

October 29, 2012

Ms. Kristen Walli
Board Secretary
Ontario Energy Board
27th Floor
2300 Yonge Street
Toronto, ON M4P 1E4



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On January 1, 2012, Macleod Dixon joined
Norton Rose OR to create Norton Rose Canada.

Your reference
RRFE Proceedings

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Dear Ms. Walli:

**Renewed Regulatory Framework ("RRFE")
Board File Nos.: EB-2010-0377, EB-2010-0378, EB-2010-0379, EB-2011-0004 and EB-2011-0043**

We are counsel to the Biogas Association ("BA"), formerly the Agri-Energy Producers Association of Ontario ("APAO") on the RRFE Proceedings.

Eligible Proceedings

Further to the Board's letter and report on the RRFE dated October 18, 2012 and the Board's *Practice Direction on Cost Awards*, we are writing to request cost eligibility in relation to each and all of the following (and above-mentioned) policy initiatives:

- (i) Performance Metrics
- (ii) Benchmarking and Rate Adjustments Indices
- (iii) Regional Infrastructure Planning
- (iv) Development of the Smart Grid
- (v) Integrated Approach to Network Investment Planning (Distribution Network Investment); and as applicable;
- (iv) Electricity Distribution Rate Setting

Representation and Experts

BA will be represented by Elisabeth (Lisa) DeMarco, a senior energy lawyer at Norton Rose, whose credentials are attached as Appendix A to this letter. Together with other generator organizations (including, without limitation, CanWEA, CanSIA, APPrO and OWA), BA hopes to retain a technical expert to speak to common issues in relation to distribution network and regional infrastructure planning, smart grid, as well as applicable performance metrics. BA may also, contingent on the terms of reference of the working groups, retain a

separate biogas specific expert to speak to the unique issues associated with biogas-powered generation and the related baseload generation reliability benefits that are an integral part of distribution network and regional planning as well as the smart grid and performance metric issues that are being determined in the RRFE working groups and consultations. BA is therefore requesting: (i) combined funding for a general generation connection/performance expert; and (ii) depending on the terms of reference for the working groups announced in the Board's October 18, 2012 letter, individual funding for a potential biogas generation-specific expert.

Practice Direction and Other Funding

BA currently does not have access to any other funding to enable its participation in these RRFE proceedings that are critical for the implementation of the public interests set out in the Green Energy Act and its related objectives.

In accordance with Section 3 of the Board's *Practice Direction on Cost Awards*, BA believes that it is eligible for an award of costs as it represents a public interest relative to the Board's mandate (s.3.03(b)) and increasingly BA members include agricultural producers and other persons with interests in land that will be affected by the outcome of the RRFE processes (s.3.03(c)). BA is an association that represents generators who are often customers of distribution and/or other applicants in this RRFE and other related proceedings. As a result, BA submits that special circumstances exist to find that it is eligible for a cost award in this RRFE process despite the fact that certain of its members may fall within s.3.05(b) of the Practice Direction.

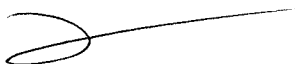
BA represents the collective voice of the biogas industry from farmers, technology suppliers, financial and other institutions. No other group advocates on behalf of this technology and its specific issues. Biogas generators are typically smaller scale (i.e. 500kW), synchronous connections to the electrical grid at the distribution level. Biogas projects are prevalent in rural areas and help to improve power quality and reliability of supply in these local areas.

While BA is a member of Ontario Sustainable Energy Association (OSEA), it has different expertise and perspective. OSEA relies on the BA to provide content related to its work on biogas, in webinars, written communications, and online. OSEA's focus is predominantly on solar and wind technologies, reflecting its membership profile. The BA plans to coordinate its intervention with all other generation focussed groups, and support messages where appropriate. However, the BA anticipates that the overlap will be small in scope as reflected in phase I of the RRFE proceedings.

While some BA members are independent power producers, they are not members of APPrO, nor is the association. Given that APPrO members are much larger generators, the BA does not feel that its members' voices would be heard under the APPrO banner for these related discussions. Further, although there may be common interests between BA members and those of OWA, BA recognizes that there are distinct differences and that each would bring forward in representing their memberships views and concerns.

BA will make every effort to collaborate with other customer interests that are generators to minimize duplication and overlap of input thereby respecting the efficiencies and due diligence of this process. Given the uniqueness of biogas as generators and consumers of electricity, BA's biogas expertise and direct knowledge of the concerns for this sector, it is for these reasons that the BA asks you to consider its request for further cost eligibility in the RRFE proceedings.

Sincerely,



Elisabeth L. DeMarco

Attachment

cc: Jennifer Green, Bio Gas Association

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Lisa represents several leading energy clients in a wide variety of natural gas and electricity matters before regulatory agencies and the Ontario Energy Board. She is also recognized as a Canadian expert, and has over 15 years of experience in the law relating to clean energy, climate change and the evolving area of environmental finance. She also

She also assists leading Canadian and international mining and energy companies on domestic and overseas power project development, renewable power projects, alternative fuel projects, corporate social responsibility, environmental disclosure and business strategy.

Lisa is one of the leading carbon transaction lawyers in the international market, having worked for investment banks and energy companies on deals and projects in India, Brazil, Sri Lanka, Thailand, Argentina, Chile, Ireland, Africa, Mexico, China and Russia. Lisa plays an ongoing and active role in the development of energy and GHG emissions policy and law throughout Canada, and in various countries around the world.

Chambers Global have ranked Lisa as a "top climate change practitioner worldwide," and an "expert in carbon transactions." Clients have indicated that she is a top person in the market and "absolutely first-rate." Lisa is also ranked by Chamber Partners as a "leading environmental lawyer in Canada." She is an appointed member of the Premier's Clean Energy Task Force that provides advice on climate change strategies and policies, as well as scientific and economic research to the Premier of Ontario.

Lisa is also involved in legal education and training, as an adjunct professor at Osgoode Hall Law School in Toronto.