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April 22, 2010

BY EMAIL & 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-2009-0267
Kitchener-Wilmot Hydro Inc. – 2010 Cost of Service Application
Energy Probe Comments – Draft Rate Order

Pursuant to the Corrected Decision and Order, issued by the Board on April 7, 2010, please find two hard copies of the Comments of Energy Probe Research Foundation (Energy Probe) in respect of the draft Rate Order in the EB-2009-0267 proceeding for consideration of the Board. An electronic version of this communication will be forwarded in PDF format.

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

Yours truly,

David S. MacIntosh
Case Manager

cc: Jerry Van Ooteghem, Kitchener-Wilmot Hydro Inc. (By email)
Randy Aiken, Aiken & Associates (By email)
Intervenors of Record (By email)

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Ontario Energy Board

IN THE MATTER OF the *Ontario Energy Board Act*,
1998, S.O. 1998, c. 15, Schedule B;

AND IN THE MATTER OF an Application by Kitchener-
Wilmot Hydro Inc. for an order approving just and
reasonable rates and other charges for electricity
distribution to be effective May 1, 2010.

**COMMENTS ON THE DRAFT RATE ORDER
ENERGY PROBE RESEARCH FOUNDATION
("ENERGY PROBE")**

April 22, 2010

**KITCHENER-WILMOT HYDRO INC.
2010 RATES**

EB-2009-0267

COMMENTS ON DRAFT RATE ORDER

As part of the Corrected Decision and Order dated April 7, 2010, the Board ordered Kitchener-Wilmot Hydro to file with the Board and forward to intervenors a draft Rate Order within 10 days of the date of the Decision. The draft Rate Order was to provide detailed supporting information showing the calculation of the final rates including the Revenue Requirement Work Form.

The Board further ordered that intervenors should file any comments on the draft Rate Order with the Board and forward to Kitchener-Wilmot Hydro within 5 days of the date of the filing of the draft Rate Order.

Kitchener-Wilmot Hydro filed the draft Rate Order on April 19, 2010. Energy Probe has had the opportunity to review the draft Rate Order and believes that the draft Rate Order is deficient in two respects.

a) Revenue Requirement Work Form

Energy Probe is concerned with the Revenue Requirement Work Forms provided at pages 23 through 30 of the draft Rate Order. The schedules provided do not accurately reflect the Application. Instead, the figures provided in the Application section of each of the schedules are identical to the Board Decision sections. This results in no Adjustments being shown in any of the schedules.

Energy Probe submits that Kitchener-Wilmot Hydro should revise the Revenue Requirement Work Forms to accurately reflect the figures from their Application, along with the appropriate figures to reflect the Adjustments needed to result in the figures from the Board Decision.

b) Calculation of Cost of Power for Working Capital Allowance

Kitchener-Wilmot Hydro has not accurately reflected the Board's Decision with respect to the calculation of the cost of power component of the working capital allowance.

The calculation is shown in Table D-7 of the draft Rate Order and is explained on page 10 of the draft Rate Order.

Energy Probe notes that Kitchener-Wilmot Hydro has followed the Board's direction to use the RPP/non-RPP volume split based on actual data such as that provided in the response to Energy Probe IR #40 (Corrected Decision and Order dated April 7, 2010, page 26). However, Kitchener-Wilmot Hydro has also indicated in the draft Rate Order that it has updated the RPP and non-RPP prices to reflect the information announced by the OEB on April 15, 2010. The resulting commodity cost of power is \$129,561,054 as calculated in Table D-7 of the draft Rate Order.

In the response to Energy Probe IR #40 (d), Kitchener-Wilmot Hydro updated the commodity cost of power to reflect the October 15, 2009 RPP report. As shown in that response, the total commodity cost of power was \$114,478,726. As a result, the impact of moving to the April 15, 2010 RPP report prices is an increase of \$15,082,328. Using the 15% factor for the working capital allowance, this results in an increase in rate base of \$2,262,349. This represents 1.4% of the rate base of \$163,939,083 shown in Table D-10 of the draft Rate Order.

Based on the capital structure approved by the Board, the approved long and short term debt rates and a ROE of 9.85% after tax (or approximately 14.3% before tax), the overall weighted average cost of capital that is paid by ratepayers is approximately 9%.

Application of this figure to the increase in rate base of \$2,262,349 noted above results in a cost increase for ratepayers of more than \$200,000 per year.

Energy Probe submits that Kitchener-Wilmot Hydro should not be allowed to update the commodity cost of power to reflect the April, 2010 figures in place of the October, 2009 figures used in the response to Energy Probe IR #40 (d) for the reasons provided below.

First, as of the date of the Corrected Decision and Order (April 7, 2010), the most recent information available was the October, 2009 RPP report. As such, in the absence of any direction in the Decision and Order from the Board to do otherwise, the most recent information available at the time of the Decision should be used.

Second, a review of page 26 of the April 7, 2010 Corrected Decision and Order reveals that the Board did not direct Kitchener-Wilmot Hydro to update the commodity cost of power. In the absence of this finding, Energy Probe submits that the October, 2009 RPP report should be used to calculate the commodity cost of power.

Third, the Board found that it would not be appropriate to update the RPP/non-RPP volume split to reflect the November 1, 2009 RPP eligibility criteria changes. In a similar manner, Energy Probe submits that it would not be appropriate to update the RPP and non-RPP prices to reflect information that was not available at the time of the Board Decision and Order in this proceeding.