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Columnist, Globe and Mail

January 25, 2010

BY EMAIL & BY COURIER

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge St, Suite 2701  
Toronto ON M4P 1E4

Dear Ms. Walli:

**Board File No. EB-2009-0347 Ontario Power Authority  
Fiscal 2010 – Expenditure, Revenue and Fees Submission for Review  
Energy Probe Interrogatories**

Pursuant to the Board's Issue Decision and Procedural Order No. 1, issued December 30, 2009, please find attached two hard copies of the Interrogatories of Energy Probe Research Foundation (Energy Probe) in the EB-2009-0347 proceeding. An electronic version of this communication will be provided in PDF format.

Should you require additional information, please do not hesitate to contact me.

Yours truly,

David S. MacIntosh  
Case Manager

cc: Miriam Heinz, Ontario Power Authority (By email)  
Fred Cass, Aird & Berlis LLP (By email)  
Peter Faye, Counsel to Energy Probe (By email)  
Intervenor of Record (By email)

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**Ontario Energy Board**

**IN THE MATTER OF** sections 25.20 and 25.21 of the *Electricity Act, 1998*;

**AND IN THE MATTER OF** a Submission by the Ontario Power Authority to the Ontario Energy Board for the review of its proposed expenditure and revenue requirements and the fees which it proposes to charge for the year 2010.

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**INTERROGATORIES OF  
ENERGY PROBE RESEARCH FOUNDATION  
("ENERGY PROBE")**

**January 25, 2010**

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**ONTARIO POWER AUTHORITY**  
**Review of Proposed 2010 Expenditure and Revenue Requirement**  
**EB-2009-0347**

**ENERGY PROBE RESEARCH FOUNDATION**  
**INTERROGATORIES**

**Issue # 1.0 Strategic Objective # 1 – POWER SYSTEM PLANNING – Plan for and facilitate the development of a cost effective, reliable and sustainable electricity system.**

**1.1 Is the Operating Budget of \$6.391 million allocated to Strategic Objective # 1 reasonable and appropriate?**

**Interrogatory # 1**

**Ref: Exhibit A, Tab 2, Schedule 1**

**On page 11 of the 2010-2012 Business Plan, the following statement appears:**

*“To maintain a provincial perspective, the Power Authority will seek to establish closer relationships with the LDCs to share information needed for electricity planning and to support them as necessary in their new and expanded roles.”*

- a) Please explain in more detail what this work with the LDCs consists of.
- b) What actions or programs does the OPA propose to take to establish closer relationships with LDCs?
- c) What portion of the \$6.391 allocated to Strategic Objective #1 will be devoted to this LDC initiative?

## Interrogatory # 2

Ref: Exhibit A, Tab 2, Schedule 1

On page 12 of the Business Plan, the actions proposed to achieve Strategic Objective #1 are enumerated. The first one is “*developing provincial and community integrated plans and electricity service options for remote communities.*”

- a) Does this entire statement relate only to remote communities? I.e. are the *provincial and community integrated plans* in support of electricity service to remote communities only or do they relate to all communities in the province?
- b) If they relate to all communities, please explain what a “*community integrated plan*” will consist of, why it is needed and how it will be prepared?
- c) How much of the budget for Strategic Objective #1 will be devoted to the preparation of community integrated plans?
- d) Does the OPA intend that this activity to develop community integrated plans will extend its mandate to include distribution system planning? If so, on what authority does it rely to so extend its mandate?

## Interrogatory # 3

Ref: Exhibit A, Tab 2, Schedule 1

On pages 12 and 13 a number of milestones are proposed for 2010. One of these is:

The Power Authority is supporting the implementation of the integrated plan by working *with project proponents in regulatory proceedings.*

- a) Is the “integrated plan” referred to here the Integrated Power System Plan previously submitted to the OEB? If not, please explain what the integrated plan is?
- b) Who are the “project proponents” referred to in this statement and what are the “projects” they are proposing?
- c) What “regulatory proceedings” does the OPA expect will be conducted in 2010 that will support the implementation of the integrated plan?
- d) How much of the budget for Strategic Objective #1 will be devoted to the activities associated with achieving this milestone?

#### Interrogatory # 4

Ref: Exhibit A, Tab 2, Schedule 1

On page 13 of the Business Plan, another milestone for 2010 is stated as follows:

The OPA is supporting the implementation of local area plans.

- a) Are the “*local area plans*” referred to here the same as the “*community integrated plans*” referred to on page 12 of the application?
- b) Are local distribution companies obliged to prepare these plans?
- c) If so, please provide the authority that requires them to do so?
- d) Does the OPA have review authority over the plans? If so, please explain the basis of that authority?
- e) How much of the budget for Strategic Objective #1 will be devoted to the activities associated with achieving this milestone?

**Issue # 2.0 Strategic Objective # 2 – CONSERVATION – Plan, procure and support the development of verified conservation/energy-efficiency resources as identified in the integrated plan and its subsequent iterations. Build capability and enable partners to achieve targets and contribute to a culture of conservation in Ontario.**

- 2.1 Is the Operating Budget of \$16.484 million allocated to Strategic Objective #2 reasonable and appropriate?**

#### Interrogatory # 5

Ref: Exhibit A, Tab 2, Schedule 1

On page 14 of the Business Plan, the OPA sets out its initiatives in support of Strategic Objective #2 and the following statement is made:

Power Authority initiatives during the planning period will include collaborating with LDCs to address local reliability requirements through integrated solutions as well as developing a plan to roll out small renewable energy projects under the microFIT Program (for projects 10 kilowatts or less in capacity).

- a) How does “collaborating with LDCs to address local reliability requirements” relate to Strategic Objective #2 that is concerned with conservation and energy efficiency projects?
- b) Why do LDCs need OPA assistance to address local reliability requirements?
- c) Are microFIT energy projects covered under the conservation objective? If not, how do they relate to Strategic Objective #2?

**Interrogatory # 6**

**Ref: Exhibit A, Tab 2, Schedule 1**

**On page 17 of the Business Plan, milestones for 2010 to measure achievement in meeting Strategic Objective #2 are set out. One of these is:**

**An LDC support and development plan is established, and its implementation is underway.**

**Please explain what this LDC support and development plan will include.**

**Interrogatory # 7**

**Ref: Exhibit D, Tab 2, Schedule 1**

**On page 4 lines 9-11, it is noted that the Conservation Bureau has been moved to the Ministry and Conservation Bureau costs are no longer part of the OPA budget.**

- a) Will the Ministry be recovering its costs of running the Conservation Bureau from the OPA?
- b) If yes, how much does the OPA expect the costs to amount to in 2010 and where is this cost budgeted?

**Issue # 3.0 Strategic Objective # 3 – SUPPLY PROCUREMENT AND CONTRACT MANAGEMENT – plan and design standardized tariff-based, competitive and bilateral procurement processes and enter into procurement contracts for generation resources. These procurement and contracts will meet the requirements identified in the integrated plan, ministerial directives and legislation, and incorporate world-class contracting and settlement practices that support investment in electricity.**

**3.1 Is the Operating Budget of \$7.836 million allocated to Strategic Objecting #3 reasonable and appropriate?**

**Interrogatory # 8**

**Ref: Exhibit A, Tab 2, Schedule 1**

**Pages 18-21 of the Business Plan include numerous references to the activity of power procurement contracts.**

- a) What are the activities involved in managing a procurement contract up to the point the generation is in service?**
- b) What are the activities involved in managing a procurement contract after the generation is in service?**
- c) Can any of the activities involved in managing a procurement contract after the generation is in service be assigned to the IESO?**
- d) Is there any prospect that the OPA in the future will not be required for either initiating or managing power procurement contracts? If yes, please provide the OPA's best estimate of when the agency will no longer be needed for this activity.**

**Interrogatory # 9**

**Ref: Exhibit A, Tab 2, Schedule 1**

**The following statement appears on page 18 of the Business Plan:**

**Many other elements in Ontario's electricity sector also continue to evolve. These include carbon mitigation strategies, electricity demand levels and environmental expectations. The challenge for the Power Authority will be to create, adapt, negotiate and integrate these elements into new and existing procurement contracts as required.**

- a) Please describe the role OPA sees itself taking in “carbon mitigation strategies”?
- b) The second sentence wording suggests that the OPA will “create” and “adapt” the previously cited “elements”. Those elements are the “carbon mitigation strategies”, “electricity demand levels” and “environmental expectations”. Negotiating and integrating these elements into contracts makes sense as part of OPA’s mandate but what role does the OPA have in creating and adapting them?

**Interrogatory # 10**

**Ref: Exhibit A, Tab 2, Schedule 1**

**The following statement appears on page 19:**

**The OPA expects to engage in procurements for renewable-fuelled and gas-fired cogeneration projects, both large and small; district energy facilities; and initiatives that generate energy from waste. Activities that support the possible conversion of coal facilities to cleaner fuel technologies will also be undertaken, and additional contracts are expected to be executed for hydroelectric facilities.**

- a) In the OPA’s opinion, is OEB approval required for procurement of any of the projects that would be covered by the excerpted statement above?
- b) If yes, what process does the OPA intend to follow to achieve that approval?

**Interrogatory # 11**

**Ref: Exhibit A, Tab 2, Schedule 1**

**On page 20 of the Business Plan, reference is made to the OPA’s involvement in “*Cross-border imports and exports*”**

**Please explain the respective roles of the OPA and the IESO in these imports and exports of power.**

**Issue # 4.0 Strategic Objective # 4 – BARRIERS TO THE DEVELOPMENT OF EFFICIENT AND ENVIRONMENTAL SUSTAINABLE GENERATION DEVELOPMENT** – Identify barriers and limitations; develop and/or define methods and solutions to deliver enhanced generation developments, through innovation, analysis, assessment and benchmarking with a view to efficiency and environmental sustainability.

**4.1 Is the Operating Budget of \$833,000 allocated to Strategic Objective #4 reasonable and appropriate?**

**Interrogatory # 12**

**Ref: Exhibit A, Tab 2, Schedule 1**

**On page 23 of the Business Plan, reference is made to the *Community Energy Partnership Program* and the intention of OPA to deliver this program with contracted resources.**

- a) Does OPA have a funding limit for the program? If so please provide details. If not, how will OPA control the cost of the program?**
- b) The Minister's directive in exhibit A-5-2 is not specific about program design. Given the very relaxed eligibility criteria for applicants (egg. One or more Ontario residents), the ambiguity of the costs to be covered (egg. Project planning and feasibility costs) there would seem to be a good opportunity for misuse of funding. What design features of program will prevent applicants with no real intention of developing a renewable energy project from receiving funding?**
- c) If the program will be contracted, how will OPA assure itself that grants made are prudent and for legitimate activities?**

**Interrogatory # 13**

**Ref: Exhibit A, Tab 2, Schedule 1**

**On page 23 of the Business Plan, reference is made to the *Municipal Renewable Energy Partnership Program* which will defray municipal expenses for such things as roads, sewers, drainage etc. resulting from renewable energy projects.**

- a) The categories of eligible expenses under the program seem very broad. If OPA has more detailed guidelines on how the program will be applied, please provide them.
- b) Does the OPA have a dollar limit on the total amount of funding to be provided under this program? If yes, please provide details. If no, how will OPA control the cost of the program?

**Issue # 5.0 Strategic Objective # 5 – ORGANIZATIONAL CAPACITY – Develop and maintain organizational capacity to achieve the strategic objectives and be recognized as a strategic partner.**

- 5.1 Is the Operating Budget of \$24.474 million allocated to Strategic Objective #5 reasonable and appropriate?**

**Interrogatory # 14**

**Ref: Exhibit A, Tab 2, Schedule 1**

**On page 25 of the Business Plan the following statement appears:**

**Over the next three years, the Power Authority will continue to develop and recruit people to have the skills required to meet the changing needs of the evolving electricity sector, implement processes that will enable the organization to grow as needed and develop better tools as part of those processes.**

**This statement suggests that the OPA is a growing organization intent on adapting itself to “the changing needs of the evolving electricity sector”. However, when the OPA was created in 2004, there was an expectation that it would be a temporary agency. The following excerpt from a presentation made by the then CEO of the OPA to the New England – Canada Business Council on November 3, 2006 supports this view:**

***“As competitive market forces improve to the point where they can support investment in infrastructure and stable pricing for consumers, our interventions will be reduced and eventually eliminated. In essence, the OPA is an agency designed to manage the process of transition from centralized monopoly to competitive market in Ontario’s electricity sector.”***

- a) Does OPA still consider itself to be a transitional agency as described in this excerpt?
- b) If yes, what actions is OPA taking to encourage the transition and ensure that the OPA does not become an entrenched bureaucracy?
- c) If no, please describe the role the OPA now sees for itself.

**Interrogatory # 15**

**Ref: Exhibit A, Tab 2, Schedule 1**

**Please provide a table showing staff levels and FTEs by department at the OPA for each of the years 2005 – 2010.**

**Interrogatory # 16**

**Ref: Exhibit A, Tab 2, Schedule 1**

**On page 27 of the Business Plan, the following statement appears:**

**An increase in professional and consulting expenses is anticipated over the planning period to support the expected filing of a second Integrated Power System Plan (IPSP) in 2011.**

- a) How much is anticipated for professional and consulting fees related to the 2011 IPSP filing?
- b) What does the OPA see are the merits of filing a second IPSP when the first one has not been approved by the Board and the hearing to consider it has been suspended?

**Interrogatory # 17**

**Ref: Exhibit A, Tab 2, Schedule 1**

**On page 27 of the Business Plan, the following statement appears:**

**An increasing number of requests are being directed to the OPA to undertake analysis and provide support in regulatory proceedings involving LDCs, transmitters and other stakeholders.**

- a) Other than Hydro One and the IESO, what other LDCs, transmitters and stakeholders have asked the OPA to undertake analysis and provide support in regulatory proceedings?
- b) Does the OPA recover its costs of providing analysis and support from the agency requesting the analysis or support? If not, why not?

**Interrogatory # 18**

**Ref: Exhibit D, Tab 2, Schedule 1**

**Exhibit D-2-1 describes the variances from 2009 budget that combine to produce the 2010 budget.**

- a) Has the OPA budgeted any amount for IPSP activities in 2010? If yes, how much has been budgeted and for what activities?
- b) Lines 2-4 on page 4 state that the OPA is working on its response to the Minister's directive of September 17, 2008. Does the OPA have a target date when work on this response will be complete?
- c) How many staff are devoted to working on this response?

**Issue # 6.0 Strategic Objective #6 – COMMUNICATIONS – Be a trusted and respected source of information in the electricity sector.**

- 6.1 Is the Operating Budget of \$9.108 million allocated to Strategic Objective #6 reasonable and appropriate?**

**Interrogatory # 19**

**Ref: Exhibit D, Tab 2, Schedule 1**

**On page 8 of the Exhibit, Table 4 shows an increase in Total OPA FTEs of 37.5 from Budget 2009 to Budget 2010, or a one year increase of 19.36%. In fact, Table 4 shows a Budget 2009 to Budget 2010 increase in FTEs for every Strategic Objective.**

- a) What skill sets have been recruited in the FTE increase of 9.7 in Strategic Objective # 6?

- b) In Table 7 on page 10 of this Exhibit, Professional and Consulting Costs are listed as \$5.6 million for the 2010 Budget. What is the amount of this Budget for advertising and marketing support?
- c) In the OPA's 2010-2012 Business Plan, Strategic Objective # 6 is described as a new strategic objective. Why have the Temporary FTEs disappeared as total FTEs increased by 181%?

## **Issue # 8.0 Deferral and Variance Accounts**

### **8.2 Are the proposed Deferral and Variance Accounts appropriate?**

#### **Interrogatory # 20**

**Ref: Exhibit D, Tab 3, Schedule 2**

Pages 1 and 2 of the exhibit contain an invoice from the Ministry of Finance for “court costs awarded”. Page 2 of the exhibit lists the costs as the “Nishnawbe Aski Development Fund”. Exhibit D-3-1 page 2 shows this cost under the heading of “Government Procurement Cost Deferral Accounts”.

- a) What was the court case related to?
- b) How was this related to the Nishnawbe Aski Development Fund?
- c) How was this related to Government Procurement expenses?

#### **Interrogatory # 21**

**Ref: Exhibit D, Tab 3, Schedule 2**

Page 3 of the exhibit is an invoice for \$45,747.96. The description on the invoice does not identify the reason for the cost but suggests it is part of an ongoing cost recovery by the Province from the OPA. Exhibit D-3-1 page 2 shows this cost under the heading of “Government Procurement Cost Deferral Accounts”.

- a) Please explain what the cost is related to including why it is an OPA obligation.
- b) If this invoice is for only part of an ongoing obligation, what is the entire amount of the obligation?

## **Issue # 9.0 Previous Settlement Agreements and Decisions**

### **9.1 Has the OPA responded appropriately to previous Settlement Agreements and Decisions?**

#### **Interrogatory # 22**

**Ref: EB-2008-0312, Decision and Order, April 7, 2009**

**On page 4 of the Decision and Order, under the Board's Findings, Operating Budget Levels, the Board Panel stated:**

**Energy Probe observed that the OPA “keeps adjusting” the areas of responsibility associated with its various cost centres from year to year, and this makes examination of spending trends for its operating divisions difficult. The Board does not discount these difficulties. However, the Board considered that the OPA is a relatively new organization and, also, its activities are largely driven by ministerial directives and changing government energy policy that can lead to significant adjustments to its scope and effort of its various objectives from time to time. The Board further notes that the OPA has attempted to be helpful by recasting the data to enable comparisons from year to year and to explain the differences that arose from reallocations. However, as this information was adduced mainly in responses to interrogatories, the Board encourages the OPA in future to recast the data in its pre-filed evidence rather than waiting for interrogatories, and to do so by considering this year's interrogatories in that regard.**

**Please describe how the OPA has responded to the expectation of the Board Panel in respect of recasting the data in its pre-filed evidence to enable comparisons from year to year and to explain differences that arise from reallocations, as stated on page 4 of the Decision and Order in the EB-2008 -0312 proceeding?**