

**Ontario Energy
Board**
P.O. Box 2319
27th. Floor
2300 Yonge Street
Toronto ON M4P 1E4
Telephone: 416- 481-1967
Facsimile: 416- 440-7656
Toll free: 1-888-632-6273

**Commission de l'énergie
de l'Ontario**
C.P. 2319
27e étage
2300, rue Yonge
Toronto ON M4P 1E4
Téléphone: 416- 481-1967
Télécopieur: 416- 440-7656
Numéro sans frais: 1-888-632-6273



BY E-MAIL

February 8, 2011

John Sprackett
Staff Officer, Office of the President
Power Workers' Union
244 Eglinton Avenue East
Toronto, ON M4P 1K2

Dear Mr. Sprackett:

**Re: Power Workers' Union ("PWU") Intervenor Request
Erie Thames Powerlines Corporation ("Erie Thames")
Application for Amalgamation, Licence Amendment and Licence
Cancellation
Board File Number EB-2010-0386**

The Board has reviewed PWU's request for intervenor status, Erie Thames' objection and PWU's response. The Board notes that none of the submissions addressed whether or not the nature and scope of PWU's intended participation is within the scope of the Board's jurisdiction in considering an application under section 86 of the *OEB Act*.

The scope of the Board's review in section 86 applications was considered in a combined proceeding [RP-2005 0018 – EB-2005-0234, EB-2005-0254 and EB-2005-0257] in which the Board made some explicit findings respecting the scope of its review under section 86. Specifically, the Board found that in section 86 applications "...its mandate is to consider whether the transaction that has been placed before it will have an adverse effect relative to the status quo in terms of the Board's statutory objectives."

The Board went on to say:

"Based on the "no-harm" test, the question for the Board [in Section 86 applications] is neither the why nor the how of the proposed transaction. Rather the Board's concern is limited to the effect of the transaction when considered in light of the Board's objectives as identified in section 1 of the Act."

Status as an intervenor is subject to Rule 23.02 of the Board's *Rules of Practice and Procedure* which provides that a person seeking status as an intervenor must satisfy the

Board that he or she has a substantial interest in the proceeding. In the present case, the PWU has not addressed how it intends to contribute to the proceeding given the scope of the Board's statutory jurisdiction in a section 86 application.

Before the Board makes a decision on PWU's intervenor request, the Board requests that PWU provide a detailed statement on how it intends to contribute to this proceeding in light of the Board's authority and the limited scope of factors that would be considered in a section 86 application, as outlined above.

The Board requires PWU's response to be filed by February 10, 2011. If a response is not filed by this time, the Board will proceed without PWU's participation in this proceeding.

Yours truly,

Original signed by

John Pickernell
Assistant Board Secretary

cc: Chris White
Wally Curry
Tyler Moore