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**APPrO**

ASSOCIATION OF  
POWER PRODUCERS  
OF ONTARIO

June 19, 2009

Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319, 2300 Yonge Street  
Toronto, Ontario, Canada M4P 1E4  
[boardsec@oeb.gov.on.ca](mailto:boardsec@oeb.gov.on.ca)

Dear Ms Walli,

**Re: Proposed Amendments To The Distribution System Code, Board File No. EB-2009-0077**

By way of this letter, APPrO is seeking a determination from the Board that it is eligible for its costs in the above-noted proceeding, pursuant to section 3.01 of the Board's Practice Direction on Cost Awards.

APPrO is a non-profit organization representing electricity generators in Ontario. APPrO members produce nearly all the power generated in Ontario from facilities of many types including gas-fired, hydro-electric, nuclear and wind energy. APPrO members collectively represent a large amount of capital invested in the provincial energy system and are significant users of transmission and distribution services.

APPrO's members are directly affected by the proposed amendments to the Distribution System Code because many of them have or would like to build generation facilities that would be served by the new distribution facilities under discussion. Similar to generator concerns about transmission connection cost responsibility, in many cases the arrangements for cost responsibility at the distribution level can determine whether a generation proposition is viable or not.

As an organization, APPrO has participated in numerous proceedings before the Ontario Energy Board, and has always tried to participate responsibly and in a way that is of assistance to the Board in its deliberations.

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APPrO submits that it should be eligible for costs on the following grounds:

- (a) APPrO Represents Consumers in this Proceeding: Power generators are “Distribution Customers.” However, in the case of the connection cost responsibility rules being considered in this proceeding, power generators are among the most significantly affected stakeholder group that could be impacted by the Board’s determinations. Unlike load customers, connection costs that generators pay to distributors are typically significant up-front costs for generation projects. In some cases, they are determinative as to whether a generation project is economically viable.
- (b) It is in the Public Interest to Facilitate Generator Participation: APPrO’s members are building and planning new projects in response to OPA procurement programs (and consequent contracts) and Ministerial Directives that incorporate provincial policy objectives. The connection cost responsibility rules interplay directly with the OPA procurement process and Ministerial Directives. All of this is at the heart of this proceeding. Given that these issues are, by and large, “generator issues”, the Board should facilitate the participation of generators in order to provide the best evidentiary basis for its determination. Many of APPrO’s members are too small to participate individually in a meaningful way in this proceeding. APPrO’s participation facilitates the participation of such members, and ensures that the Board has before it a comprehensive representation in this proceeding from the power generator community.
- (c) APPrO’s Participation Contributes to Hearing Efficiency: APPrO’s representation of its members in such a proceeding would be a much more effective and efficient regulatory approach than having each of its members make their own interventions, with attendant duplication and extra costs. APPrO has participated in natural gas proceedings (e.g., NGEIR, storage allocation, Enbridge and Union IRM proceeding) and the Transmission Connection Cost Responsibility proceeding, where its participation has, we believe, proven of value to the Board.
- (d) Proper APPrO Participation Requires Intervenor Funding: APPrO, like other trade associations such as the Association of Major Power Consumers in Ontario (“AMPCO”) and the Industrial Gas Users Association (“IGUA”), does not have independent funding sufficient to support well rounded participation. In addition, APPrO is not able to budget for any Board-convened proceedings in any adequate manner.

Although the Board’s Practice Direction on Cost Awards states that generators are normally among the parties not eligible for costs (section 3.05(b)), APPrO requests that, for the above-noted reasons and the uniqueness of the issues in this proceeding (and their importance to generators), the Board make an exceptions to the general rule that electricity generators are not eligible for costs. APPrO is essentially asking for the Board to exercise its discretion in the same manner as it did in respect of many recent natural gas proceedings that had unique impacts on power generators (i.e., NGEIR, storage allocation, etc.) and in the Transmission Connection Cost Responsibility Review.

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Because the interests of generator customers and traditional load customers diverge markedly, it is inappropriate that AMPCO and several other customer groups representing industrial, institutional, commercial, and residential end-use customers are eligible for costs, if APPrO is not. Virtually every other likely participant in this case, including HONI, the Ontario Power Authority (OPA), the Independent Electricity System Operator (IESO), and a variety of end-use customer and public interest groups are either eligible for costs, or are otherwise supported by payments made by customers. In APPrO's view, this has led to an under-representation of power generators in many of the policy and legal issues considered by the Ontario Energy Board. Given the importance of generation moving forward in Ontario, APPrO contends that such a situation is not in the public interest.

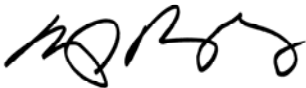
Although we have not yet finalized our consultants and lawyers for this phase of the work, we anticipate using the services of Dave Matthews who assisted with our participation in the transmission connection cost responsibility proceeding.

Mr. Matthews' resume is available on request, and his contact information is as follows.

Dave Matthews, VP Regulatory Solutions  
Elenchus Research Associates Inc.  
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416-642-2110  
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Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'JB', with a stylized flourish at the end.

Jake Brooks  
Executive Director