

November 9, 2007

BY COURIER (2 COPIES) AND EMAIL

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, Suite 2700
Toronto, Ontario M4P 1E4
Fax: (416) 440-7656
Email: boardsec@oeb.gov.on.ca

Dear Ms. Walli:

**Re: Pollution Probe – Comments on OPA Request for Written Hearing and
Request for Intervenor Status
EB-2007-0791 – Ontario Power Authority – Fiscal 2008**

We are writing on behalf of Pollution Probe to comment on the OPA's request that the above noted matter be heard through a written hearing instead of an oral hearing. We also write to request intervenor status on behalf of Pollution Probe for the above noted matter in accordance with the Ontario Energy Board's *Rules of Practice and Procedure*.

Pollution Probe disagrees with and opposes the OPA's request that this matter be heard through a written hearing instead of an oral hearing at this time. Pollution Probe submits that it is premature to determine at this early stage that an oral hearing is not necessary for this application, particularly since the Issues List has not been set and no settlement discussions have yet occurred.

Pollution Probe further submits that the Board process used in the past for the OPA's annual revenue requirements should be used again, particularly given its successful minimization of hearing time. Pollution Probe submits that the previous oral hearings required minimal hearing time because the parties were ultimately able to agree on the contentious issues through negotiations and come up with comprehensive settlement agreements. If the issues had not been comprehensively settled, the parties were assured that they had the option to pursue them before a full oral hearing of the Board if they wished. Pollution Probe thus submits the success of the previous Board processes for the OPA's annual revenue requirements shows that it should be used again for this application.

Pollution Probe also submits that the matter should be continue to be heard through an oral hearing as long as contentious issues remain outstanding. If the parties come to a comprehensive settlement agreement that deals with all of the contentious issues, Pollution Probe submits that the Board could then use its discretion to cancel any scheduled oral hearings and instead hear the comprehensive settlement agreement in writing.

With respect to the intervention:

- I. Pollution Probe intends to appear and participate at the hearing or hearings. Further, Pollution Probe prefers an oral hearing in light of the issues discussed above and below.
- II. Pollution Probe is a public interest advocacy group with a large membership and donor base throughout Ontario. On behalf of its members, donors and the general public, Pollution Probe intends to review whether the OPA's revenue requirement application is in the public interest. Pollution Probe may identify other interests based on its review of the materials.
- III. Pollution Probe requests two copies of the pre-filed evidence and other materials, one to be delivered to Mr. Murray Klippenstein and myself as counsel for Pollution Probe at the law firm address above (e-mail addresses: murray.klippenstein@klippensteins.ca and basil.alexander@klippensteins.ca), and one to be delivered to its consultant, Mr. Jack Gibbons of Public Interest Economics. Electronic copies are sufficient, and we also request that both counsel (Mr. Klippenstein and Mr. Alexander) and Mr. Gibbons be listed on the intervenors' list under Pollution Probe, since this makes the later distribution of evidence and other updates more effective. Mr. Gibbons is at:

Public Interest Economics
 625 Church Street, Suite 402
 Toronto ON M4Y 2G1
 Telephone: (416) 926-1907 x240
 Facsimilie: (416) 926-1601
 E-mail: jgibbons@pollutionprobe.org

- IV. The intervenor's full name and address is:

Pollution Probe Foundation
 625 Church Street, Suite 402
 Toronto ON M4Y 2G1
 Telephone: (416) 926-1907
 Facsimile: (416) 926-1601

- V. Please send correspondence and any other materials to both Jack Gibbons and to counsel as the authorized representatives.
- VI. Pollution Probe intends to seek an award of costs for the reasons discussed above.

VII. Pollution Probe requests the Board's directions as to whether this Notice of Intervention should be served on any other parties.

Yours truly,

A handwritten signature in blue ink, appearing to read 'B. Alexander', with a long horizontal flourish extending to the right.

Basil Alexander

BA/ba

cc: Miriam Heinz, Regulatory Coordinator, Ontario Power Authority by email to
miriam.heinz@powerauthority.on.ca