

VIA E-MAIL (RESS & HARD-COPY BY COURIER)

March 26, 2009

Ontario Energy Board
Attn: Kirsten Walli, Board Secretary
P.O. Box 2319
27th Floor
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RE: EB-2008-0280: LTC - Written Comments of FRPO

In response to the Board's letter of February 11, 2009 in the above-noted proceeding, FRPO is pleased to provide its written comments.

At the outset, FRPO wishes to commend the Board and staff on its handling of the generic proceeding, its disclosure of the comments of all parties and the balancing of interests that is evident in the proposed guidelines. While the stakeholder groups may be disparate in interest, in reviewing the summary of comments from the stakeholder meetings, it is clear that most issues had some level of consensus. In our view, moving to a draft of the guidelines conserves regulatory time for other matters.

The draft guidelines provide a strong foundation for improved practice moving forward. In the interest of ensuring that some important points are considered before finalization, FRPO submits the following points:

Distinction of Length to be Considered Long-term

While consensus seems to be that one year is short-term and five year is long-term, to the extent that a potential contract is 3 years, clarification may be warranted. However, if the Board believes that these contracts fall into the area of discretion for the utility and the utility understands the Board's interests, possibly a clear definition are not necessary.

New Infrastructure Contracts versus Renewal of Rights

With a focus on Long-term Contracting for new infrastructure, it is possible that there was insufficient discussion of the impact of renewal of rights. It is FRPO's submission that renewal of contracts for a Long-term period should also be captured in this review to ensure the cost consequences that are ultimately visited on ratepayers are given the appropriate level of oversight. Given the length of period between rate applications in IRM, ratepayers could

become committed to an alternative that is not as economically effective as other options. Submission of analysis, comparable Section 2.2, which examines landed costs, may be helpful.

Affiliate Transactions

The Board's draft guidelines have demonstrated the importance of reviewing transactions that involve affiliates in requesting a description of the relationship between the parties to the contract and the utilities parent company and/or affiliates. It is respectfully submitted that complete disclosure would be enhanced if the utility submitted any other conditions, rights or obligations that would be established with the counter-party or its affiliates by the utility or its affiliates as consideration in the proposed LTC. Full disclosure of these conditions would ensure ratepayers' interests are paramount.

Confidentiality

The issue of commercial sensitivity was highlighted by some stakeholders in the meetings held in October. FRPO respects that there is information that does not necessarily have to be in the public domain for the Board to exercise its role. However, in comments made by Regulated Gas Distributors in the summary produced by Board staff, the following comment was summarized: "The Board would not approve – and may not even see – the contract itself". Appendix A did not specifically note if the contract would be submitted. In our view, it is important that the actual contract be submitted albeit with the level of confidentiality that is warranted. In this way, the Board's Practice Direction on Confidential Filings would allow appropriate review and discovery if circumstances dictate that additional review is deemed to be in the public interest.

Thank you for the opportunity to comment in the Board's process.

Respectfully Submitted on Behalf of FRPO,



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Principal
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cc: V. Brescia – FRPO