

Direct Dial: (416) 862-4836
File: 5283

By Electronic Mail & RESS Filing

June 19, 2009

Ontario Energy Board
P.O. Box 2319
27th Floor
2300 Yonge Street,
Toronto, ON M4P 1E4

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

**Re: Request for Eligibility for an Award of Costs
EB-2009-0077 - Proposed Amendments to the Distribution System Code**

Willms & Shier Environmental Lawyers LLP is environmental legal counsel to Northwatch.

Northwatch is a public interest organization concerned with environmental protection and social development in northeastern Ontario. Founded in 1988 to provide a representative regional voice in environmental decision-making and to address regional concerns with respect to energy, waste, mining and forestry related activities and initiatives, Northwatch has a long-term and consistent interest in electricity planning in Ontario. In particular, Northwatch's interests are with respect to electricity generation and transmission in northeastern Ontario, conservation and efficiency measures, and rates and rate structures. Northwatch is a coalition of community and district based environmental, social justice and social development organizations.

The purpose of this letter is to identify Northwatch's interest in the proposed amendments to the Distribution System Code (EB-2009-0077) and to seek intervenor status and eligibility for any award of costs.

Northwatch's contact is Ms. Brennain Lloyd, coordinator for Northwatch. Ms. Lloyd's contact information is as follows:



Courier Address:

Northwatch
c/o Ms. Brennain Lloyd
1450 Ski Club Road
North Bay, Ontario
P1B 8H2

Tel.: (705) 497-0373
Fax: (705) 476-7060
Email: northwatch@onlink.net
Website: www.northwatch.org

Mailing Address:

Northwatch
c/o Ms. Brennain Lloyd
Box 282
North Bay, Ontario
P1B 8H2

**HOW NORTHWATCH IS OR MAY BE AFFECTED BY THE PROPOSED
AMENDMENTS TO THE DISTRIBUTION SYSTEM CODE**

Northwatch is participating as an intervenor in the Integrated Power Supply Plan ("IPSP") hearing before the Board as well as the Transmission Connection Cost Responsibility Review Consultation. Issues that have been raised at the IPSP hearing and in the Transmission Connection Cost Responsibility Review are equally appropriate to the Proposed Amendments to the Distribution System Code proceeding.

For example, the residents and regions of northeastern Ontario will or may be affected by the Proposed Amendments to the Distribution System Code in as far as they relate to:

- ♦ expansion of distribution systems to promote the generation of renewable electricity;
- ♦ lost opportunities for renewable electricity projects in northeastern Ontario due to cost responsibility; and
- ♦ impacts of supply choices and electricity planning approaches on rates and the rate structure for both direct and indirect customers.



NORTHWATCH AND ENERGY

As indicated above, Northwatch was founded in 1988 as a regional coalition of individuals and organizations concerned with the environmental and with social equity. Northwatch has a diverse membership which includes local and district-based environmental groups, cottagers associations, naturalist clubs, church-based Aboriginal support groups, women's organizations, and local peace groups.

Individual members include those who self-identify as professionals, trappers, tourist outfitters, paddlers, parents, educators, conservationists, hunters and fishers, and environmentalists. The common thread throughout Northwatch's membership is a deep commitment to the region of northeastern Ontario and to the health, well-being and sustainability of the human and natural communities throughout the region.

Northwatch's membership base and area of interest is the land mass north of the French River, comprised of the districts of Nipissing, Sudbury, Algoma, Manitoulin, Cochrane and Timiskaming, and including the land area north of the road system, generally known as the Hudson's Bay lowlands.

Northwatch is well respected for its policy and research work, public education programs, and its holistic approach to environmental and social planning and decision-making. Through a membership that is geographically dispersed throughout the region and through more than twenty years of work that is regionally based, Northwatch has an extensive knowledge of northeastern Ontario and the diverse and interconnecting issues of energy, natural resource and environmental management.

Northwatch was a full time intervener in the Environmental Assessment of Ontario Hydro's Demand Supply Plan, and intervened in Ontario Energy Board reviews HR-22 and HR-23 with respect to electricity matters. The Northwatch Intervention Coalition included both Northwatch member groups in northeastern Ontario and three community based organizations in northwestern Ontario and one provincial organization.

More recently, Northwatch responded to the Ontario Power Authority Invitation to Comment on Ontario's Electricity Supply Mix with a submission in August 2005, and has engaged with the Minister and Ministry of Energy with respect to various aspects of electricity supply planning. Northwatch has and continues to provide valuable input through participation and intervention in various OEB proceedings. In particular:

- ♦ Northwatch was accepted by the Ontario Power Authority as a funded participant, and participated in the series of workshops hosted by the Ontario Power Authority during the development of the IPSP, and provided commentary on the related discussion papers prepared by or for the OPA



- ♦ Northwatch was accepted as an intervenor and found eligible for costs in the September 2006 review of the Ontario Energy Board's staff paper describing the consultation process the OEB would use related to the OPA's IPSP
- ♦ Northwatch was accepted and participates as an intervenor in the IPSP proceeding before the OEB
- ♦ Northwatch participated in the Transmission Connection Cost Responsibility Review (EB 2008-003), and
- ♦ Northwatch continues to be on the OPA consultation list and is a subscriber to the OPA webcast consultations.

NATURE AND SCOPE OF NORTHWATCH'S INTENDED PARTICIPATION

The nature and scope of Northwatch's participation will be that of an intervenor and will include contributions to the review process submissions and comments on the proposed amendments to the Distribution System Code

GROUND'S FOR NORTHWATCH ELIGIBILITY FOR COSTS

Northwatch intends to seek costs from the applicant in relation to its participation in this review. The Ontario Energy Board's "Practice Direction on Cost Awards". Section 3 describes cost eligibility, and Section 4 describes the cost eligibility process.

3.03 A party in a Board process is eligible to apply for a cost award where the party:

(a) primarily represents the direct interests of consumers (e.g. ratepayers) in relation regulated services; (b) primarily represents a public interest relevant to the Board's mandate; or (c) is a person with an interest in land that is affected by the process.

Northwatch meets all three of the eligibility criteria, but as a public interest organization, its primary purpose - and its primary contribution to the stakeholder review process - is with respect to (b).

Northwatch's primary purpose is to represent the public interest with respect to environmental protection and resource management matters in northeastern Ontario. However, as a coalition of interests which includes those represented by social organizations, Northwatch also has an interest and a relevant perspective with respect to consumer concerns, many of which are unique in northeastern Ontario, relative to a provincial or more urban context (ie. criteria a).



Northwatch represents the interests of the environment, and of the residents of northeastern Ontario who identify and express environmental concerns; it is within the mandate of the Ontario Energy Board to consider such matters as the effect on the environment (ie criteria b). Further, our members have an interest in the land that is or may be affected by the process (ie criteria c). That interest may in some cases be a private interest, but in every case is also a public interest.

Northwatch will make a responsible, unique and beneficial contribution to the Ontario Energy Board's Proposed Amendments to the Distribution System Code.

EXISTING SOURCES OF FUNDING

Northwatch's core funding comes from memberships and donations, which are under \$5000 per year, on average. Other project-specific funding is provided by a small number of charitable foundations or is contracted on a fee for service basis. The majority of the current years' funding is dedicated to Northwatch's Forest Project, which supports public participation in forest management planning throughout northeastern Ontario.

CO-OPERATION WITH OTHER GROUPS

Northwatch understands the importance of avoiding duplication of effort and any unnecessary differences of opinion on issues of mutual concern to other intervenors. Northwatch will work with the other intervenors to avoid repetition. Northwatch understands that a responsible intervention will add value and is deserving of costs.

Northwatch will be guided by the Board's comments associated with the adjudication of its cost claim in the recent Union Gas rates proceeding that:

"Intervenors may find that at times they represent constituents that share common interests in general. Costs will not be considered unreasonable due to duplication so long as intervenors remain focused on separate issues in a proceeding. All prospective intervenors should be mindful of section 4.03 of the Practice Direction on Costs Awards when submitting their intervention notices"

Northwatch communicates regularly with other stakeholder groups on electricity related matters. Northwatch will continue to communicate with other stakeholders and combine efforts where possible in order to bring efficiencies to the Ontario Energy Board's proposed amendments to the Distribution System Code (EB-2009-0077)

PREFERENCE FOR A WRITTEN OR ORAL HEARING

We would prefer that the Board proceed with a written hearing on applications to intervene in this review. Our primary reason for preferring a written hearing is that it would make more efficient use of resources, including and particular time and financial



resources required for travel to an oral hearing. We are satisfied that the Board can gain a sufficient understanding of the parties' views through a written exchange, and that an oral hearing will not be of sufficient added benefit.

Contacts for the distribution list are as follows:

- ♦ Brennain Lloyd, coordinator for Northwatch, e-mail: northwatch@onlink.net
- ♦ Juli Abouchar, Counsel, Willms & Shier Environmental Lawyers, e-mail: jabouchar@willmsshier.com
- ♦ Jennifer Agnolin, Counsel, Willms & Shier Environmental Lawyers, e-mail: jagnolin@willmsshier.com

Thank you for your consideration. We look forward to a positive response to this expression of interest and to participating in the Proposed Amendments to the Distribution System Code proceeding.

Yours truly,

Juli Abouchar

Partner, W+SEL

*Certified as a Specialist in Environmental Law
by the Law Society of Upper Canada*

cc: Brennain Lloyd, Northwatch

Document #: 248108