



**EB-2009-0347**

**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.

## **DECISION AND PROCEDURAL ORDER NO. 2**

### **BACKGROUND**

On November 9, 2009, the Ontario Power Authority (the “OPA”) filed with the Ontario Energy Board (the “Board”) its proposed 2010 expenditure and revenue requirement and fees for review pursuant to subsection 25.21(1) of the *Electricity Act, 1998* (the “Act”).

The Board assigned file number EB-2009-0347 to this matter.

On November 27, 2009, the Board issued its Notice of Application (the “Notice”) and Letter of Direction to the OPA. Within the Notice the Board requested that interested parties comment on Board Staff’s draft issues list and include any comments along with its letter of intervention.

The Board received requests for intervenor status from the Society of Energy Professionals, Ontario Power Generation, Shell Energy North America (Canada) Inc., the Electricity Distributors Association, the Association of Major Power Consumers in Ontario (“AMPCO”), the Low-Income Energy Network (“LIEN”), the Vulnerable Energy Consumers Coalition (“VECC”) and Pollution Probe. The Board approved all intervention requests along with cost award eligibility for AMPCO, LIEN, VECC and

Pollution Probe. The Board also approved the request for observer status from the Association of Power Producers of Ontario.

Most parties indicated no preference for the type of hearing, except for LIEN and Pollution Probe who requested an oral hearing. The Board proceeded by way of a written hearing which was preceded by a written interrogatory process and a settlement conference.

On December 30, 2009, the Board issued its Issues Decision and Procedural Order No. 1. In Procedural Order No. 1, the Board outlined its schedule for the proceeding.

A Settlement Conference was held with the objective of achieving agreement on as many of the issues as possible. A partial Settlement Proposal was filed with the Board on February 24, 2010 and is attached as Appendix A. For those issues which were not settled completely, the parties proposed that written submissions be allowed.

The Board has reviewed the Settlement Proposal and finds that all of the proposals contained within it to be reasonable and accepts the Settlement Proposal as filed.

The Board considers it necessary to make provision for the following procedural matters as not all the issues were completely settled. The Board may issue further procedural orders from time to time.

#### **THE BOARD ORDERS THAT:**

1. Any party, including Board staff, that wishes to file submissions on the outstanding issues, as identified in the Settlement Agreement, shall do so by written submissions filed with the Board, and delivered to the OPA, **on or before Friday, March 19, 2010.**
2. The OPA may respond by written submission filed with the Board, and delivered to all parties, **on or before Monday, March 29, 2010.**

If you have a user ID, please submit your submission through the Board's web portal at [www.errr.oeb.gov.on.ca](http://www.errr.oeb.gov.on.ca) in searchable/unrestricted PDF format. Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca). You may also send your

submission by e-mail to the following address: [boardsec@gov.on.ca](mailto:boardsec@gov.on.ca). Additionally, three paper copies are required and should be sent to the addresses below. Those who do not have Internet access are asked to submit their interrogatories or submissions on a CD or diskette in PDF format, along with three paper copies by 4:30pm on the date indicated, and copy all parties. Parties must also include the Case Manager, Michael Bell [michael.bell@oeb.gov.on.ca](mailto:michael.bell@oeb.gov.on.ca) and Board Counsel, Michael Millar [michael.millar@oeb.gov.on.ca](mailto:michael.millar@oeb.gov.on.ca) on all electronic correspondence related to this case.

Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, ON M4P 1E4  
Attention: Board Secretary

Filings: [www.errr.oeb.gov.on.ca](http://www.errr.oeb.gov.on.ca)  
E-mail: [boardsec@oeb.gov.on.ca](mailto:boardsec@oeb.gov.on.ca)

Tel : 1-888-632-6273  
Fax : 416-440-7656

**Issued** at Toronto, March 11, 2010

ONTARIO ENERGY BOARD

*Original signed by*

Kirsten Walli  
Board Secretary

**APPENDIX "A"**

**TO DECISION AND PROCEDURAL ORDER NO. 2**

**EB-2009-0347**

**ONTARIO POWER AUTHORITY**

**DATED: March 11, 2010**

**Settlement Proposal**

1  
2  
3  
4  
5  
6  
7  
8  
9

**EB-2009-0347**  
**SETTLEMENT PROPOSAL**

**February 24, 2010**

1

TABLE OF CONTENTS		
<u>Issue</u>	<u>Description</u>	<u>Page</u>
1.0	Strategic Objective 1 – POWER SYSTEM PLANNING	4
2.0	Strategic Objective 2 – CONSERVATION	4
3.0	Strategic Objective 3 – SUPPLY PROCUREMENT AND CONTRACT MANAGEMENT	5
4.0	Strategic Objective 4 – BARRIERS TO THE DEVELOPMENT OF EFFICIENT AND ENVIRONMENTAL SUSTAINABLE GENERATION DEVELOPMENT	5
5.0	Strategic Objective 5 – ORGANIZATIONAL CAPACITY	6
6.0	Strategic Objective 6 – COMMUNICATIONS	6
7.0	Proposed Fees	7
8.0	Deferral and Variance Accounts	8
9.0	Previous Settlement Agreements and Decisions	9

1 This Settlement Proposal is filed with the Ontario Energy Board (“OEB”) in connection with the  
2 2010 Expenditure and Revenue Requirement Submission (“2010 RRS”) of the Ontario Power  
3 Authority, filed November 9, 2009 under sections 25.20 and 25.21 of the *Electricity Act, 1998*. A  
4 Settlement Conference was held on February 16, 2010 in accordance with the *Ontario Energy Board*  
5 *Rules of Practice and Procedure* (the “Rules”) and the *Ontario Energy Board Settlement Conference*  
6 *Guidelines* (“Settlement Guidelines”). This Settlement Proposal arises from the Settlement  
7 Conference.

8 The Ontario Power Authority (the “OPA”) and the following intervenors listed alphabetically  
9 (collectively, “the parties”), and the OEB technical staff (“Board Staff”), participated in the  
10 Settlement Conference:

11 **Association of Major Power Consumers in Ontario (“AMPCO”)**

12 **Energy Probe Research Foundation (“Energy Probe”)**

13 **Vulnerable Energy Consumers Coalition (“VECC”)**

14 The Settlement Proposal represents the positions of the intervenors on the issues listed in the Table  
15 of Contents and the Final Issues List attached as Appendix “A” to the OEB’s Issues Decision and  
16 Order dated December 30, 2009 (the “Issues List”). The numbers given to each of the issues  
17 correlate to the sections in the Settlement Proposal and each issue is categorized under one of the  
18 following descriptions:

19 Complete Settlement – The OPA and all intervenors who take a position on the issue agree to the  
20 proposed settlement;

21 Incomplete Settlement – The parties are only able to agree on some, but not all, parts of the  
22 issue; or

23 No Settlement – The parties were unable to reach agreement on any part of the issue.

24 The categorization of each issue assumes that all intervenors participated in the negotiation of an  
25 issue, unless specifically noted otherwise. Any intervenors that are identified as not having  
26 participated in the negotiation of that issue also take no position on any settlement or other wording  
27 pertaining to the issue. In accordance with the Rules and the Settlement Guidelines, Board Staff  
28 takes no position on any issue and, as a result, is not a party to the Settlement Proposal.

29 The Settlement Proposal describes the agreements reached on the settled issues. The Settlement  
30 Proposal identifies the intervenors who agree with each settlement, or who take no position on the  
31 issue. The Settlement Proposal lists the evidentiary references for each issue. Therefore the  
32 intervenors who are in agreement with any settled issue(s) believe that the evidence provides  
33 sufficient information to support their views to support the Settlement Proposal and combined with  
34 the rationale for settlement, will assist the OEB in its decision making on those issues.

1 Issues 1.0 to 6.1 in this proceeding relate to the OPA's Operating Budget, as allocated among its six  
2 Strategic Objectives. The issues and their related evidence are provided individually below. The  
3 parties' collective settlement status for these six issues follows.

<b>1.0</b>	<b>Strategic Objective 1 – POWER SYSTEM PLANNING – Plan for and facilitate the development of a cost effective, reliable and sustainable electricity system.</b>
1.1	Is the Operating Budget of \$6.391 million allocated to Strategic Objective 1 reasonable and appropriate?

4 **Evidence:** The evidence in relation to this issue includes the following:

- 5 A-2-1 2010 - 2012 Business Plan
- 6 B-1-1 Strategic Objective 1
- 7 D-2-1 2010 Registration Fees, Operating Costs and Capital Expenditures: Discussion of Variances
- 8 on an Organizational Level
- 9 D-2-2 Variance Analyses by Strategic Objective
- 10 I-2-1, 2, 7 AMPCO Interrogatories 1, 2, 7
- 11 I-3-1, 2, 3, 4, 18 Energy Probe Interrogatories 1, 2, 3, 4, 18
- 12 I-5-10 VECC Interrogatory 10

<b>2.0</b>	<b>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.</b>
2.1	Is the Operating Budget of \$16.484 million allocated to Strategic Objective 2 reasonable and appropriate?

13 **Evidence:** The evidence in relation to this issue includes the following:

- 14 A-2-1 2010 - 2012 Business Plan
- 15 B-2-1 Strategic Objective 2
- 16 D-2-1 2010 Registration Fees, Operating Costs and Capital Expenditures: Discussion of Variances
- 17 on an Organizational Level
- 18 D-2-2 Variance Analyses by Strategic Objective
- 19 I-1-1 Board Staff Interrogatory 1
- 20 I-2-6, 8, 9, 10 AMPCO Interrogatories 6, 8, 9, 10
- 21 I-3-5, 6, 7 Energy Probe Interrogatories 5, 6, 7
- 22 I-4-1, 2, 3, 4 Pollution Probe Interrogatories 1, 2, 3, 4
- 23 I-5-1, 2, 3, 4, 5, 6, 7, 8 VECC Interrogatories 1, 2, 3, 4, 5, 6, 7, 8

3.0	<b>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.</b>
3.1	Is the Operating Budget of \$7.836 million allocated to Strategic Objecting 3 reasonable and appropriate?

1 **Evidence:** The evidence in relation to this issue includes the following:

2 A-2-1 2010 - 2012 Business Plan

3 B-3-1 Strategic Objective 3

4 D-2-1 2010 Registration Fees, Operating Costs and Capital Expenditures: Discussion of Variances  
5 on an Organizational Level

6 D-2-2 Variance Analyses by Strategic Objective

7 I-2-5, 11, 12, 13, 15 AMPCO Interrogatories 11, 12, 13, 15

8 I-3-8, 10, 11 Energy Probe Interrogatories 8, 10, 11

9 I-4-5, 6 Pollution Probe Interrogatories 5, 6

4.0	<b>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.</b>
4.1	Is the Operating Budget of \$833,000 allocated to Strategic Objective 4 reasonable and appropriate?

10 **Evidence:** The evidence in relation to this issue includes the following:

11 A-2-1 2010 - 2012 Business Plan

12 B-4-1 Strategic Objective 4

13 D-2-1 2010 Registration Fees, Operating Costs and Capital Expenditures: Discussion of Variances  
14 on an Organizational Level

15 D-2-2 Variance Analyses by Strategic Objective

16 I-2-3, 4 AMPCO Interrogatories 3, 4

17 I-3-9, 12, 13 Energy Probe Interrogatories 9, 12, 13

1

<b>5.0</b>	<b>Strategic Objective 5 – ORGANIZATIONAL CAPACITY – Develop and maintain organizational capacity to achieve the strategic objectives and be recognized as a strategic partner.</b>
5.1	Is the Operating Budget of \$24.474 million allocated to Strategic Objective 5 reasonable and appropriate?

2 **Evidence:** The evidence in relation to this issue includes the following:

- 3 A-2-1 2010 - 2012 Business Plan
- 4 B-5-1 Strategic Objective 5
- 5 D-2-1 2010 Registration Fees, Operating Costs and Capital Expenditures: Discussion of Variances
- 6 on an Organizational Level
- 7 D-2-2 Variance Analyses by Strategic Objective
- 8 B-1-1 Strategic Objective 1
- 9 B-2-1 Strategic Objective 2
- 10 B-3-1 Strategic Objective 3
- 11 B-4-1 Strategic Objective 4
- 12 B-6-1 Strategic Objective 6
- 13 I-1-2, 4 Board Staff Interrogatories 2, 4
- 14 I-3-14, 15, 16, 17 Energy Probe Interrogatories 14, 15, 16, 17
- 15 I-5-9 VECC Interrogatory 9

<b>6.0</b>	<b>Strategic Objective 6 – COMMUNICATIONS – Be a trusted and respected source of information in the electricity sector.</b>
6.1	Is the Operating Budget of \$9.108 million allocated to Strategic Objective 6 reasonable and appropriate?

16 **Evidence:** The evidence in relation to this issue includes the following:

- 17 A-2-1 2010 - 2012 Business Plan
- 18 B-6-1 Strategic Objective 6
- 19 D-2-1 2010 Registration Fees, Operating Costs and Capital Expenditures: Discussion of Variances
- 20 on an Organizational Level
- 21 D-2-2 Variance Analyses by Strategic Objective
- 22 I-1-3 Board Staff Interrogatory 3
- 23 I-2-14 AMPCO Interrogatory 14
- 24 I-3-19 Energy Probe Interrogatory 19

1 **Incomplete Settlement:**

2 The parties have reached a partial settlement of Issues 1.0 to 6.1 on the basis that the operating  
3 budgets for Strategic Objectives 1 through 6 for 2010 are accepted. However, parties propose to  
4 make written submissions in this proceeding as follows:

- 5 • Energy Probe proposes to make written submissions that the OPA develop internal processes  
6 to be able to track and report staffing and other costs on a per-project basis for the next  
7 revenue requirement submission.
- 8 • Energy Probe also proposes to make written submissions on the OPA's ratio of contract staff  
9 to permanent staff.
- 10 • VECC proposes to make written submissions regarding the level of detail to be provided by  
11 the OPA in the establishment of test year milestones and the reporting of its achievements.

12 All parties reserve the right to make written submissions with respect to the above issues. The OPA  
13 will have the right to reply to these submissions.

14 ***Participating Intervenors:*** AMPCO; Energy Probe; VECC

7.0	Proposed Fees
7.1	Is the proposed usage fee reasonable and appropriate?
7.2	Are the proposed registration fees per proposal for electricity supply and capacity procurement reasonable and appropriate?
7.3	Are the proposed application fees for the Feed-in-Tariff program reasonable and appropriate?

15 ***Evidence:*** The evidence in relation to this issue includes the following:

16 D-1-1 2010 Revenue Requirement and Usage Fee

17 B-1-1 Strategic Objective 1

18 B-2-1 Strategic Objective 2

19 B-3-1 Strategic Objective 3

20 B-4-1 Strategic Objective 4

21 B-5-1 Strategic Objective 5

22 B-6-1 Strategic Objective 6

23 D-2-1 2010 Registration Fees, Operating Costs and Capital Expenditures: Discussion of Variances  
24 on an Organizational Level

25 D-2-2 Variance Analyses by Strategic Objective

26 I-1-5 Board Staff Interrogatory 5

1 **Incomplete Settlement:**

2 The parties have reached a partial settlement on the basis that the proposed usage fees, registration  
3 fees for electricity supply and capacity procurement and application fees for the Feed-in Tariff  
4 program for 2010 are accepted. However, parties propose to make written submissions in this  
5 proceeding as follows:

- 6 • Energy Probe proposes to make written submissions that the OPA consider billing third  
7 parties for the costs incurred to provide analysis and support in regulatory proceedings, based  
8 on the tracking of costs as described in the settlement status of Issues 1.0 through 6.1, above.
- 9 • AMPCO proposes to make written submissions that the OPA should increase its forecast  
10 registration fee income by \$80,000, to be collected as registration fees for the OPA's  
11 Hydroelectric Contract Initiative and NUG re-contracting.

12 All parties reserve the right to make written submissions with respect to the above issues. The OPA  
13 will have the right to reply to these submissions.

14 ***Participating Intervenors:*** AMPCO; Energy Probe; VECC

8.0	<b>Deferral and Variance Accounts</b>
8.1	Is the proposed disposition of the various Deferral and Variance Accounts reasonable and appropriate?
8.2	Are the proposed Deferral and Variance Accounts appropriate?

15 ***Evidence:*** The evidence in relation to this issue includes the following:

- 16 D-3-1 Deferral and Variance Accounts
- 17 D-3-2 Invoices from the Ministry
- 18 D-3-3 Forecast Variance Deferral Account

19 **Incomplete Settlement:**

20 Parties have reached a partial settlement on the basis that the proposed Deferral and Variance  
21 Accounts are appropriate and that the OPA's proposals to dispose of the balances in the Government  
22 Procurement Costs and Forecast Variance Deferral Accounts are reasonable and appropriate.  
23 However, parties propose to make written submissions in this proceeding as follows:

- 24 • AMPCO proposes to make written submissions regarding the disposition of the outstanding  
25 balances in the OPA's Retailer Contract Settlement and Retailer Discount Settlement  
26 Deferral Accounts.

27 All parties reserve the right to make written submissions with respect to the above issue. The OPA  
28 will have the right to respond to these submissions.

29 ***Participating Intervenors:*** AMPCO; Energy Probe; VECC

<b>9.0</b>	<b>Previous Settlement Agreements and Decisions</b>
9.1	Has the OPA responded appropriately to previous Settlement Agreements and Decisions?

1 ***Evidence:*** The evidence in relation to this issue includes the following:

2 B-1-1 Strategic Objective 1

3 B-2-1 Strategic Objective 2

4 B-3-1 Strategic Objective 3

5 B-4-1 Strategic Objective 4

6 B-5-1 Strategic Objective 5

7 B-6-1 Strategic Objective 6

8 D-2-1 2010 Registration Fees, Operating Costs and Capital Expenditures: Discussion of Variances  
9 on an Organizational Level

10 D-2-2 Variance Analyses by Strategic Objective

11 I-3-22 Energy Probe Interrogatory 22

12 **Complete Settlement:**

13 The parties have reached a full settlement of this issue on the basis that the OPA's response to  
14 previous settlement agreements and Board Decisions is accepted.

15 ***Participating Intervenors:*** AMPCO; Energy Probe; VECC