

1 **ENERGY PROBE SUPPLEMENTAL INTERROGATORY 23**

2 QUESTION

3 Please provide the breakdown of temporary and regular headcount from 2006 to 2008 as
4 provided in the OPA's 2009 Revenue Requirement Submission, EB-2008-0312.

5 RESPONSE

6 Please see the attached response to Energy Probe's Interrogatory 7 in EB-2008-0312,
7 which discusses the OPA's approach to classifying its employees, and provides the ratio of
8 regular to temporary employees over the requested period.

9 This response makes reference to the response to Board Staff Interrogatory 5 in the same
10 proceeding, which provides further detail regarding the factors considered by the OPA in
11 filling a particular position with a temporary or permanent employee. This interrogatory
12 response has also been attached for convenience.

BOARD STAFF INTERROGATORY 5

Issue 6.4

Workforce Hiring Practices

Has the OPA responded appropriately to the expectation of the Board Panel in respect of workforce hiring practices as stated on page 11 of the Decision and Order of the EB-2007-0791 proceeding?

Reference

Exhibit D/Tab 2/Schedule 1/pages 5-7

Preamble

The OPA states in its pre-filed evidence at pages 5-7 of D-2-1 that the 2009 employee staff level is projected to be 182.4 regular FTEs plus 11.3 temporary FTEs (total of 194), which is up from the 2008 budgeted staff level of 161.4 regular FTEs plus 23 temporary FTEs (total of 184), due mainly to an increased requirement for additional Power System Planning, Human Resource, Business Services and Communications personnel.

- If additional (compared to those available during 2008) OPA resources are unavoidably needed in 2009, could they not be provided by temporary employees or contractors until there is more certainty in the electricity and the energy environment?

RESPONSE

The OPA undertook an extensive three year planning process in early 2008 which identified the planned work and consequent resources required to meet its objectives in the period from 2009 to 2011. This information fed into the 2009 business and budget planning process, including the staffing (i.e. headcount/FTE) plan and budget.

The OPA has aligned its staffing plan with the business needs that were identified in this extensive planning process, hiring regular employees for core, long-term requirements, and retaining temporary and consulting resources for non-core, short-term assignments.

Other factors that are considered when determining whether a position should be filled on a temporary or regular basis are:

1. The labour market in which the OPA competes for required talent: As the Agency Review Panel reported, given the massive amounts of current and impending retirements, the electricity labour market is very competitive and will continue to be so into the foreseeable future. The OPA must present a very attractive employee value proposition to compete in this market for educated, highly skilled people with electricity

1 sector experience. Temporary and contract employment arrangements (which do not
2 include pension and other benefits) are not perceived by labour market participants as
3 attractive propositions, and do not always attract the level of talent required. For
4 instance, OPA data shows that temporary employees do not succeed as well as regular
5 employees: the involuntary turnover rate, due to below standard performance, amongst
6 temporary employees is 25%, far higher than that for regular employees (9% in 2008).
7 This higher level of turnover adversely affects productivity in respect to lost opportunity,
8 and quality and quantity of work.

- 9 2. Internal equity and engaged workforce: Having a significant portion of OPA staff
10 continuously employed on a fixed term, or temporary basis, creates an inequitable and
11 unhealthy work environment in which some employees have significantly better
12 employment terms and conditions than others.
- 13 3. Legal advice regarding employer obligations under the *Employment Standards Act,*
14 *2000 and Common Law*: The OPA has received advice from its employment law
15 advisors to avoid repetitive, short-term employment contracts and multiple renewals of
16 temporary employment contracts. Further, the OPA is advised that there are legal
17 impediments to having temporary employees who in substance and form could be
18 viewed by third parties as permanent, or regular, employees. Doing so would expose
19 the OPA to obligations and liabilities under the *Employment Standards Act, 2000* and in
20 common law. The Employment Standards Branch of the Ontario Ministry of Labour is
21 monitoring the prevalence of temporary contract and contingent employees in Ontario
22 closely and applies “form and substance” tests to cases that come before it when
23 deciding upon issues such as notice of termination and severance requirements, and
24 other related employer obligations. The OPA is also advised that similar cases have
25 been decided by the Ontario Superior Court of Justice, and that there are now
26 precedents of common law notice being awarded to individuals in such cases. Finally,
27 the OPA has been advised that this is a newly emerging basis for class action law suits
28 in other similar jurisdictions, and that it is only a matter of time before an employer in
29 Ontario is subject to such a class action suit.

30 In the past year, as temporary contracts have come up for renewal, sometimes for the
31 second or third time, managers have been asked to determine whether or not there is a
32 foreseeable end to the work required of the temporary employee. Where managers
33 have determined that the work will continue indefinitely, the temporary employee has
34 been offered employment as a regular employee.

ENERGY PROBE INTERROGATORY 7

Issue # 6.0 General

Issue # 6.4

Workforce Hiring Practices

- Has the OPA responded appropriately to the expectation of the Board Panel in respect of workforce hiring practices as stated on page 11 of the Decision and Order in the EB-2007-0791 proceeding?

Interrogatory # 7

Ref: Exhibit A, Tab 2, Schedule 1, page 3, last bullet point.

On page 11 of the Decision and Order in the EB-2007-0791 proceeding, issued May 15, 2008, the Board Findings in the Section titled "Workforce" stated:

"...the Board has noted that the OPA's 2008 budget reflects a substantial increase in its overall workforce – it increases from 137.0 in 2007 to 183.8 Full Time Equivalents in 2008. In the CDM area specifically, the OPA is doubling its workforce to 66.2 Full Time Equivalents. The Board has also noted from OPA's testimony that the OPA is currently not in a position to forecast its workforce requirements and acknowledged that in the future its workforce could be reduced. The possibility for a reduction in the future has not altered the OPA's practice in continuing to augment its existing workforce with full-time permanent employees. While the Board accepts the OPA's budget associated with its workforce for the 2008 year, in light of the uncertainties for future workforce requirements acknowledged by the OPA, the Board expects the OPA to review its hiring practices for 2008 and to fully justify increases to its permanent full-time workforce in its 2009 fees application."

a) As part of the most significant initiatives planned for the 2009-2011 period, the Evidence at Page 3, in the last bullet, states that the OPA will be implementing internal strategies and tools critical to achieving the organization's goals and deliverables, including a "holistic talent management system". Please advise what steps have been taken by the OPA to respond to the Board's expectation of a review of its hiring practices, especially the practice of continuing to augment its existing workforce with fulltime permanent employees.

b) Please provide total workforce full time equivalents in the following tables:

Total OPA Headcount

Regular

2006 Board Approved	2007 Board Approved	Variance %	2007 Board Approved	2008 Board Approved	Variance %	2008 Board Approved	2009 Budget	Variance %

Temporary

2006 Board Approved	2007 Board Approved	Variance %	2007 Board Approved	2008 Board Approved	Variance %	2008 Board Approved	2009 Budget	Variance %

c) Please provide total workforce full time equivalents in the following table:

Total OPA Headcount

Regular/ Temporary

2006 Actual Reg/Temp Percentages	2007 Actual Reg/Temp Percentages	2008 Actual Reg/Temp Percentages	2009 Budget Reg/Temp Percentages

RESPONSE

a) In response to the Board's decision in EB-2007-0791, the OPA has begun to actively track FTEs by temporary and permanent status. This allows for regular monitoring and reporting of the balance of permanent to temporary employees.

While this reporting exercise is valuable in presenting an overall picture of the proportion of permanent employees in the organization, the decision to fill a particular position with a temporary or permanent employee must still be made on a case-by-case basis. Please see the response to Board Staff Interrogatory 5 at Exhibit I-1-5 for a discussion of the factors to be considered.

- b) Board-Approved FTEs for the years 2006, 2007 and 2008 were not segregated by temporary and permanent status. The requested information is not available.
- c) As discussed in the response to a), above, prior to 2008 the OPA did not track all of its temporary employees in the payroll system. From its inception in 2005 to 2008, OPA staffing requirements were met through three methods: regular and temporary employees and consultants.

Temporary employees are those hired to fulfill the duties of a particular position in the organization for an identified term. Those hired directly by the OPA are paid through the OPA payroll system. This category also includes students. Temporary employees acquired through agencies would be paid by the agency in question, who would invoice the OPA for these services, and would not appear in the payroll system. Consultants were hired to provide services to support particular projects (such as the IPSP, Conservation research or certain procurements), and would invoice the company for services rendered. In most cases, the costs for these consultants and agency employees would be charged to Consulting within the relevant cost centers but, due to the project-oriented nature of their work, these costs may have been captured elsewhere in the system.

In response to the Board's decision in EB 2007-0791, the Human Resources department performed an assessment of the staffing of the organization. Roles which had been deemed temporary for extended periods of time and were expected to continue were transitioned to regular roles. In addition, consulting arrangements which may have begun as project-based roles but had evolved into ongoing positions within the organization were transitioned to temporary or regular roles within the organization as appropriate.

As a result, the OPA now has two classes of employee which are tracked through its headcount tracking process: regular and temporary. Consulting services are still provided to fulfill particular needs, but these costs are now assigned to the appropriate Consulting cost centre.

For this reason, the information presented below is accurate for 2008 but may reflect some anomalies for prior years. The OPA has made best efforts to gather information regarding its consulting and temporary staff for 2006 and 2007, based on past vendor files and anecdotal information. While the information may not be completely accurate, the OPA believes that it provides sufficient information to support the trend analysis requested in this interrogatory.

**Total OPA Headcount
Regular / Temporary**

2006 Actual Reg/Temp Percentages	2007 Actual Reg/Temp Percentages	2008 Actual Reg/Temp Percentages	2009 Budget Reg/Temp Percentages
82.3/17.0 FTEs	122.4/24.4 FTEs	150.7/25.7 FTEs	182.4/11.3 FTEs
82.9%/17.1%	83.4%/16.6%	85.4%/14.6%	94%/6%

