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Toronto, May 3, 2011

Kirsten Walli
Board Secretary
Ontario Energy Board
Suite 2700, 2300 Yonge Street
Toronto, Ontario
M4P 1E4

Dear Ms. Walli:

RE: Ontario Power Authority 2011 Revenue Requirement (EB-2010-0279)
Association of Power Producers of Ontario ("APPrO")
Additional Evidence Filed April 29, 2011

We are writing on behalf of APPrO in response to the expert evidence recently filed by the Ontario Power Authority ("OPA") related to Issue 7.2 in the above-noted proceeding. By way of this letter, we are requesting that the Board either: (a) delay the hearing to allow for this new evidence to be properly evaluated and responded to; or (b) proceed with the hearing on all issues other than this issue on Monday, and have the oral phase of the hearing on the extension of the fee to exports delayed until such time as this new evidence can be properly evaluated and responded to.

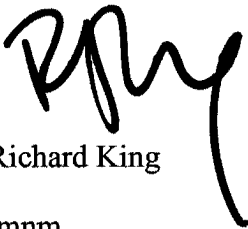
As the Board knows, Issue 7.2 deals with an entirely new matter (extension of the OPA's fee for the first time to exports), never before considered in an OPA fees hearing. The issue is not a minor one – for APPrO's members, the issue is whether they will end up paying millions of dollars in charges that they have never before had to pay; for those that currently pay the OPA fee, the issue is whether the fee increases by 3.6% or decreases by 5.0% (which is solely due to the proposed extension of the fee to exports). This is the most material issue in the proceeding.

Despite the significance and novelty of the issue, the OPA's original fees submission of November 2010 contained little more than two sentences supporting the OPA's position to extend the OPA fee to exports for the first time. Last Friday, the OPA filed expert evidence by Concentric Energy Advisors, Inc. to explain the rationale for extending the fee proposal to exports. It is now four months into the calendar year associated with the OPA fee, and over five months after the filing of the initial submission by the OPA. It is clear that the OPA's new evidence is seeking – at this late date – to shore up an issue that was completely unsupported in the original submission.

In the normal course, one would expect the Board to consider whether to accept such evidence in the first place (given that we are now four months into the year that the fee is to be collected), and if so, what procedural rights should be afforded to parties to the proceeding with an interest in the Issue 7.2. It appears that the Board has already pre-determined that it would accept the additional evidence (by virtue of Procedural Order No. 5). With respect to the second issue, the rules of natural justice require that intervenors be offered a reasonable opportunity to evaluate and respond to the new evidence – which at a minimum should afford intervenors the opportunity to retain experts to evaluate such evidence, the opportunity to test the evidence through written interrogatories, and potentially the opportunity to file intervenor evidence. Allowing only a week to evaluate the evidence and scrutinize it via cross-examination is insufficient, particularly given that it is expert evidence on cost allocation and research involving practices in other jurisdictions. It is the only issue for which the applicant has chosen to file expert evidence.

Consequently, APPrO formally requests that the Board either: (a) delay the hearing to allow for this new evidence to be properly evaluated and responded to; or (b) proceed with the hearing on all issues other than this issue on Monday, and have the oral phase of the hearing on the issue of extending the fee to exports delayed until such time as this new evidence can be properly evaluated and responded to.

Yours very truly,



Richard King

/mnm

c.c. David Butters, APPrO
All Parties in EB-2010-0279