

25 Adelaide St. E
Suite 1602
Toronto ON, M5C 3A1



APPrO

ASSOCIATION OF
POWER PRODUCERS
OF ONTARIO

January 20, 2011

Ms Kirsten Walli
Board Secretary
Ontario Energy Board
27th floor
2300 Yonge St.
Toronto, Ontario
M4P 1E4

**Re: Ontario Energy Board
Renewed Regulatory Framework for Electricity (EB-2010-0377 and EB-2010-0379)**

Dear Ms Walli,

I am writing in response to the objection filed by Mr. Parker Gallant with respect to APPrO's participation in the upcoming proceeding on a Renewed Regulatory Framework for electricity (EB-2010-0377/0379).

This proceeding is potentially very wide ranging and could have significant impact on the way electricity sector participants operate in Ontario and in particular on how generation connection is planned, costed, and paid for. In this context, Ontario's electricity generators are customers of the province's distributors and transmitters. APPrO represents these customers, providing a balanced generator view (as opposed to the views of any particular generator in any particular circumstance) with due regard to the interests of Ontario's ratepayers and the government's electricity policy. APPrO has qualified for cost eligibility in past proceedings on the basis that, for the purposes of those proceedings, APPrO's members are customers (just as are IGUA's members and AMPCO's members). The same is true in respect of this consultation.

As noted above, APPrO has demonstrated an ability to balance generator interests with the public interest, in the context of the government's articulated energy policy and the

25 Adelaide St. East, Suite 1602, Toronto, Ontario, M5C 3A1
or: PO Box 1084, Station F., Toronto, Ontario, M4Y 2T7 Canada
416-322-6549 fax 416-481-5785 appro@appro.org www.appro.org

Board's articulated regulatory policy, and provide the Board (and through the Board the Ontario public) with the benefit of a detailed knowledge base on the practical, commercial and financial issues engaged when planning for, and connecting, electrical generation. These issues are at the heart of the consultation, and facilitating APPrO's participation in this consultation is thus in the public's interest.

Mr. Gallant seems to be making broad assertions to the effect that anyone with a significant revenue stream should not be eligible for cost awards at the OEB. Although the nature of his objections may vary from one circumstance when public entities are involved, to another circumstance where generators rely purely on commercial revenues, he seems to characterize the "ability to pay" as the over-riding consideration for an organization's cost eligibility. First, ability to pay is not a criterion in the Board's guidelines for granting cost eligibility. APPrO assumes this is a purposeful policy decision by the Board, as the issue surely was considered in development and review over time of the Board's cost award policy. Were the Board considering a change to that aspect of its policy APPrO would have comments, as would many others. That is not, however, the case, and APPrO thus relies on, and has addressed in its eligibility request, the Board's articulated policy. Second, the intervenor in this instance is APPrO, which is an association representing generators, and not the generators themselves. As an association, APPrO provides a balanced perspective from the generator's point of view. Like most associations, APPrO's access to funds is a much more complex matter than simply considering the revenue streams of its members.

As has been established many times in the past, APPrO does not seek to have ratepayers or taxpayers cover any of its internal costs related to participating in regulatory proceedings. APPrO's application for cost eligibility is related purely to the significant external expenses that would be required for retention of third party consultants, including legal counsel where warranted. Without cost eligibility, APPrO could not hire such consultants, and would therefore not participate in the RRF process. That would not, APPrO submits, be in the public interest.

Mr. Gallant appears to have presented some mis-statements of fact with respect to APPrO. For example, he says "All of the APPrO members and many of the associate members benefit from revenue sources that come directly from ratepayers and taxpayers". While ratepayers are taxpayers, none of APPrO's revenues, nor those of its members, come from taxes. Generators contribute to the tax base, not the other way around. Generator revenues do come from ratepayers, who are their customers. In Ontario, almost all such revenues are regulated or set by government contracts, set with reference to the cost to construct, finance and operate the generation and provide a sufficient return on investment to provide economic incentive to those undertaking these projects. They do not provide funds for OEB participation. (The possible exception is OPG whose revenue requirement may include regulatory costs, and its APPrO membership fee, but certainly not funds to provide to APPrO to hire external consultants to facilitate its responsible and effective participation in the OEB's processes). The contract or OEB approved rates paid to Ontario's generators do not directly fund APPrO, and in any event provide no funding for retaining external consultants and legal counsel for participation in OEB proceedings, which is why APPrO has applied for cost eligibility herein. In short, there is no double payment from taxpayers or ratepayers involved, and Mr. Gallant's assertions otherwise are ill-informed, and perhaps irresponsible.

25 Adelaide St. East, Suite 1602, Toronto, Ontario, M5C 3A1
or: PO Box 1084, Station F., Toronto, Ontario, M4Y 2T7 Canada
416-322-6549 fax 416-481-5785 appro@appro.org www.appro.org

Mr. Gallant also asserts that APPrO's members will participate in this process directly, and can relay information to APPrO. While some members may participate directly (though generally they do not) this assertion misses the entire point for facilitating responsible participation by associations. Associations present balanced views, to the benefit, and informed by the experience, of their entire constituency, rather than the view of any particular generator in any particular connection situation.

Mr. Gallant notes that APPrO and some of its members may lobby the government. Government lobbying is irrelevant. The government and the independent energy regulator fulfill two completely different functions in this sector. The OEB does not do the government's work, nor *vice versa*.

An over-riding public interest consideration with respect to determining cost eligibility is whether the incremental participation enabled by the cost award is likely to produce sufficient additional value to the proceeding, and to the Board. APPrO believes that by its record of past participation it has demonstrated a pattern of providing constructive and useful input to the Board.

I trust that this information will be of assistance to the Board in weighing the comments of Mr. Gallant and others with respect to determination of cost eligibility in this proceeding.

We appreciate the opportunity to share our thinking with you on this important question.

Sincerely,



Jake Brooks
Executive Director

Cc Dave Butters