



March 19, 2010

Ms. Kirsten Walli
Board Secretary
P.O. Box 2319
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, Ontario M4P 1E4

Dear Ms. Walli:

Re: Ontario Power Authority (OPA) 2010 Revenue Requirement
AMPCO's Submission
Board File No. EB-2009-0347

In accordance with the Board's Decision and Procedural Order No. 2 dated March 11, 2010, attached please find AMPCO's submissions in the above proceeding.

Please contact me if you have any questions or require any further information.

Sincerely yours,

ORIGINAL SIGNED BY

Adam White
President
Association of Major Power Consumers in Ontario

Copy to: Ms. Miriam Heinz, Ontario Power Authority

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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.

Final Argument On Behalf Of

The Association of Major Power Consumers in Ontario

March 19, 2010

AMPCO
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Introduction and Overview

1. Following submission for review of its Business Plan to the Minister of Energy and Infrastructure on October 1 2009, the Ontario Power Authority (the “OPA” or “Applicant”) submitted its annual proposed expenditure and revenue requirement and fees for review to the Ontario Energy Board (“Board” or “OEB”) on November 9, 2009. A Letter of Direction and a Notice of Application were issued on November 27, 2009. The Board approved an increased User Fee from \$0.485/MWh to \$0.551/MWh, an increase of 13.6 %, on an interim basis on December 30, 2009, to be effective January 1, 2010.
2. There was a Complete Settlement on one Issue – Issue 9.0 – Previous Settlement Agreements and Decisions. There was a Partial Settlement of all other Issues with rights for AMPCO, Energy Probe Research Foundation “Energy Probe”, and the Vulnerable Energy Consumer Coalition (“VECC”) to make written submissions in this proceeding to address their concerns within the partially settled Issues.
3. AMPCO wishes to make submissions on:
 - the disposition of the outstanding balances in the OPA’s Retailer Contract Settlement and Retailer Discount Settlement Deferral Accounts (Issue 8.0)
4. In addition, AMPCO wishes to support the submissions of Energy Probe with respect to:
 - Cost Collecting and Reporting; and
 - Cost Recovery – Assistance to LDCs and Transmitters.
5. Although AMPCO asked for the opportunity to make submissions on the OPA’s proposal with respect to the collection of fees from generators, upon further review AMPCO accepts the OPA’s position with respect to fees.

Disposition of Outstanding Balances in the OPA’s Retailer Contract Settlement and Retailer Discount Settlement Deferral Accounts (Issue 8.0)

6. As noted in the OPA’s prefiled evidence, Sections 25.34 (1) and (2) of the Act required the OPA to make payments to retailers with respect to certain contracts with low-volume and designated consumers. The amount to be recovered from all users in 2010 is \$14.3 million with a fee impact of 0.104 \$/MWh.
7. AMPCO members and industrial consumers generally played no role in causing these costs. These costs are associated only with low-volume and designated consumers.
8. The OPA’s justification for collecting these costs from all consumers, irrespective of whether particular classes of consumers contributed to these costs is presented in Ex. I-2-16.

In its EB-2005-0489 Decision, the Board approved the OPA’s proposal to completely offset its 2006 revenue requirement with the credit balance then outstanding in its Retailer Contract Settlement Deferral Account. This benefit was applied to all Ontario electricity ratepayers, not just low volume and designated consumers. Under these circumstances, it is appropriate to recover the cost consequences of retailer contract settlements from all Ontario ratepayers.

9. This justification does not take into account the different context that applied in 2006 as compared to today. In EB-2005-0489, the OPA was a new agency, establishing its first rates. The OPA's proposed operating budget was only \$30.67 million. The previous year, the IESO had funded the OPA's operations with \$15 million under the provisions of a MOU with the Minister of Energy issued in December 2004. Although in its EB-2005-0489 application the OPA anticipated that it would have a significant balance in favour of consumers in its retailer accounts by the end of 2006, in that year the retailer accounts started to accumulate significant liabilities. At the time, the OPA envisioned itself as a transitional agency, rather than a permanent fixture on the energy policy landscape. AMPCO did not intervene in EB-2005-0489.

10. AMPCO believes that a precedent arising from the period of the OPA's initiation does not provide a reliable basis for rates in the current environment. A more principled application of rate making should be brought to bear. From Ex. D-3-1 Table 2, it appears that non participant customer classes have been charged far more since 2006 for retailer compensation than they benefitted in 2006 from retailer compensation.

11. As a practical matter, the Wholesale Market Services Fee charged to customers, which includes the OPA User Fee, is not differentiated by customer group. Although there does not appear to be a convenient approach that could facilitate more appropriate, cost-based rates for recovering the OPA's costs in 2010, it is necessary to develop capacity for more cost-based rates in time for 2011 rates.

12. To state the obvious, the OPA has been an agency in transition since its initiation. The GEA is just the latest in a series of dramatic policy adjustments. Continued ad hoc rate making prioritizing convenience and precedent over accuracy and fairness is not appropriate. The current inability of the OPA to track and recover costs by customer class is a major impediment to the application of principles of cost causation in rate making.

13. AMPCO recommends that the Board direct the OPA to report in its next case on options that could be implemented in 2011 to recover the remaining balances in the retailer accounts from the customer classes that have given rise to the accounts. Industrial consumers, whether directly connected or not, should not be required to contribute to these costs which they in no way contributed to.

14. AMPCO has no objection to the continuation of the Retailer Contract Settlement Deferral Account and a 2010 Retailer Discount Settlement Deferral Account unless any of the costs that might arise are applied to industry consumers.

Cost Collecting and Reporting (Issues 1-6)

15. AMPCO supports Energy Probe's arguments and recommendations for the OPA to develop cost collecting and reporting capacities to allow detailed review of project and function related costs.

Cost Recovery – Assistance to LDCs and Transmitters (Issues 1-6)

16. AMPCO supports Energy Probe's arguments and recommendations for cost recovery by the OPA for services provided to LDCs and transmitters. Although it is true that the ultimate recovery from consumers as a group will not be changed by reallocating prudently incurred costs among

regulated entities, accountability and transparency for Green Energy Act costs will benefit by improving the tracking of costs.

Costs

17. AMPCO submits that it participated responsibly in this proceeding. AMPCO cooperated with other intervenors where appropriate in order to avoid duplication on submissions before the Board. AMPCO respectfully requests that the Board award 100% of its reasonably incurred costs in this proceeding.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 19th day of March 2010.

ORIGINAL SIGNED

Adam White
President, AMPCO