regulated entities are not generally eligible for cost awards. ³²⁴
Qualifying Criteria	Requiring Financial Assistance	There is no requirement for intervenors to demonstrate the need for requiring financial assistance for cost award eligibility.
	Nature of interest in proceeding	There is no explicit requirement for demonstration of a substantial interest in a proceeding for cost award eligibility, but it is required for intervenor status. ³²⁵
Eligible Costs	Lawyers, articling students/ paralegals, and analysts/ consultants	Costs may be claimed for professional services including for lawyers, articling students, expert witnesses and analysts/consultants ³²⁶ in accordance with the Commissions tariffs unless authorized to claim costs in excess of the tariffs in a proceeding. ³²⁷
	Overhead fees, administrative costs, and other fees	The BCUC may award other costs that it determines are reasonable and justified. ^{328,329}
	Case managers	Fees for case management are allowed at a specified tariff. ³³⁰
	Other costs	In British Columbia an intervenor is eligible to claim costs for forgone earning and dependent care costs if they are an individual. ³³¹

³²³ RCIA cost award. BCUC Order Number F-27-24, Section 2.2. Available from:

<https://www.ordersdecisions.bcuc.com/bcuc/orders/en/522288/1/document.do>

³²⁴ BCUC Rules of Practice and Procedure for Participant Cost Awards, Sections 33.01, 33.02. Available from:

https://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/521582/index.do#_Toc131403754

³²⁵ Rules of Practice and Procedure, British Columbia Utilities Commission, Rule 9.04. Available from:

https://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/521582/index.do#_Toc131403724

³²⁶ Rules of Practice and Procedure, British Columbia Utilities Commission, Rule 34.01 and 34.05.01.

³²⁷ Rules of Practice and Procedure, British Columbia Utilities Commission, Rule 34.05.02 and 34.05.03.

³²⁸ BCUC Rules of Practice and Procedure for Participant Cost Awards, Section 34.08.

³²⁹ An intervenor was awarded \$5,000 to cover overhead costs for participation in the proceeding. BCUC Order Number F-27-24, Section 2.09.

³³⁰ BCUC Rules of Practice and Procedure for Participant Cost Awards, Attachment A, Section 1(d).

³³¹ BCUC Rules of Practice and Procedure for Participant Cost Awards, Section 34.04.01.

Table C35: British Columbia – Processes Related to Intervention

British Columbia Utilities Commission		
Application for Intervenor Status	Demonstration of substantial interest or affected by decisions	In British Columbia parties can be eligible if “they are directly or sufficiently affected by the BCUC’s decision” or if they can offer relevant experience, information, or expertise. ³³² In British Columbia, the nature of interest in the proceeding can also limit the scope for participation in the hearing.
	Ability to offer expertise or help to solve issues	British Columbia includes the ability to offer relevant experience or contribute to the proper disposition of issues as eligibility criteria for intervenor status. ³³³
	Issues List	The BCUC consider the importance and relevance of issues being addressed by intervenors in their application. ³³⁴
	Intent to apply for costs	In British Columbia, intervenors are required to state their intention of claiming a cost award when applying to become an intervenor. ³³⁵
	Budget submission	The BCUC does not require intervenors to submit a budget with their intervenor application. If intervenors apply for an interim or advance cost award, they must include evidence in respect of any costs already incurred. ³³⁶
	Coordinate with other intervenors / avoid duplication	Intervenors are expected to coordinate with other intervenors that represent substantially similar interests and avoid duplication of evidence. ³³⁷ The BCUC may order intervenors to present a joint intervention. ³³⁸

³³² Rules of Practice and Procedure, British Columbia Utilities Commission, Rules 9.04 and 9.08. Available from: https://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/521582/index.do#_Toc131403724

³³³ Rules of Practice and Procedure, British Columbia Utilities Commission, Rules 9.04 and 9.08.

³³⁴ Rules of Practice and Procedure, British Columbia Utilities Commission, Rule 9.06 and 9.08.

³³⁵ Request Intervenor Status, BCUC. Retrieved June 14, 2024. Available from: <https://www.bcuc.com/Forms/RequestToIntervene>

³³⁶ Rules of Practice and Procedure, British Columbia Utilities Commission, Rule 37.02 and 37.05.

³³⁷ Rules of Practice and Procedure, British Columbia Utilities Commission, Rule 10.02 and 10.03.

³³⁸ For example, in the BC Hydro 2024 Rate Design proceeding, The British Columbia Utilities Commission directed several municipalities to participate as one intervenor group with participation limited to specific topics. Four renewable energy organizations were also directed to participate as one group and limited to specific topics and similarly for the Zone II Ratepayers Group and Gitga’at First Nation. BCUC BC Hydro 2024 Rate Design – Intervenor Registration and Scope of Participation, Exhibit A-3, p. 2. Available from: https://docs.bcuc.com/documents/proceedings/2024/doc_78401_a-3-intervener-registration-participation-scope.pdf

Table C35: British Columbia – Processes Related to Intervention

British Columbia Utilities Commission		
Application for Intervenor Status	Regulator judgement	The BCUC’s rules of practice indicate it may grant intervenor status “subject to conditions it considers appropriate”. ³³⁹
Submitting or Updating Budgets		In British Columbia, budgets are required to be submitted if applying for an interim cost award or advance of funds. ³⁴⁰
Interim Funding Eligibility		In British Columbia, if applying for an interim cost award, the intervenor must demonstrate financial need. Interim cost awards are generally only available for longer proceedings. ³⁴¹
Advance Funding Eligibility		Advance funding may be available, but the intervenor must establish exceptional circumstances for the need of advance funding, such as, financial need or for a longer proceeding. ³⁴²

³³⁹ Rules of Practice and Procedure, British Columbia Utilities Commission, Rule 9.07.

³⁴⁰ BCUC Rules of Practice and Procedure for Participant Cost Awards, Section 37.01. Available from: https://www.ordersdecisions.b cuc.com/bcuc/orders/en/item/521582/index.do#_Toc131403754

³⁴¹ BCUC Rules of Practice and Procedure for Participant Cost Awards, Section 37.04.

³⁴² BCUC Rules of Practice and Procedure for Participant Cost Awards, Section 37.01 and 37.04.

Table C36: British Columbia – Final Cost Award Eligibility

British Columbia Utilities Commission		
Cost award eligibility requirements		The BCUC may evaluate whether the intervenor engaged in conduct consistent with the participant’s approved scope in the proceeding. ³⁴³
Adequate Contribution	Contributed to a better understanding and made a significant contribution	In British Columbia, intervenors are evaluated whether they contributed to better the understanding of one or more issues in determining a final cost award. ³⁴⁴
	Group representation	There is no explicit requirement on how large a group an intervenor must be representing.
	Complexity and importance of issues	The BCUC may consider whether the incurred time in participating in the proceeding was proportionate to the scope and complexity of issues in the proceeding in determining a final cost award. ³⁴⁵
Efficiency and Costs	Deviation from Tariffs	In British Columbia, if an intervenor would like compensation above the set tariff rates, they must convince the commission that it is necessary for the services required to address the issues in a proceeding. ³⁴⁶
	Adherence to approved scope and submitted budget	The BCUC requires that intervenors stay within their originally approved scope and that they incur time proportionate to their approved scope. ³⁴⁷
	Focused on relevant issues	The BCUC may evaluate whether the intervenor engaged in conduct consistent with the participant’s approved scope in the proceeding. ³⁴⁸
	Promoted efficiency	The BCUC may consider whether the participant engaged in conduct that resulted in a more efficiency or shorter proceeding. ³⁴⁹

³⁴³ Rules of Practice and Procedure, British Columbia Utilities Commission, Rule 36.01(c)(vi and vii). Available from: https://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/521582/index.do#_Toc131403754

³⁴⁴ Rules of Practice and Procedure, British Columbia Utilities Commission, Rule 36.01.

³⁴⁵ Rules of Practice and Procedure, British Columbia Utilities Commission, Rule 36.01(c)(viii).

³⁴⁶ Rules of Practice and Procedure, British Columbia Utilities Commission, Rule 34.05.3.

³⁴⁷ Rules of Practice and Procedure, British Columbia Utilities Commission, Rule 36.01.

³⁴⁸ Rules of Practice and Procedure, British Columbia Utilities Commission, Rule 36.01(c)(vi and vii).

³⁴⁹ Rules of Practice and Procedure, British Columbia Utilities Commission, Rule 36.01(c)(iii and iv).

Table C36: British Columbia – Final Cost Award Eligibility

British Columbia Utilities Commission		
Efficiency and Costs	Coordinate with other intervenors / avoid duplication	British Columbia has rules encouraging intervenors to ensure that their participation was not repetitive or that they cooperated and coordinated with other intervenors. ³⁵⁰
	Adhered to regulator rules and directions (e.g., page, time limits, schedule)	The BCUC explicitly state that intervenors must comply with rules, directions, and other materials produced by their commissions. ³⁵¹
	Applicants	In British Columbia, applicants can be eligible to receive cost awards although public utilities and BC regulated entities are not generally eligible for a cost award. ³⁵² In British Columbia, some applicants recover costs incurred in a hearing through a regulatory deferral account ³⁵³ over a specified period and others include forecast costs in the operating budget. ³⁵⁴

³⁵⁰ Rules of Practice and Procedure, British Columbia Utilities Commission, Rule 36.01(c)(ii and vi). Available from:

https://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/521582/index.do#_Toc131403754

³⁵¹ Rules of Practice and Procedure, British Columbia Utilities Commission, Rule 36.01(c)(ix).

³⁵² BCUC Rules of Practice and Procedure for Participant Cost Awards, Sections 33.01, 33.02.

³⁵³ 2025 Multi-year Rate Plan Application deferral account. BCUC FortisBC Inc. 2024 Annual Review of Rates, Order G-191-23, Section 11 Schedule 11, p. 104. Available from: https://www.cdn.fortisbc.com/libraries/docs/default-source/about-us-documents/regulatory-affairs-documents/electric-utility/230804-fbc-annual-review-2024-rates-application-ff.pdf?sfvrsn=cad2f298_1

³⁵⁴ BCUC, BC Hydro 2023/25 RRA, Chapter 5F, p. 787, Table 5F-11. Available from: https://docs.bcuc.com/documents/proceedings/2021/doc_64005_b-2-bch-f23-f25-rra-public.pdf

Table C37: Wisconsin – Cost Award Eligibility

Wisconsin Public Service Commission		
Types of Eligible Parties	Intervenor	<p>Intervenor compensation is available to any participant in a proceeding who is not a public utility.³⁵⁵ To be eligible for compensation the intervenor shall be all of the following:³⁵⁶</p> <ul style="list-style-type: none"> • A customer of the utility or someone who may be materially affected by the outcome of the proceeding; • Someone who requires financial assistance; • Someone who represents an interest that is material and unique to the proceeding; • Someone whose interest must be represented for a fair determination in the proceeding; and • Someone who has been granted party status and will participate in the proceeding. <p>In Wisconsin, industry sector associations may be eligible for intervenor compensation.³⁵⁷ There is no explicit rule of industry consumer being ineligible for compensation, but they must demonstrate evidence of financial hardship. In Wisconsin, municipalities may be eligible for intervenor compensation if they can demonstrate the evidence of financial hardship.³⁵⁸</p> <p>There is no explicit rule for intervenors who represent their own business interest are ineligible for compensation, but they must demonstrate financial hardship and material and unique interest in the proceeding.</p>

³⁵⁵ Wisconsin State Legislature, Regulation of Public Utilities Chapter 196.31(1). Available from: <https://docs.legis.wisconsin.gov/statutes/statutes/196/31/1>

³⁵⁶ Wisconsin State Legislature, Chapter PSC 3.02(1). Available from: https://docs.legis.wisconsin.gov/code/admin_code/psc/3

³⁵⁷ Approval of intervenor compensation for RENEW Wisconsin, an intervenor group that represents a number of renewable energy utilities. Wisconsin Public Service Commission, ERF System 1-IC-557. Available from: <https://apps.psc.wi.gov/ERF/ERFsearch/content/documentInfo.aspx?docid=474959>

³⁵⁸ Denial of intervenor compensation for Village of Cambridge due to out of scope issues and failing to demonstrate financial hardship, ERF System 1-IC-553. Available from: <https://apps.psc.wi.gov/ERF/ERFview/viewdoc.aspx?docid=423123>

Table C37: Wisconsin – Cost Award Eligibility

Wisconsin Public Service Commission		
Types of Eligible Parties	Consumer Advocate	In past years the Citizen’s Utility Board was provided \$300,000 to support its general operating expenses. ³⁵⁹ The consumer advocate must file a budget up to \$900,000, approved by the consumer advocate’s board of directors, that is approved by the commission. ³⁶⁰ The consumer advocate received \$818,725 in 2022. ³⁶¹ In addition, the consumer advocate is eligible for up to \$100,000 in compensation through the normal intervenor financing method. ³⁶²
	Applicant	Applicants in Wisconsin do not receive cost awards.
Qualifying Criteria	Requiring Financial Assistance	To receive compensation, an intervenor must demonstrate that intervening would cause significant financial hardship without compensation from the commission. ³⁶³ Wisconsin requires intervenors to provide information on their financial status including revenues, expenses, assets, liabilities, and budget for the current year. ³⁶⁴
	Nature of interest in proceeding	In Wisconsin, eligibility for cost claims requires a person to represent an interest material to the proceeding and whose interest must be represented for a fair determination in the proceeding. ³⁶⁵

³⁵⁹ Wisconsin, Legislative Fiscal Bureau, Intervenor Compensation. May 2021. Available from: https://docs.legis.wisconsin.gov/misc/lfb/budget/2021_23_biennial_budget/302_budget_papers/536_public_service_commission_departmentwide_and_energy_programs_intervenor_compensation.pdf

³⁶⁰ Wisconsin Statute 196.315(3) & (5), Consumer Advocate Funding, Regulation of Public Utilities, Wisconsin. Available from: <https://docs.legis.wisconsin.gov/statutes/statutes/196/315>

³⁶¹ Citizens Utility Board of Wisconsin, Financial Statements with Supplementary Information, 2021-2022. Available from: CUB Audit – 2022 (<https://cubwi.org/download/cub-audit-2023/>)

³⁶² Wisconsin Statute 196.31(2m), Consumer Advocate Funding, Regulation of Public Utilities, Wisconsin. Available from: <https://docs.legis.wisconsin.gov/statutes/statutes/196/31>

³⁶³ Wisconsin State Legislature, Chapter PSC 3.02(1). Available from: https://docs.legis.wisconsin.gov/code/admin_code/psc/3

³⁶⁴ Wisconsin State Legislature, Chapter PSC 3.03(2)(e).

³⁶⁵ Wisconsin State Legislature, Chapter PSC 3.02(b).

Table C37: Wisconsin – Cost Award Eligibility

Wisconsin Public Service Commission		
Eligible Costs	Lawyers, articling students/ paralegals, and analysts/ consultants	Costs may be claimed for lawyers, clerical services, and expert witnesses. ³⁶⁶
	Overhead fees, administrative costs, and other fees	Costs may be claimed for clerical services and other costs associated with the intervention. ³⁶⁷
	Case managers	There is no provision of compensable costs for case managers.
	Other costs	Costs may be claimed for preparation of studies, displays, and exhibits. ³⁶⁸

³⁶⁶ Wisconsin State Legislature, Chapter PSC 3.04(2). Available from: https://docs.legis.wisconsin.gov/code/admin_code/psc/3

³⁶⁷ Wisconsin State Legislature, Chapter PSC 3.04(2).

³⁶⁸ Wisconsin State Legislature, Chapter PSC 3.04(2).

Table C38: Wisconsin – Processes Related to Intervention

Wisconsin Public Service Commission		
Application for Intervenor Status	Demonstration of substantial interest or affected by decisions	In Wisconsin, “a person whose substantial interests may be affected by the commission’s action or inaction in a proceeding” is eligible to be an intervenor. Another possible criterion for intervenor status to demonstrate an ability to “promote the proper disposition of issues”. ³⁶⁹
	Ability to offer expertise or help to solve issues	Wisconsin includes the ability to offer relevant experience or contribute to the proper disposition of issues as eligibility criteria for intervenor status. ³⁷⁰
	Issues List	If the intervenor requests compensation, they must provide specific information about the purpose of intervention including a discussion of the relevant issues they intend to pursue. ³⁷¹
	Intent to apply for costs	An application for intervenor compensation must be submitted with a budget at the beginning of the proceeding. ³⁷²
	Budget submission	An application for intervenor compensation must be submitted with a budget at the beginning of the proceeding. ³⁷³ The budget shall include an itemized statement of the services and expenses covered by the requested compensation. ³⁷⁴
	Coordinate with other intervenors / avoid duplication	There is no explicit rule for intervenors to demonstrate how they will collaborate to avoid duplication, but in determining cost award eligibility, the Commission will consider how the proposed interest of issues by the intervenor relative to the information presented by the Commission staff and by other parties in the proceeding. ³⁷⁵

³⁶⁹ Procedure and Practice, Public Service Commission, Wisconsin State Legislature, PSC 2.21. Available from: https://docs.legis.wisconsin.gov/code/admin_code/psc/2

³⁷⁰ Procedure and Practice, Public Service Commission, Wisconsin State Legislature, PSC 2.21. Available from: https://docs.legis.wisconsin.gov/code/admin_code/psc/2

³⁷¹ Wisconsin State Legislature, Chapter PSC 3.03(2)(c). Available from: https://docs.legis.wisconsin.gov/code/admin_code/psc/3

³⁷² Wisconsin State Legislature, Chapter PSC 3.03(1 and 2).

³⁷³ Wisconsin State Legislature, Chapter PSC 3.03(1 and 2).

³⁷⁴ Wisconsin State Legislature, Chapter PSC 3.03(2)(d).

³⁷⁵ Wisconsin State Legislature, Chapter PSC 3.02(2).

Table C38: Wisconsin – Processes Related to Intervention

Wisconsin Public Service Commission		
Application for Intervenor Status	Regulator judgement	The awarding of compensation is at the sole discretion of the commission. ³⁷⁶
Submitting or Updating Budgets		An application for intervenor compensation must be submitted with a budget at the beginning of the proceeding. ³⁷⁷ The budget shall include an itemized statement of the services and expenses covered by the requested compensation. ³⁷⁸ The intervenor may apply for additional costs if the intervenor underestimated to cost of participation. ³⁷⁹
Interim Funding Eligibility		There are no explicit rules on interim funding availability.
Advance Funding Eligibility		There are no explicit rules on advance funding availability.

³⁷⁶ Wisconsin State Legislature, Chapter PSC 3.09. Available from: https://docs.legis.wisconsin.gov/code/admin_code/psc/3

³⁷⁷ Wisconsin State Legislature, Chapter PSC 3.03(1 and 2).

³⁷⁸ Wisconsin State Legislature, Chapter PSC 3.03(2)(d).

³⁷⁹ Wisconsin State Legislature, Chapter PSC 3.06.

Table C39: Wisconsin – Final Cost Award Eligibility

Wisconsin Public Service Commission		
Cost award eligibility requirements		Payment of compensation may be denied if the applicant does not provide adequate documentation of the interest for which the cost award application was initially approved. ³⁸⁰
Adequate Contribution	Contributed to a better understanding and made a significant contribution	Wisconsin requires intervenors to demonstrate they provided an “adequate presentation of a significant position in which the participant has substantial interest” or they have made a significant contribution to the record. ³⁸¹
	Group representation	There is no explicit rule on how large a group an intervenor must be representing.
	Complexity and importance of issues	There is no explicit rule on how the complexity of the issues addressed by an intervenor affects cost claims.
Efficiency and Costs	Deviation from Tariffs	There are no tariffs, but compensation shall not exceed the actual and reasonable expenses authorized by the commission. ³⁸² Also, compensation should be limited to the normal billing rate of the intervenor for comparable staff services and shall not exceed the rates authorized for employees of the commission. ³⁸³
	Adherence to approved scope and submitted budget	The intervenor is required to stay within their approved scope ³⁸⁴ and budget but may request additional compensation if they underestimated the cost of participation. ³⁸⁵
	Focused on relevant issues	There is no explicit rules to focus on relevant issues but required intervenors to demonstrate the ability to offer relevant experience or contribute to the proper disposition of issues as eligibility criteria for intervenor status. ³⁸⁶

³⁸⁰ Wisconsin State Legislature, Chapter PSC 3.07(2). Available from: https://docs.legis.wisconsin.gov/code/admin_code/psc/3

³⁸¹ Wisconsin Statute 196.31, Citizens Utility Board of Wisconsin, Wisconsin. Available from: <https://docs.legis.wisconsin.gov/statutes/statutes/196>

³⁸² Wisconsin State Legislature, Chapter PSC 3.04(1).

³⁸³ Wisconsin State Legislature, Chapter PSC 3.04(3)

³⁸⁴ Wisconsin State Legislature, Chapter PSC 3.04(1).

³⁸⁵ Wisconsin State Legislature, Chapter PSC 3.06.

³⁸⁶ Procedure and Practice, Public Service Commission, Wisconsin State Legislature, PSC 2.21. Available from:

https://docs.legis.wisconsin.gov/code/admin_code/psc/2

Table C39: Wisconsin – Final Cost Award Eligibility

Wisconsin Public Service Commission		
Efficiency and Costs	Promoted efficiency	There is no explicit requirement for the intervenor to promote efficiency to receive a final cost award.
	Coordinate with other intervenors / avoid duplication	There is no explicit rule for intervenors to demonstrate how they will collaborate to avoid duplication, but the Commission will consider how the proposed interest of issues by the intervenor relative to the information presented by the Commission staff and by other parties in the proceeding. ³⁸⁷
Adhered to regulator rules and directions (e.g., page, time limits, schedule)		There is no explicit rule for the intervenor to adhere to regulator rules or directions to receive compensation.
Applicants		The Uniform System of Accounts for Private Electric Utilities and Municipally-Owned Electric Utilities establishes an account for regulatory commission expenses for participation in formal cases before regulatory commissions or other regulatory bodies. ^{388,389}

³⁸⁷ Wisconsin State Legislature, Chapter PSC 3.02(2). Available from: https://docs.legis.wisconsin.gov/code/admin_code/psc/3

³⁸⁸ Public Service Commission of Wisconsin, Uniform System of Accounts for Municipally-Owned Electric Utilities, Account 928. Available from: <https://psc.wi.gov/Documents/muniElectric.pdf>

³⁸⁹ Public Service Commission of Wisconsin, Uniform System of Accounts for Private Electric Utilities, Account 928. Available from: <https://psc.wi.gov/Documents/privateElect.pdf>

Table C40: California – Cost Award Eligibility

California Public Utilities Commission		
Types of Eligible Parties	Intervenor	<p>Compensation is available for participation in a hearing or proceeding to any customer that satisfies both:³⁹⁰</p> <ul style="list-style-type: none"> a. The customer presentation makes substantial contribution to the proceeding. b. Participation of intervention without an award of cost imposes financial hardship. <p>Industry consumer associations are not eligible for compensation as industrial customers and large commercial customers are not eligible.^{391,392} California generally does not allow for cost awards for industry sector associations which are comprised of utilities.³⁹³ In California, municipalities may be eligible to receive a cost award if they are not publicly owned utilities and participate for the purpose of protecting the health and safety of the residents.³⁹⁴</p> <p>There is no rule for eligibility for cost award that an intervenor may not represent their own business interest but only residential, small commercial, and local government entities are eligible for a cost award.</p>

³⁹⁰ California Code, Public Utilities Code - PUC § 1803. Available from: https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=PUC&division=1.&title=&part=1.&chapter=9.&article=5.

³⁹¹ California Code, Public Utilities Code - PUC § 1802.3.

³⁹² California Code, Public Utilities Code - PUC § 1802(i).

³⁹³ Intervenor Compensation Program Guide, California Public Utilities Commission, p.9. Available from: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/icomp-materials/updated-icomp-program-guide-april-2017.pdf>

³⁹⁴ California Code, Public Utilities Code - PUC § 1802.4.

Table C40: California – Cost Award Eligibility

California Public Utilities Commission		
Types of Eligible Parties	Consumer Advocate	<p>The consumer advocate in California does not claim cost awards.</p> <p>The Public Advocates Office is funded through the budget of the California Government, legislated in the <i>Public Utilities Act</i>. The budget is approved through the California Department of Finance.³⁹⁵ The final enacted budget for the office was \$53.406 million in 2022-2023 with \$47.608 million expended.^{396,397}</p> <p>The Public Advocates Office has an additional budget (\$3 million in 2023-2024) authorized for reimbursable contracts. Reimbursable contracts are available for certain types of proceedings including audits, mergers, and major resource additions where expert consultant services are required.³⁹⁸</p>
	Applicant	<p>Applicants do not apply for cost awards. In California, applicants increase rates to collect the amounts awarded to intervenors over a one-year period from the date of the cost award.³⁹⁹ Balancing accounts are not used unless approved by the commission.⁴⁰⁰</p>

³⁹⁵ Public Utilities Code 309.5, Regulation of Public Utilities, Public Utilities Act, State of California. Available from: <https://codes.findlaw.com/ca/public-utilities-code/puc-sect-309-5/>

³⁹⁶ California 2022-23 State Budget, 8660 Public Utilities Commission. June 27, 2022. Available from: <https://ebudget.ca.gov/budget/publication/#/e/2022-23/Department/8660>

³⁹⁷ The Public Advocates Office – The Consumer Advocate at the California Public Utilities Commission, 2023 Annual Report, Page 27. Available from: <https://www.publicadvocates.cpuc.ca.gov/-/media/cal-advocates-website/files/press-room/reports-and-analyses/annual-reports/2023-annual-report.pdf>

³⁹⁸ The Public Advocates Office – The Consumer Advocate at the California Public Utilities Commission, 2023 Annual Report, Page 27.

³⁹⁹ Public Utilities Code 1807, Regulation of Public Utilities, Public Utilities Act, State of California. Available from: https://california.public.law/codes/ca_pub_util_code_section_1807

⁴⁰⁰ Example of a utility using an unapproved balancing account for regulatory commission-related expenses. Page 9. Available from: https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/utility-audits--risk--and-compliance-division/reports/energy/2024/energy_2024-02-15_bves_ba.pdf

Table C40: California – Cost Award Eligibility

California Public Utilities Commission		
Qualifying Criteria	Requiring Financial Assistance	Cost awards are only available to parties who demonstrate participation in the proceeding would cause significant financial hardship. ⁴⁰¹ Significant financial hardship means the intervenor cannot afford to participate without undue hardship or the economic interest of individual members in the group is small compared to the costs of participation. ⁴⁰²
	Nature of interest in proceeding	There is no explicit rule for substantial interest in the outcome of the proceeding but the intervenors must make a substantial contribution to the adoption of the commission's order or decision to receive a cost award. ⁴⁰³
Eligible Costs	Lawyers, articling students/ paralegals, and analyst/ consultants	Costs may be claimed for lawyers, paralegals, and analysts/consultants. ^{404,405} The rates are not to exceed market rates paid to persons of comparable training and experience who offer similar services. ⁴⁰⁶
	Overhead fees, administrative costs, and other fees	There are no explicit rules for allowing overhead or administrative fees.
	Case managers	There are no explicit fees for case managers.
	Other costs	Intervenors may claim any fees for persons that help with participation (e.g., paralegals) and the fees for the time spent to preparing the cost claim. ⁴⁰⁷

⁴⁰¹ California Code, Public Utilities Code - PUC § 1803. Available from:

https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PUC&division=1.&title=&part=1.&chapter=9.&article=5.

⁴⁰² California Code, Public Utilities Code - PUC § 1802(h).

⁴⁰³ California Code, Public Utilities Code - PUC § 1803(a). Available from:

https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PUC&division=1.&title=&part=1.&chapter=9.&article=5.

⁴⁰⁴ Public Utilities Commission of the State of California, Hourly Rate Chart. January 1, 2022. Available from: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/icmp-materials/hourlyratechart-03182024-v2.xlsx>

⁴⁰⁵ California Public Utilities Commission Intervenor Compensation Program Guide. p. 22. Available from: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/icmp-materials/updated-icmp-program-guide-april-2017.pdf>

⁴⁰⁶ California Code, Public Utilities Code - PUC § 1806.

⁴⁰⁷ California Public Utilities Commission Intervenor Compensation Program Guide. p. 22. Available from:

<https://docs.cpuc.ca.gov/PUBLISHED/REPORT/101138.htm>

Table C41: California – Processes Related to Intervention

California Public Utilities Commission		
Application for Intervenor Status	Demonstration of substantial interest or affected by decisions	Intervenors shall identify all issues on which the intervenor intends to participate and seek compensation. ⁴⁰⁸
	Ability to offer expertise or help to solve issues	Intervenors must make a substantial contribution to the adoption of the commission's order or decision to receive a cost award. ⁴⁰⁹
	Issues List	For quasi-legislative proceedings, the commission proposes a scoping memo (or issues list) and there shall be at least one workshop providing an opportunity for parties to discuss the issues identified in the scoping memo. ⁴¹⁰
	Intent to apply for costs	In California, you must file a Notice of Intent that you will be applying for a cost award within 30 days of the Prehearing Conference. ⁴¹¹
	Budget submission	In California, intervening parties, including attorney's, experts (e.g. accountants, economists, and utility rate analysts), and advocates (e.g. administrative analysts and program managers) must include estimated budgets. The notice of intent to claim compensation shall identify all issues the intervenor intends to participate and claim compensation and state the expected budget for participating on each issue. ^{412, 413}

⁴⁰⁸ California Public Utilities Commission, Rules of Practice and Procedure, Section 17.1(c). Available from: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/rules-of-practice-and-procedure-may-2021.pdf>

⁴⁰⁹ California Code, Public Utilities Code - PUC § 1803(a). Available from: https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=PUC&division=1.&title=&part=1.&chapter=9.&article=5.

⁴¹⁰ California Public Utilities Commission, Rules of Practice and Procedure, Section 7(a).

⁴¹¹ California Public Utilities Commission, Intervenor Compensation Program Guide, Notice of Intent to Claim Intervenor Compensation, General Provisions, Page 7. April 2017. Available from: <https://docs.cpuc.ca.gov/PUBLISHED/REPORT/101138.htm>

⁴¹² California Public Utilities Commission, Rules of Practice and Procedure, Section 17.1(c).

⁴¹³ California Public Utilities Commission, Notice of Intent to Claim Intervenor Compensation. March 2023. Available from: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/icom-materals/updated-noi-form-march-2023.docx>

Table C41: California – Processes Related to Intervention

California Public Utilities Commission		
Application for Intervenor Status	Coordinate with other intervenors / avoid duplication	A party must describe the steps taken to avoid duplication of efforts with other parties with similar positions on the proceeding's issues to receive an award of cost. ⁴¹⁴
	Regulator judgement	There is no explicit rule for regulator judgement in determining an award of cost.
Submitting or Updating Budgets		The notice of intent to claim compensation shall identify all issues the intervenor intends to participate and claim compensation and state the expected budget for participating on each issue. ⁴¹⁵
Interim Funding Eligibility		There are no explicit rules on interim funding availability.
Advance Funding Eligibility		There are no explicit rules on advance funding availability.

⁴¹⁴ California Public Utilities Commission Intervenor Compensation Program Guide. p. 20. Available from: <https://docs.cpuc.ca.gov/PUBLISHED/REPORT/101138.htm>

⁴¹⁵ California Public Utilities Commission, Rules of Practice and Procedure, Section 17.1(c). Available from: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/rules-of-practice-and-procedure-may-2021.pdf>

Table C42: California – Final Cost Award Eligibility

California Public Utilities Commission		
Cost award eligibility requirements		A cost claim must document how the intervenor complied with statutory and procedural requirements, compensation eligibility status, and showing of significant financial hardship. ⁴¹⁶
Adequate Contribution	Contributed to a better understanding and made a significant contribution	A request for compensation shall identify each issue resolved by the Commission for which the intervenor claims compensation and identify portions of documents filed by the intervenor that were used in recommendation or contention towards the commission’s order or decision. ⁴¹⁷
	Group representation	There is no explicit rule on how large a group an intervenor must be representing.
	Complexity and importance of issues	There is no explicit rule on how the complexity of the issues addressed by an intervenor affects cost claims.
Efficiency and Costs	Deviation from Tariffs	The rates are not to exceed market rates paid to persons of comparable training and experience who offer similar services. ⁴¹⁸
	Adherence to approved scope and submitted budget	To receive a cost claim the intervenor must document substantial contribution to the specific Commission’s order or decision and how the commission adopted in whole or in part the recommendations or contentions proposed by the intervenor. ⁴¹⁹
	Focused on relevant issues	There is no explicit rule requiring intervenors to focus on relevant issues but the intervenor must document how they made substantial contributions to the Commission’s order or decision. ⁴²⁰
	Promoted efficiency	There is no explicit requirement for promoting efficiency in determining a cost award.

⁴¹⁶ California Public Utilities Commission Intervenor Compensation Program Guide. p. 19. Available from:

<https://docs.cpuc.ca.gov/PUBLISHED/REPORT/101138.htm>

⁴¹⁷ California Public Utilities Commission Intervenor Compensation Program Guide. p. 20.

⁴¹⁸ California Code, Public Utilities Code - PUC § 1806. Available from:

https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=PUC&division=1.&title=&part=1.&chapter=9.&article=5.

⁴¹⁹ California Public Utilities Commission Intervenor Compensation Program Guide. p. 20.

⁴²⁰ California Public Utilities Commission Intervenor Compensation Program Guide. p. 20.

Table C42: California – Final Cost Award Eligibility

California Public Utilities Commission		
Efficiency and Costs	Coordinate with other intervenors / avoid duplication	A party must describe the steps taken to avoid duplication of efforts with other parties with similar positions on the proceeding's issues to receive an award of cost. ⁴²¹
Adhered to regulator rules and directions (e.g., page, time limits, schedule)		A cost claim must document how the intervenor complied with statutory and procedural requirements. ⁴²²
Applicants		In California, applicants increase rates to collect the amounts awarded to intervenors over a one-year period from the date of the cost award. ⁴²³

⁴²¹ California Public Utilities Commission Intervenor Compensation Program Guide. p. 20. Available from: <https://docs.cpuc.ca.gov/PUBLISHED/REPORT/101138.htm>

⁴²² California Public Utilities Commission Intervenor Compensation Program Guide. p. 19.

⁴²³ Public Utilities Code 1807, Regulation of Public Utilities, Public Utilities Act, State of California. Available from: https://california.public.law/codes/ca_pub_util_code_section_1807

Table C43: New York – Cost Award Eligibility

New York Public Service Commission		
Types of Eligible Parties	Intervenor	<p>There are currently no rules with respect to reimbursement of costs for intervenors in New York. Senate Bill S405 set to establish utility intervenor reimbursement for participation in proceedings before the Public Service Commission but was vetoed on November 17, 2023.⁴²⁴</p> <p>In a jurisdiction with no established intervenor funding mechanism, the Federal Energy Regulatory Commission states intervenors are eligible for funding for costs incurred for their participation in a rate proceeding if they meet the following conditions:⁴²⁵</p> <ul style="list-style-type: none"> • They have or represent an interest which would not otherwise be adequately represented and which representation is necessary for a fair determination in the proceeding. • Persons with the same or similar interests have a common legal representative. • Do not have the financial means to participate in the proceeding without compensation.
	Consumer Advocate	The Utility Intervention Unit, the consumer advocate in New York State, receives funding through the Department of State budget. ⁴²⁶
	Applicant	In New York, applicants do not apply for cost awards. Applicants recover costs associated with preparing for and participating in a proceeding through rates. Applicants recover costs related to in connection with formal cases in regulatory commission expense accounts. ^{427,428}

⁴²⁴ The New York State Senate, 2023-2024 Legislative Session, Senate Bill S405. Available from: <https://www.nysenate.gov/legislation/bills/2023/S405>

⁴²⁵ Public Utilities Regulation Policies, Act of 1978, Section 122(2)(A and B) and 122(b)(1). Available from: <https://www.ferc.gov/media/public-utility-regulatory-policies-act-1978>

⁴²⁶ State Operations, All Funds Financial Requirements by Program Appropriations, Department of State, FY 2025 Executive Budget, New York State Division of the Budget. Available from: <https://www.budget.ny.gov/pubs/archive/fy25/ex/agencies/appropdata/StateDepartmentof.pdf>

⁴²⁷ See code 928 – Regulatory Commission Expenses. Code of Federal Regulations, Part 101 – Uniform System of Accounts. Available from: <https://www.ecfr.gov/current/title-18/chapter-I/subchapter-C/part-101>

⁴²⁸ Brooklyn Union Gas Company, 2019 Major Rate Application, Matter Number 19-01092, Sr.No. 1246, p. 490. Available from: <https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={EA0C4E96-CD36-40F0-A948-95D51DA490D0}>

Table C43: New York – Cost Award Eligibility

New York Public Service Commission		
Qualifying Criteria	Requiring Financial Assistance	There are currently no rules with respect to reimbursement of costs for intervenors in New York. To be eligible for compensation as set out in the Public Utilities Regulation Act, a person must demonstrate the need for financial assistance to be able to participate in the proceeding. ⁴²⁹
	Nature of interest in proceeding	To be eligible for compensation as set out in the <i>Public Utilities Regulation Act</i> , a person must represent an interest which would not otherwise be adequately represented and which representation is necessary for a fair determination in the proceeding. ⁴³⁰
Eligible Costs	Lawyers, articling students/ paralegals, and analysts/ consultants	The <i>Public Utilities Regulation Act</i> states costs may be claimed for lawyers and expert witness fees. ⁴³¹
	Overhead fees, administrative costs, and other fees	The <i>Public Utilities Regulation Act</i> states costs may be claimed costs incurred in preparation and advocacy of such position in a proceeding. ⁴³²
	Case managers	There is no explicit rule for claiming costs for cost managers.
	Other costs	There is no explicit rule for claiming costs other costs.

⁴²⁹ Public Utilities Regulation Policies, Act of 1978, Section 122(2)(B). Available from: <https://www.ferc.gov/media/public-utility-regulatory-policies-act-1978>

⁴³⁰ Public Utilities Regulation Policies, Act of 1978, Section 122(b)(1).

⁴³¹ Public Utilities Regulation Policies, Act of 1978, Section 122(a)(1).

⁴³² Public Utilities Regulation Policies, Act of 1978, Section 122(a)(1).

Table C44: New York – Processes Related to Intervention

New York Public Service Commission		
Application for Intervenor Status	Demonstration of substantial interest or affected by decisions	There is no explicit requirement for substantial interest for interventions in New York. Permission to intervene is granted "if the intervention is likely to contribute to the development of a complete record or is otherwise fair and in the public interest". ⁴³³
	Ability to offer expertise or help to solve issues	In New York, permission to intervene is granted "if the intervention is likely to contribute to the development of a complete record or is otherwise fair and in the public interest". ⁴³⁴
	Issues List	New York State regulation states that "A presiding officer may convene a pre-hearing conference to formulate or simplify issues; arrange for the exchange of testimony and exhibits; limit the number of witnesses; set schedules; or otherwise expedite the orderly conduct of the proceeding." ⁴³⁵
	Intent to apply for costs	There are currently no rules with respect to reimbursement of costs for intervenors in New York.
	Budget submission	There are no rules for cost award and budgets are not explicitly required in New York.
	Coordinate with other intervenors / avoid duplication	In New York, "To avoid unnecessary duplication, the presiding officer may require parties with similar interests to consolidate their presentations". ⁴³⁶
	Regulator judgement	New York State regulation states that "Any person may ask the presiding officer for permission to intervene". However, the requirement exists that "Permission will be granted if the intervention is likely to contribute to the development of a complete record or is otherwise fair and in the public interest." ⁴³⁷

⁴³³ State Compilation of Codes, Rules and Regulations Of The State Of New York, 16 CRR-NY 4.3(b)(3). February 28, 2023. Available from:

<https://govt.westlaw.com/nycrr/Document/I50520fa3cd1711dda432a117e6e0f345?transitionType=Default&contextData=%28sc.Default%29>

⁴³⁴ State Compilation of Codes, Rules and Regulations Of The State Of New York, 16 CRR-NY 4.3(b)(3). February 28, 2023.

⁴³⁵ State Compilation of Codes, Rules and Regulations Of The State Of New York, 16 CRR-NY 4.4(a). February 28, 2023. Available from:

[https://govt.westlaw.com/nycrr/Document/I50520fa6cd1711dda432a117e6e0f345?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/nycrr/Document/I50520fa6cd1711dda432a117e6e0f345?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

⁴³⁶ State Compilation of Codes, Rules and Regulations Of The State Of New York, 16 CRR-NY 4.3(c)(1). February 28, 2023.

⁴³⁷ State Compilation of Codes, Rules and Regulations Of The State Of New York, 16 CRR-NY 4.3(c)(1). February 28, 2023.

Table C44: New York – Processes Related to Intervention

New York Public Service Commission	
Submitting or Updating Budgets	There are no rules for cost award and budgets are not explicitly required in New York.
Interim Funding Eligibility	There are no rules for cost awards, including interim funding eligibility.
Advance Funding Eligibility	There are no rules for cost awards, including advance funding eligibility.

Table C45: New York – Final Cost Award Eligibility

New York Public Service Commission	
Cost award eligibility requirements	<p>There are currently no rules with respect to reimbursement of costs for intervenors in New York. Senate Bill S405 set to establish utility intervenor reimbursement for participation in proceedings before the Public Service Commission but was vetoed on November 17, 2023.⁴³⁸</p> <p>In a jurisdiction with no established intervenor funding mechanism, the Federal Energy Regulatory Commission states intervenors are eligible for funding for costs incurred for their participation in a rate proceeding if they meet the following conditions:⁴³⁹</p> <ul style="list-style-type: none"> • They have or represent an interest which would not otherwise be adequately represented and which representation is necessary for a fair determination in the proceeding. • Persons with the same or similar interests have a common legal representative. • Do not have the financial means to participate in the proceeding without compensation.
Applicants	<p>In New York, applicants do not apply for cost awards. Applicants recover costs associated with preparing for and participating in a proceeding through rates. Applicants recover costs related to in connection with formal cases in regulatory commission expense accounts.^{440,441}</p>

⁴³⁸ The New York State Senate, 2023-2024 Legislative Session, Senate Bill S405. Available from: <https://www.nysenate.gov/legislation/bills/2023/S405>

⁴³⁹ Public Utilities Regulation Policies, Act of 1978, Section 122(2)(A and B) and 122(b)(1). Available from: <https://www.ferc.gov/media/public-utility-regulatory-policies-act-1978>

⁴⁴⁰ See code 928 – Regulatory Commission Expenses. Code of Federal Regulations, Part 101 – Uniform System of Accounts. Available from: <https://www.ecfr.gov/current/title-18/chapter-I/subchapter-C/part-101>

⁴⁴¹ Brooklyn Union Gas Company, 2019 Major Rate Application, Matter Number 19-01092, Sr.No. 1246, p. 490. Available from: <https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={EA0C4E96-CD36-40F0-A948-95D51DA490D0}>

Table C46: Australia – Cost Award Eligibility

Australian Energy Market Commission		
Types of Eligible Parties	Intervenor	Australia does not use an intervenor model, but instead relies on input through their consumer advocates to participate in the determinations made by the regulator. ⁴⁴²
	Consumer Advocate	The consumer advocate does not apply for cost awards. The Australian Energy Regulator, which operates the Consumer Challenge Panel, is funded by the Australian government. ⁴⁴³ Energy Consumers Australia is funded by National Energy Market (national electricity and gas market) consumers through a levy. ⁴⁴⁴

⁴⁴² Public Interest Advocacy Centre, A guide to consumer participation in electricity pricing and revenue determinations, page 7. May 2017. Available from: <https://iec.org.au/wp-content/uploads/2017/06/17.05.19-Consumer-Guide-FINAL-1.pdf>

⁴⁴³ Australian Competition & Consumer Commission, Service Charter, The AER. Available from: <https://www.accc.gov.au/about-us/accc-role-and-structure/service-charter>. Accessed June 26, 2024.

⁴⁴⁴ Grants Management, ECA Grant Guidelines, Energy Consumers Australia, page 6. Available from: <https://energyconsumersaustralia.com.au/wp-content/uploads/Grants-Program-Package-Main.pdf>

Table C47: Average Annual Intervenor Costs Awarded per Customer and per Capita in Ontario and Comparable Jurisdictions: BC, AB, and MB

Proceeding	Average Annual Intervenor Costs Awarded (\$ Millions)	Number of Customers (Millions)	Average Annual Intervenor Costs Awarded per Customer (\$)	Population ⁴⁴⁵ (Millions)	Average Annual Cost Award Per Capita (\$)
Ontario (2020/21 - 2023/24)⁴⁴⁶					
Electric	\$1.8	5.4	\$0.3	-	-
Gas	\$2.2	3.9	\$0.6	-	-
Other	\$0.2	-	-	-	-
All Proceedings	\$4.1	9.3	\$0.4	15.6	\$0.3
British Columbia (2021 - 2023)					
All Proceedings	\$2.4	-	-	5.5	\$0.4
Alberta (2021 - 2023)⁴⁴⁷					
All Proceedings	\$3.9	3.2	\$1.2	4.7	\$0.8
Manitoba (2019 - 2023)⁴⁴⁸					
Electric	\$0.4	0.6	\$0.7	-	-
Gas	\$0.2	0.3	\$0.7	-	-
All Proceedings	\$0.7	0.9	\$0.7	1.5	\$0.5

⁴⁴⁵ Statistics Canada, Table: 17-10-0005-01, Population estimates on July 1, by age and gender, 2023. February 21, 2024. Available from: <https://www150.statcan.gc.ca/t1/tbl1/en/cv.action?pid=1710000501>

⁴⁴⁶ Ontario Energy Board, Annual Report 2022-2023, Page 30. Available from: <https://www.oeb.ca/sites/default/files/OEB-Annual-Report-2022-2023-EN.pdf>

⁴⁴⁷ Alberta Utilities Commission, Financing AUC operations. Available from: https://www.auc.ab.ca/regulatory_documents/financing-auc-operations/. Accessed July 9, 2024.

⁴⁴⁸ Manitoba Hydro, About us. Available from: <https://www.hydro.mb.ca/corporate/>. Accessed July 9, 2024.

Table C48: Average Annual Intervenor Cost Awards per Customer and Per Capita in Ontario and Comparable Jurisdictions: BC, AB, and MB

Jurisdiction	Average Claims Per Proceeding	Average Awards Per Proceeding	% Awarded per Proceeding
Ontario (2020/21 - 2023/24)	\$100,000	\$97,000	97%
British Columbia (2021 - 2023)	\$91,000	\$87,000	97%
Alberta (2021 - 2023)	\$201,000	\$168,000	84%
Manitoba (2019 - 2023)	\$381,000	\$369,000	97%

Table C49: Average Intervenor Cost Claims and Awards per Proceeding in Ontario and Comparable Jurisdictions: BC, AB, and MB

Proceeding	Average Annual Total Costs Awarded	Average Annual Number of Intervenor Cost Awards	Average Cost Award
Ontario (2020/21 - 2023/24)	\$4,123,000	189	\$22,000
British Columbia (2021 - 2023)	\$2,449,000	79	\$31,000
Alberta (2021 - 2023)	\$3,864,000	34	\$114,000
Manitoba (2019 - 2023)	\$664,000	5	\$144,000

Table C50: Costs Awarded in Large Proceedings in Ontario and Across Comparable Jurisdictions: BC, AB, and MB, \$000's

Proceeding	Number of Intervenor	Claim	Award	% Awarded
Ontario (2020/21 – 2023/24)				
EGI (EB-2022-0200) 2024-2028 Natural Gas Distribution Rates Phase One	14	\$3,650	\$3,641	100%
EGI (EB-2021-0002) Multi-Year Natural Gas Demand Side Management Plan	18	\$1,362	\$1,243	91%
HONI (EB-2021-0110) 2023-2027 Distribution and Transmission Rate Application	15	\$1,039	\$1,011	97%
British Columbia (2021 – 2023)				
BC Hydro (F-29-23A) F2023 to F2025 Revenue Requirements Application	10	\$1,919	\$1,907	99%
BCUC (F-37-23) Generic Cost of Capital Proceeding (Stage 1)	5	\$454	\$454	100%
BCUC (F-26-23 & F-36-23) Advanced Metering Infrastructure Project	5	\$440	\$439	100%
Alberta (2021 – 2023)				
AUC (28375) Third Generation Performance Based Regulation	2	\$1,560	\$1,546	99%
AESO (26711) Bulk, Regional, and Modernized Demand Opportunity Service Rate Design Application	7	\$1,434	\$1,294	90%
Altalink (26985) 2022-2023 General Tariff Applications and 2020 Direct Assigned Capital Deferral Account Reconciliation	1	\$864	\$592	69%
Manitoba (2019 – 2023)				
Manitoba Hydro 2023/24 - 2024/25 GRA	5	\$1,712	\$1,684	98%
Centra Gas Manitoba Inc. 2019/20 General Rate Application	2	\$762	\$714	94%
Manitoba Hydro 2019/20 General Rate Application	4	\$397	\$363	91%