

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 Canadian Solar Industries Association ("CanSIA") 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

CanSIA 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, APPrO, OWA and BA), CanSIA hopes to retain a technical expert (ICF Consulting or Navigant as per CanSIA's prior approved expert funding eligibility, which has yet to be drawn upon) to speak to common issues in relation to distribution network and regional infrastructure planning, smart grid, as well as applicable performance metrics. CanSIA may also, contingent on the terms of reference of the working groups,

retain a separate solar (fuel specific) expert to speak to the unique issues associated with solar voltaic and thermal, ground mount and roof top issues that are integrated greatly into the network issues and changes that the Board is likely to be determining through the RRFE proceeding. CanSIA 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 solar-specific expert.

Practice Direction and Other Funding

CanSIA 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*, CanSIA 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 CanSIA members are persons with interests in land that will be affected by the outcome of the RRFE processes (s.3.03(c)). CanSIA is an association that represents generators, who are often customers of distribution and/or applicants in this RRFE and other related proceedings. As a result, CanSIA submits that special circumstances exist to find that it is eligible for a cost award in this RRFE process despite the fact that its members may fall within s.3.05(b) of the Practice Direction. This is supported by the CanSIA mandate and the following characteristics of the organization.

The Canadian Solar Industries Association (CanSIA) is the national trade association that represents over 650 solar energy companies throughout Canada and over 500 in the province of Ontario. Since 1992, CanSIA has worked to develop a strong and efficient Canadian solar energy industry with capacity to provide innovative solar energy solutions and to play a major role in the global transition to a sustainable, clean-energy future. CanSIA focuses on being a factual, constructive and collaborative stakeholder and is the trusted and credible voice of the Canadian solar energy industry to assist the government in meeting its green energy related, public interest goals.

CanSIA submits that it should be eligible for costs on the following grounds:

- (a) CanSIA represents a class of consumers in these proceedings: New principles, rules and procedures that may result from these proceedings could have material impact on the business conditions faced by solar electricity generators and on the procedures followed by electricity distributors and transmitters in providing services to solar electricity generators.
- (b) It is in the public interest to facilitate an association representative of solar generation interests: CanSIA's members are building and planning new solar electricity projects in response to OPA procurement programs and consequent contracts, and Ministerial Directives that incorporate provincial policy objectives. Given that the issues in the present proceedings are likely to include "generator issues," the Board should facilitate the participation of solar electricity generators in order to provide the best factual and technical basis for its determination. Many of CanSIA's members are too small to participate individually in a meaningful way in these proceedings. CanSIA's participation facilitates the involvement of such members, and ensures that the Board has before it a comprehensive representation in these proceedings from the solar electricity power generator community.
- (c) CanSIA's participation contributes to process efficiency: CanSIA's representation of its members in such proceedings would be a much more effective and efficient regulatory approach than having each of its members make their own interventions, with attendant duplication and extra costs. CanSIA has participated similarly in other OEB hearings.
- (d) Proper CanSIA participation requires intervenor funding: CanSIA, like other trade associations such as the Association of Power Producers of Ontario ("APPrO") and the Ontario Sustainable Energy

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Association ("OSEA"), does not have independent funding sufficient to support well rounded participation.

The above is not an exhaustive list of CanSIA's interest in these proceedings. There may be other issues of interest to CanSIA that arise or develop during the proceedings. CanSIA seeks at all times to retain and reflect the perspective of the solar electricity generation industry as a whole, and to present a balanced view of policy issues affecting the electricity industry and the public at large in Ontario.

CanSIA therefore submits that, for the above-noted reasons, including the nature of the issues in these proceedings and their importance to solar electricity generators, the Board should find CanSIA eligible for funding in accordance with s.3.07 of the Practice Direction.

Sincerely,

A handwritten signature in black ink, appearing to be "Elisabeth L. DeMarco", with a long horizontal stroke extending to the right.

Elisabeth L. DeMarco

Attachment

cc: Wes Johnston, CanSIA

Lisa DeMarco

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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.