

Direct Dial: (416) 216-2342  
Direct Fax: (416) 216-3930  
ckeizer@ogilvyrenault.com

Toronto, January 9, 2009

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street  
Suite 2700, PO Box 2319  
Toronto, ON, M4P 1E4

Dear Ms. Walli:

**RE: Canadian Niagara Power Inc. – Eastern Ontario Power, Fort Erie, and Port Colborne (collectively “CNPI”)  
EB-2008-0222, EB-2008-0223, EB-2008-0224 (collectively the “Proceedings”)**

---

On behalf of CNPI, we are writing in regard to Procedural Order No. 3 in the above-referenced Proceedings. The Ontario Energy Board (the “Board”) has invited submissions on the following procedural issues:

- (a) whether further discovery is required, either in the form of further interrogatories or a technical conference;
- (b) whether a settlement conference would be appropriate; and
- (c) whether a written or oral hearing is preferred.

CNPI respectfully submits that neither further interrogatories nor a technical conference are required. The Vulnerable Energy Consumers’ Council (“VECC”), the School Energy Coalition (“SEC”), the Association of Major Power Consumers (“AMPCO”), the Energy Probe Research Foundation (“Energy Probe”) and Board Staff have canvassed the evidence in the Proceedings through an extensive interrogatory process. CNPI has provided detailed evidence and fulsome responses to the interrogatories. Furthermore, CNPI believes that a settlement conference would be appropriate, since many or all of the issues in the Proceedings may be resolved, thereby reducing the scope of or even eliminating the need for a hearing. Since settlement conferences typically involve an informal discovery process (i.e. dialogue among the parties and Board staff on outstanding or unclear issues), a settlement conference would make further interrogatories or a technical conference unnecessary.

If there are outstanding matters after a settlement conference, CNPI submits that those matters can be dealt with by way of written hearing. CNPI submits that there are no issues in the Proceedings that require the oral examination of witnesses. Sufficient evidence exists to permit parties to make written submissions on their respective positions. To the extent aspects of clarification are required, as mentioned above such clarification can be obtained through the settlement conference process.

Should the intervenors identify specific issues to be dealt with by oral hearing in response to Procedural Order No. 3, CNPI reserves the right to comment on whether those issues can be dealt with in writing.

Yours very truly,

**Ogilvy Renault LLP**



Charles Keizer

cc: Doug Bradbury (Canadian Niagara)  
Scott Hawkes (Canadian Niagara)  
All Parties Listed on Intervenor List