

Our file: 280138

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January 20, 2011

VIA RESS AND COURIER

Ms. Kirsten Walli
Board Secretary
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Walli:

RE: EB-2010-0377/0378/0379: Renewed Regulatory Framework for Electricity ("RRF")

We are counsel to the Electrical Contractors Association of Ontario ("ECAO") in respect of the above proceedings. We are in receipt of the January 12, 2011 objections to ECAO's request for costs in the RRF filed by the Coalition for Large Distributors ("CLD") and A. Parker Gallant. The objections are based on the inaccurate allegation that, as an association, ECAO represents neither consumer interests nor the public interest. ECAO respectfully submits that the objections are supported by neither fact, ECAO's strategic participation in electricity matters before the Ontario Energy Board (the "Board"), nor the Board's *Practice Direction on Cost Awards*.

First, ECAO's central objectives include increasing electricity customer efficiency, choice and access to electricity services through competitive services. ECAO has participated in numerous proceedings and adduced evidence to clearly demonstrate the excess costs and inefficiencies that result from local distribution companies' monopolistic approach to, and cross subsidization associated with, electricity services that could otherwise be competitively procured. In this regard, we refer the Board to ECAO's valuable contributions to the record in proceedings such as the following:

- EB-2006-0029 - Lakeland Power Distribution Ltd. Application to Allow an Exemption from Section 2.2.4 of the Affiliate Relationships Code;
- EB-2006-0189 - Application of Hydro One Networks Inc. for the review and approval of connection procedures;
- EB-2006-0200 - Application of Great Lakes Power Limited for the review and approval of connection procedures;

- EB-2007-0681 - Hydro One Networks Inc. 2008 Electricity Distribution Rates Application;
- EB-2009-0133 - Application by Parry Sound Power Corporation for certain exemptions from the Affiliate Relationships Code; and
- EB-2009-0180/0181/0182/0183 - 1798594 Ontario Inc., Toronto Hydro Energy Services Inc. and Toronto Hydro-Electric System Limited.

ECAO's participation therefore has had a direct and beneficial impact on consumer interests in the form of lower overall electricity costs and customer choice for related electricity services.

Second, ECAO has taken a very principled and surgical approach to its review and participation in the development of Board codes, guidelines, and compliance matters, thereby resulting in an integral and requisite check and balance on utility activity. The public interest has been significantly advanced by ECAO technical members that have volunteered their time, knowledge and experience to facilitate full and fair development of the Ontario electricity regulatory environment. Specifically, ECAO's involvement in proceedings such as the following clearly illustrates same:

- RP-2004-0220 - Proposed Revised Transmission System Code;
- EB-2005-0488 - Notice of Proposal to Amend the Distribution System Code;
- EB-2007-0662 - Consultation regarding the affiliate Relationships Code for Electricity Distributors;
- EB-2009-0096 - Hydro One Networks Inc. 2010 and 2011 Distribution Rates; and
- EB-2010-0038 - Proposed Amendments to Distribution System Code.

Third, ECAO's cost eligibility is supported by all of sections 3.01, 3.03 (a) and (b), 3.04 and 3.08 of the Board's *Practice Direction on Cost Awards*. Further, it is noteworthy that ECAO does not fall within any of the categories of ineligible parties as expressly listed in 3.05 of the Board's *Practice Direction on Cost Awards*. Therefore, contrary to CLD's assertion and consistent with the legal maxim of *expressio unius et exclusio alterius*, ECAO is in fact eligible for a cost award under the Board's *Practice Direction on Cost Awards*.

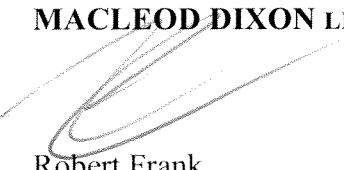
In respect of Mr. Gallant's objection, ECAO would like to provide the following correction to the record. ECAO's membership of 850 member contractors (rather than the "thousands of members" alleged by Mr. Gallant) consists of electrical contractors that have a contractual relationship with the International Brotherhood of Electrical Workers ("IBEW"). Mr. Gallant's effort to conflate ECAO with the IBEW and then somehow create a further link to APPRO is illogical and inaccurate. Similarly, Mr. Gallant's comparison of the IBEW to the Power Workers Union, whose employers include Hydro One, Ontario Power Generation, Powerstream, Whitby Hydro and other distributors, is equally illogical and inaccurate. In any event, the relevant consideration for the purposes of considering cost eligibility is ECAO's ability to provide the

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Board with input in respect of public interest issues such as the efficiency of electricity transmission and distribution delivery.

As a result of the foregoing, ECAO respectfully requests that the Board take a full and fair approach to awarding costs to ECAO in a manner that is consistent with the Board's *Practice Direction on Cost Awards*, and the consumer and public interests that ECAO serves.

Yours truly,
MACLEOD DIXON LLP



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RIF/np

c. E. Roberts (ECAO)
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