

20 March 2008

The Honourable Howard I. Wetston, Q.C.
Chairman, Ontario Energy Board

By e-mail

Dear Mr. Wetston:

Re: EB-2007-0791 OPA 2008 expenditure review

Following discussions with other parties it has become apparent that the question of the practical and jurisdictional scope of the Board's annual reviews of OPA's expenditures will likely be a live issue in this year's proceeding. This is a matter that was addressed to some extent by the panel hearing the 2007 case in the context of its February 15th, 2007 Decision on the supplemental settlement proposal, which decision included a dissenting opinion (copy attached).

To date the panel hearing the 2008 case is comprised of two members. In our experience it has been the common practice at the Board (and elsewhere) to have potentially significant disputed matters heard by panels with an odd number of members, presumably to help avoid practical problems, such as the possibility of deadlock. We respectfully submit, considering the likelihood of significant disputed issues, and the dissent in the previous procedural decision related to this matter, that it is worth considering continuing that usual practice in this particular case, including for the upcoming March 28 motion date.

Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'David Poch', with a stylized flourish at the end.

David Poch

On behalf of GEC, Pembina Institute and OSEA

Cc: all parties