



Fogler, Rubinoff LLP Barristers & Solicitors  
95 Wellington Street West  
Suite 1200, Toronto-Dominion Centre  
Toronto, ON M5J 2Z9  
Tel: 416.864.9700 Fax: 416.941.8852  
www.foglers.com

April 4, 2011

Reply To: Thomas Brett  
Direct Dial: 416.941.8861  
E-mail: [tbrett@foglers.com](mailto:tbrett@foglers.com)  
File No.: 106863

**VIA COURIER AND E-MAIL**

Kirsten Walli  
Ontario Energy Board  
2300 Yonge Street  
Toronto, Ontario M4P 1E4  
[BoardSec@ontarioenergyboard.ca](mailto:BoardSec@ontarioenergyboard.ca)

Dear Ms. Walli:

**Re: EB-2010-0279**

---

I am writing on behalf of the Canadian Energy Efficiency Alliance ("CEEAA") to request that the Board hold an oral hearing in the EB-2010-0279 OPA fees case.

As you are aware, the Settlement Conference concluded Thursday. Only one issue, deferral accounts, was "settled".

There remain eight unsettled issues.

CEEAA intends to focus on the CDM issues, including how CDM is integrated into overall system planning, and the extent to which the OPA responded to relevant Board directives in the 2010 case.

CEEAA believes that an oral hearing is necessary to properly address these issues in the proceeding for several reasons.

First, this is the first review of OPA's budget in which the Issues List reflects the fact that, in the Board's words, "the assessment of the OPA's administration fees must require an examination and evaluation of the management, implementation, and performance of the OPA's charge-funded activities", and "that an assessment of the performance of the OPA's charge-funded activities is a necessary, legitimate and reasonable tool for determining the effectiveness of the OPA's utilization of its Board approved fees" (our emphasis).



CEEA believes that a proper examination of the OPA's performance with respect to its charge funded CDM activities, one that is useful to the Board, will be difficult without an opportunity to cross-examine OPA management in an oral hearing.

The gap in perception between the OPA and most intervenors, including CEEA, on such basic managerial concepts as accountability for compliance with directives, the degree of transparency required of the OPA, the need for achieving proper verification of savings, the milestones by which progress on reaching goals is determined, and the inability or unwillingness of the OPA to justify the resources it seeks at the initiative level, is significant, and can best be conveyed to the Board through an oral hearing.


The issues tend to be ones of principle and management, rather than detail (compared to many aspects of a rates case), so that the hearing should not be long, about a week. The hearing will move along more quickly and be more useful to the Board and all parties, including the OPA, if OPA provides on each panel, witness(es) at the senior management level, capable of addressing the management and overall performance issues that will be raised, and CEEA would urge the Board to ask OPA to make those witnesses available.

CEEA looks forward to full participation in the proceeding, focussing on CDM issues, including how CDM is integrated into overall system planning.

I hope the Board will find these comments helpful.

Yours sincerely,

**FOGLER, RUBINOFF LLP**

  
Thomas Brett  
TB/dd