

# Cost Sharing for TOA-AC

Draft Principles September 2015  
Rules & Procedures Working Group

# Cost Sharing Principles-

- **Intent:**

- *Make cost sharing provisions universal for all TOA-AC actions requiring the services of attorneys and/or consultants, or other related purposes, to include all Working Groups authorized by the TOA-AC subject to Section C.4 provisions (2/3s per capita majority as detailed in the Section 205 Working Group Charter.)*

- **Process For Review and Approval:**

- *Provide Options for TOA-AC review and recommendations*
- *Obtain LIT review and language preparation for TOA-AC review*
- *Obtain TOA-AC approval and incorporate into Handbook*

# Cost Sharing Principles-

- **1. Cost Sharing:**
- A. Costs are billed to every TOA-AC member where the TOA-AC determines, through the use of the TOA-AC voting protocols a majority vote, to take action requiring the use of attorneys/consultants
- (i)Exception: Where a TOA-AC member is the litigant in the proceeding under consideration and whose position is in opposition to the action/direction under consideration by the TOA-AC majority vote, such member(s) shall be excluded from TOA-AC participation and costs related to this action
- B. Costs are billed only to those TOA-AC members that agree to participate in the action/direction being considered; i.e., those members that voted affirmatively to participate through the use of the TOA-AC voting protocols. Members desiring not to participate must vote No and must communicate their intent to not participate (see 2.A., below). Absence from the vote, or abstaining from the vote, does not constitute opposition to the item being voted on
- (i)Exception: When the TOA-AC member is absent during the vote, that member may register a vote via email with the Chair of the TOA-AC up to three (3) business days after the date of the initial vote

# Cost Sharing Principles-

- **2. Communication:**

- A. TOA-AC members that do not desire to participate in the action/direction being taken by the majority, and who have voted No, must communicate their intent not to participate by letter to the Chair of the TOA-AC not later than five (5) business days after the date the vote is taken
- B. TOA-AC members that do not desire to participate in the action/direction being taken by the majority, and who have noted No, must communicate their intent not to participate by letter to the Chair of the TOA-AC and, if applicable, the Chair of the respective Working Group not later than five (5) business days after the date the vote is taken
- C. Such communication as contemplated in A & B may be sent via email as opposed to a letter through the US Mail

# Cost Sharing Principles-

- **3. Review:**
- A. Once a TOA-AC member has elected to participate in the majority effort, that member is bound to participate for the duration of the effort
- (i) Exception: Where a TOA-AC member that is participating in the majority effort undergoes a change of ownership and becomes a part of an opposing party, that member shall be exempt from participation and costs going forward but remains liable for its portion of the costs incurred to the date its withdrawal becomes effective
- B. At regular intervals during the procedural process, the TOA-AC members that have elected to participate may be given the opportunity to withdraw from the continuing effort and cease paying all related costs going forward
- C. At regular intervals during the procedural process, any TOA-AC member that elected not to participate may be given the opportunity to join the continuing effort and assume all related costs going forward
- (i) Exception: Where the TOA-AC member is the litigant in the same proceeding, that member may not elect to join the majority effort

# Cost Sharing Principles-

- **4. Withdrawal:**
- A. Withdrawal from participation in the majority effort once the effort has commenced is not allowed
- (i) Exception: Where a TOA-AC member that is participating in the majority effort undergoes a change of ownership and becomes a part of an opposing party, that member shall be exempt from participation and costs going forward
- B. Withdrawal from participation in the majority effort once the effort has commenced is allowed upon notification to the TOA-AC Chair, such withdrawal to be effective 10 (ten) days after the date of the notification by the member desiring to withdraw

# Cost Sharing Principles-

- **5. New Participants:**
- A. Transmission Owners that had not executed the CTOA and were not part of the TOA-AC at the time of the vote to enlist attorneys/consultants for a specific action but that become TOA-AC members shall not bear any part of the of the costs for the effort approved by the majority vote
- B. Transmission Owners that had not executed the CTOA and were not part of the TOA-AC at the time of the vote to enlist attorneys/consultants that indicate a desire to participate moving forward in the majority effort and agree to cost sharing as detailed by the TOA-AC Voting Tool must indicate their desire to participate by letter to the Chair of the TOA-AC and the members of the majority effort

# Cost Sharing Principles-

- **6. Exemptions:**

- A. Any TOA-AC member that is also the complainant in a proceeding will not be required to participate in the cost sharing approved by the majority effort and will be exempt from all communications/meetings/reviews of the majority effort
- B. TOA-AC members that have an affiliate whose interest have a direct conflict with the action/direction under consideration will not be required to join in the majority effort and will not be required to share in the costs of that effort. Such TOA-AC member must still indicate its intention not to participate as described in 1.B. and 2.A.
- C. TOA-AC members whose state commission is in direct opposition to the action/direction under consideration may elect to be exempted from the majority effort and will not be required to share in the costs of that effort

# Cost Sharing Principles-

- **7. Billing mechanism:**
- A. The costs for services incurred for attorneys/consultants as agreed to by the majority effort shall be paid for in accordance with the formula for meeting costs set forth in Section 8.4.5 of the CTOA as applied only to such TOs