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Toronto, April 17, 2009

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

Dear Ms. Walli:

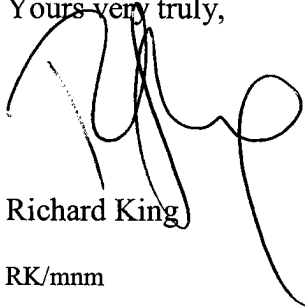
**RE: EB-2008-0150 – Consultation on Energy Issues Relating to Low-income Consumers  
Report of the Board: Low-income Energy Assistance Program**

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We are counsel to Attawapiskat Power Corporation (“APC”), Fort Albany Power Corporation (“FAPC”) and Kashechewan Power corporation (“KPC”), and file this submission with respect to the above-referenced matter on their behalf. It is being filed on the Board's RESS system today.

Please do not hesitate to contact me should you have any questions or concerns.

Yours very truly,



Richard King

RK/mnm

cc: G. Hookimaw (APC)  
JP. Nakochee (FAPC)  
M. Williams (KPC)

## **ONTARIO ENERGY BOARD**

### **LOW-INCOME ENERGY ASSISTANCE PROGRAM (“LEAP”) (Board File No.: EB-2008-0150)**

#### **Submissions of Attawapiskat Power Corporation, Fort Albany Power Corporation and Kashechewan Power Corporation**

The purpose of this submission is to respond to the Board’s request for submissions on the Report of the Board dated March 10, 2009 with respect to the above-noted matter. Specifically, this submission outlines the unique circumstances faced by Ontario’s three First Nation-owned distributors (Attawapiskat Power Corporation (“APC”), Fort Albany Power Corporation (“FPC”) and Kashechewan Power Corporation (“KPC”)) in relation to the matters addressed in the Board Report.

While APC, FAPC and KPC support the Board’s attempts to address the challenges facing low-income energy consumers in Ontario, the unique geographic, social, and economic circumstances in these areas make the measures contemplated in the Report unworkable in the three communities. All three distributors remain committed to the principles espoused in the report – including assisting low-energy consumers and promoting the energy conservation and demand management goals of the provincial Government. However, different mechanisms are required to achieve such objectives in these communities.

#### **Community and Distributor Profiles**

The Fort Albany First Nation sits at the south bank of the Albany River, near where the Albany River empties into James Bay. It has an on-Reserve population of 900. The Kashechewan First Nation, with an on-reserve population of 1,200, is located along the north bank of the Albany River. Both communities are approximately 150 km north of Moosonee. The Attawapiskat First Nation is located approximately 260 km north of Moosonee, near the mouth of the Attawapiskat River along the western coast of James Bay (Timmins is 500 km to the south). It has an on-reserve population of approximately 1,498. These communities are remote, and for most of the year are accessible by air travel only.

All three First Nations own their electricity distribution systems, and operate them through their respective power corporations: APC, FAPC and KPC. These three companies are equal owners of Five Nations Energy Inc. (“FNEI”), Ontario’s only First Nation-owned and operated electricity transmission company.

As these communities are situated in the far north of Ontario, residents face cold weather conditions for much of the year. They have no access to natural gas, and for the most part heat their homes via electric baseboard heating. Due to the poor quality of on-Reserve housing (coupled with extremely high unemployment rates), residents spend a significant portion of their

income on electricity. Much of what little employment does exist in these communities is seasonal, meaning that the majority of the population is dependent on employment insurance for much of the year.

### **Submissions on the Three Components of LEAP**

LEAP has three components: (1) temporary financial assistance for low-income energy consumers in need; (2) the benefit of access to more flexible customer service rules on matters such as bill payment and disconnection notice periods; and (3) targeted conservation and demand management programs. Each of these is addressed in turn.

#### ***(1) Temporary Financial Assistance for Low-Income Energy Consumers***

The Board's plans for distributors to provide emergency financial assistance funding for low-income energy consumers, while commendable, would be inappropriate for APC, FAPC and KPC, for the following reasons:

- APC, FAPC and KPC's rate structures are unique when compared to the rate structures of other electricity distributors in Ontario (with the exception being Hydro One Remote Communities Inc. ("Remotes")). APC, FAPC and KPC's rates are not based on traditional cost allocation principles. The Residential rate class in these communities is already subsidized by the Institutional rate class. Consequently, their systems already reflect an existing special rate structure that helps low-income customers.
- LEAP proposes that distributors recover the costs of this emergency assistance funding through distribution rates (i.e., rates to all customers would contain a component that would be set aside for a small minority of low-income customers). This type of regime could not work in these three communities because of the simple fact that such a large segment of the population is unemployed. Current estimates place the unemployment rate in these communities at between 80 to 90%. With such a large percentage of residents being low-income, the remaining residents could not possibly absorb the rate increases required for a LEAP program to remain sustainable. Simply put, instead of having the vast majority providing rate relief assistance to a small minority through a distribution rate structure, you would have a small minority providing rate relief assistance to a large majority in these three communities. This would create an undue burden on the small minority of ratepayers that are not low-income.
- The success of LEAP is dependent upon partnerships formed with social services agencies. Social service agencies operate differently in northern First Nation communities than in the rest of the province. The Winter Warmth program, for example, does not exist in these areas. Each community has a social service department that is part of the First Nation administration, funded by the Department of Indian Affairs and Northern Development. The social service department in each of the three respective communities already pay a portion of many residents' electricity bills in Attawapiskat, Fort Albany, and Kashechewan. The percentage of customers receiving this assistance is

fluid due to the ever-changing employment and economic situation in the communities. APC, FAPC and KPC estimate that at any given time, between 15-40% of their customers receive this financial assistance for electricity bills. Please note, this assistance is in the form of direct payments from the social service department of the First Nation to the distributor for certain electricity accounts.

- The LEAP Report states that, in addition to collecting funds through distribution rates, the Board sees merit in distributors seeking voluntary charitable donations to fund the Program. These remote communities do not have the access to (or relationships with) charitable groups that operate in the rest of the province. APC, FAPC and KPC are not optimistic that any efforts in this regard would bear fruit.

For all of these reasons above, APC, FAPC and KPC submit that having to establish an emergency financial assistance program is: (a) not necessary because rate subsidization and social service programs already exist; and (b) not practicable because the economic situation in the communities would mean that a small minority of consumers would bear a significant burden.

## *(2) Access to More Flexible Customer Service Rules*

APC, FAPC and KPC all have established customer service policies that attempt to recognize the economic hardship facing their customers. As described above, unemployment opportunities are minimal (often seasonal), most of the community receives financial assistance, and the majority of home heating is via electricity (in a very harsh climate). The ability of customers to pay their electricity bills is often determined by these facts. As a result, APC, FAPC and KPC are forced to be more flexible in dealing with customer service matters such as billing and disconnection. Indeed, every customer's situation must be reviewed and dealt with on a case-by-case basis, for the following reasons:

- Billing: While APC, FAPC and KPC generally require that electricity bills be paid within 30 days, there is some flexibility for some customers (particularly those who have a portion of the bill payments come from the First Nation social services department). APC, FAPC and KPC do not in the normal course charge interest on overdue amounts, on the theory that in many cases non-payment is not the result of someone who will not pay, but rather someone who cannot pay. Increasing the payable through interest charges would not be expected to increase payment rates. Consequently, APC, FAPC and KPC believe that the rate of payments received will not benefit from standardized billing procedures.
- Arrears Management: The three distributors must also apply a flexible approach with regard to arrears management. As mentioned above, customers in these communities incur inordinately high energy bills in the winter. Because many of these customers are on fixed incomes, the distributors often let them pay winter electricity bills retroactively in the spring. Again, every situation must be addressed on a case-by-case basis, and APC, FAPC and KPC cannot support a move to standardized rules for arrears management.

- Disconnection Policies: Regardless of payment history, APC, FAPC and KPC all refuse to disconnect customers during the winter months. As mentioned above, the weather conditions in these remote communities is harsh, and the overwhelming source of home heating is electricity. All three distributors must apply a flexible approach with disconnection policies.

Based on these facts, APC, FAPC and KPC believe that their situation is not amenable to the standardized customer service rules proposed in the LEAP Report.

### ***(3) Targeted Conservation and Demand Management Programs***

APC, FAPC and KPC are very supportive of the Ontario government's conservation initiatives. They agree with the Board's view that that electricity conservation and demand management ("CDM") programs can be effective tools to assist low-income energy consumers to reduce their overall energy usage and must be targeted to, and specially designed for, low-income energy consumers. Indeed, APC, FAPC and KPC believe that their three communities can benefit substantially from energy conservation and demand management programs.

However, all three communities are relatively new distribution companies (all three were created in 2001), and do not have capital reserves built up to undertake significant CDM programs. Further, borrowing from lending institutions is not typically an option for on-Reserve businesses. Despite this, APC, FAPC and KPC are currently working with the Ontario Power Authority and the Ministry of Energy and Infrastructure to establish and implement CDM programs (as pilot projects) that address the unique circumstances of their communities.

### **Conclusion**

APC, FAPC and KPC appreciate the opportunity to comment on the LEAP Report. They support the objectives set out in the Report and efforts to address the issues facing low-income energy consumers. However, APC, FAPC and KPC are of the view that the unique geographic and economic realities facing their communities require a unique approach to financial assistance, customer service requirements and targeted CDM. APC, FAPC and KPC and their respective communities will be better served by engaging the government on solutions which attend to their specific needs. Should the Report recommendations be made into binding obligations on distributors via Code amendments, APC, FAPC and KPC could be accommodated by amendments from such Code amendments.