



**CANADIAN FEDERATION  
OF INDEPENDENT BUSINESS.**

4141 Yonge Street, Suite 401  
Toronto, Ontario M2P 2A6

September 6, 2013

**COPY FILED VIA RESS**

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street,  
27th Floor  
Toronto, ON M4P 1E4

Dear Ms. Walli:

Re: Review of Framework Governing the Participation of Intervenors in  
Board Proceedings – Consultation and Stakeholder Conference  
Board File No. EB-2013-0301  
Request for Participant Status and Cost Award Eligibility

The Canadian Federation of Independent Business (“CFIB”) seeks participant status and cost award eligibility in the above captioned review and stakeholder conference. CFIB is interested in providing written submissions and participating in the stakeholder consultation conference to take place in October.

**CFIB and Its Members**

Founded in 1971, CFIB is a not-for-profit advocacy group, representing the interests of more than 109,000 owners of small and medium-sized businesses, distributed across all industry sectors and all regions of Canada. CFIB aims at ensuring the economic development of its members - whether they are one person home-based businesses or companies employing hundreds of people for the best interest of their communities.

Approximately 42,000 of the 109,000 CFIB members are located in Ontario. As such, CFIB’s members represent a large portion of the commercial electricity and natural gas consumers in Ontario. CFIB’s members are located throughout Ontario, and are therefore customers (either directly or as tenants of bulk metered buildings) of many of the electricity and natural gas distributors regulated by the Board.

CFIB’s members mirror and reflect the regional and economic diversity of Ontario, as they include many commercial sectors such as agriculture, natural resources, construction, manufacturing, wholesale, retail, transportation, arts and information, finance, insurance, real estate and leasing, professional services, enterprises and administrative management, social services, hospitality, personal, miscellaneous services and others. As diversified commercial electricity and natural gas

consumers, CFIB's members are concerned with all matters pertaining to the supply and price of these vital energy sources.

Recently CFIB has participated through legal counsel and experts in stakeholder consultations on the Board's Renewed Regulatory Framework for Electricity and Encouraging Electricity Distributor Efficiency. CFIB hopes to continue to take a strategic, targeted approach to its future participation before the Board, becoming involved to where it can offer the unique perspective of small and medium-size businesses in proceedings with wide implications for its members.

### **Cost Award Eligibility**

CFIB has reviewed the Board's criteria and requests a determination of cost award eligibility on the following grounds:

1. CFIB's Ontario members are consumers in relation to services that are regulated by the Board, (i.e. both electricity and natural gas service), and therefore have a direct interest in the regulation of these services; and
2. As a non-profit organization, CFIB does not have access to any other funding sources. CFIB relies on the cost awards it receives from the Board to effectively participate in, and assist the Board in these regulatory processes.
3. Neither CFIB nor its members are parties that would be ineligible for a cost award.

The Board has determined in prior proceedings that CFIB is eligible for a cost award.

### **Legal Counsel and Advisors**

For these proceedings, CFIB's legal counsel is Fasken Martineau Dumoulin LLP. André Turmel and Jennifer McAleer of that firm will appear on our behalf. Our regulatory consultant is Paula Zarnett, of BDR NorthAmerica Inc. Their qualifications are attached.

### **CFIB Contacts:**

If CFIB's request for participant status and cost award eligibility is granted, CFIB requests that further communications with respect to this matter be sent to the following:

**Plamen Petkov**  
**Director, Provincial Affairs, Ontario**  
 CFIB  
 401-4141 Yonge St.  
 Toronto, ON, M2P 2A6  
 Tel: 416-222-8022  
 Fax: 416-222-6103  
[Plamen.Petkov@cfib.ca](mailto:Plamen.Petkov@cfib.ca)

**André Turmel, Associé/Partner**  
 Fasken Martineau Dumoulin LLP  
 Barristers and Solicitors  
 800 Place Victoria, Bureau 3700,  
 Montréal, Québec H4Z 1E9  
 Tel: 514 397 5141  
 Fax: 514 397 7600  
[aturnel@fasken.com](mailto:aturnel@fasken.com)

**Paula Zarnett, Vice President**  
BDR NorthAmerica Inc.  
34 King Street East, Suite 1000, 10th Floor  
Toronto, ON M5C 2X8  
Tel: 416-214-4848  
Fax: 416-214-1643  
[pzarnett@BDRenergy.com](mailto:pzarnett@BDRenergy.com)

Jennifer L. McAleer, Partner  
Fasken Martineau Dumoulin LLP  
Barristers and Solicitors  
333 Bay Street, Suite 2400  
Bay Adelaide Centre, Box 20  
Toronto, ON M5H 2T6  
Tel : 416 366 8381  
Fax : 416 364 7813  
[jmcaleer@fasken.com](mailto:jmcaleer@fasken.com)

All of which is respectfully submitted,

**Canadian Federation of Independent Business**



Plamen Petkov  
Director, Provincial Affairs, Ontario

CC: *Nicole Troster, CFIB*  
*André Turmel, Fasken Martineau DuMoulin LLP*  
*Jennifer L. McAleer, Fasken Martineau DuMoulin LLP*  
*Paula Zarnett, BDR*



## André Turmel

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Partner | Strategic Advisor

### Montréal

+1 514 397 5141

+1 514 397 7600 (fax)

[aturmel@fasken.com](mailto:aturmel@fasken.com)

André Turmel specializes in energy and climate change law.

He reviews, negotiates and drafts various energy supply and transmission agreements. He represents power producers operating in the biomass, cogeneration, biogas, hydroelectric and wind energy sectors.

He provides legal advice to companies operating in all areas of economic activity who wish to control their energy costs. He acts for governments on World Bank files regarding institutional reforms in energy, telecommunications and water.

He advises certain national and international clients on climate change issues and transactions aimed at reducing greenhouse gas emissions (GHGs).

He represents one of the largest power companies in Canada in respect of various topics relating to market access (since 2005) and the restructuring and functional separation of integrated power companies into transmission, production and distribution divisions.

He is the co-author of "Annotated Climate Change Statutes and Regulations in Canada" (2011) by Carswell Inc. and "Lobbying in Canada/Lobbyisme au Canada" (2004) and "La Loi sur la Régie de l'énergie annotée" (2000), published by Carswell Inc. He regularly speaks at conferences on energy-related matters and climate change. He is the founder and current co-chairman of the annual Quebec Electricity Forum organised by the Canadian Institute, and of the annual conference on greenhouse gases organised by Insight.

He has written various papers on energy and environmental law.

### Honours and Awards

- Recognized by The Best Lawyers in Canada, 2009-2014 editions, as an expert in Energy Regulatory Law and Environmental Law
- Recognized as one of the leading Canadian practitioners in the area of Energy

### Industries

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Energy  
 Infrastructure & Public-Private Partnerships (PPP/P3)  
 Oil & Gas  
 Climate Change  
 Power  
 Renewable Energy

### Practices

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Alternative Dispute Resolution  
 Government Relations & Ethics  
 Environmental  
 Corporate Social Responsibility Law  
 Contaminated Sites

### Geographies

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Africa

### Education

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BSc, 1986  
 University of Montréal  
 LL.B., 1989  
 University of Sherbrooke  
 LL.M., 1994  
 University of Montréal

### Year of Call/Admission

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(Electricity) by the Canadian Legal Lexpert Directory

Québec, 1990

- Named by Lexpert in the 2009 list of Leading US/Canada Cross-Border Corporate Lawyers (Energy)
- Recommended by The 2009 Lexpert American Lawyer "Guide to the leading 500 lawyers in Canada"
- Chosen as one of the "Best lawyers in Canada" in Energy Regulatory Law and Environmental Law in 2007 by the National Post

## Languages Spoken

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French

English

## Membership/Affiliations

- Canadian Bar Association - Chair of the National Environmental Energy and Resources Law Section (2011)
- Canadian Bar Association (Quebec division) – President of the Environment, Energy and Natural Resources Committee (2004-2006)
- President of the Foundation of the Montreal Biosphere (Water, Ecosystem and Climate Change Museum of Environment Canada in the former 1967 U.S. Pavilion World Exposition – Montréal)
- Canadian Wind Energy Association (CANWEA)
- Quebec Association for Renewable Energy Production (AQPER)
- Emission Marketers Association (EMA)
- Electric Industry Association of Quebec (AIEQ)/Association Pipeline
- Quebec Annual Electricity Forum – Founder and co-chairman
- Greenhouse Gases Annual Conference – Founder and co-chairman
- Energy Bar Association (U.S.)

## Selected Experience

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Nalcor Energy finances the 825 MW Muskrat Falls hydroelectric and transmission project	July 2013
International Power and GDF Suez complete US\$30 billion cross-border business combination	February 2011
ENERCON among winners of Hydro-Québec tender for wind energy: Quebec to become one of North America's biggest wind power developers	May 2008
\$2 Billion investment Program of Alcan	December 2006
Lead counsel in the assistance of Niger's Autorité de Régulation multisectorielle	December 2005
Lead counsel in the completion of various studies in relation to the creation of a multi-utility regulatory body and framework in water, electricity, telecommunications and postal services sectors in Mauritania	December 2003
Currently advising one of the largest electric utilities in Canada	Ongoing

Currently acting for various industrial and commercial clients	Ongoing
Counsel to one of Canada's largest public utilities with respect to transmission of electricity from a Canadian province (Newfoundland and Labrador) to other Canadian (Ontario and Quebec) and American (New York, New England) markets (2002-ongoing)	Ongoing
Regulatory counsel for one of the largest electric utilities in Canada	Ongoing
Technical analysis on electricity regulation in Canada and the United-States for China Three Gorges Project Corporation and Yangtze Power Corp. (China) in collaboration with HEC Montreal (2005)	Ongoing
Lead counsel in the completion of various studies in relation to the creation of a multi-utility regulatory body and framework	Ongoing
Legal advisor to a government power corporation for electric power transmission in Canada and the United States (2004-2006)	Ongoing
Acted for an aluminum company before the Quebec Energy Board on Hydro-Québec TransEnergy filing on NERC and NPCC reliability standards (2003)	Ongoing
Acted for an IPP with respect with a call for tenders issued by Hydro-Quebec Production in 2002 for 50 MW of hydroelectricity (Canada)	Ongoing
Acted for one of the largest aluminium producers in the world, in negotiations with Hydro-Quebec with respect to various agreements (transmission of electricity and water rights) (Canada) (2003-2005)	Ongoing
Acted for a client in relation to the development, construction and financing of a 1000 MW wind power project to be carried out in the Province of Quebec in Canada	Ongoing
Acted for a joint venture with respect to a call for tenders issued by Hydro-Québec Distribution in 2002 for 1200 MW from a natural gas fired plant (Canada)	Ongoing
Acted for a pulp and paper client with respect to a call for tenders issued by Hydro-Quebec Distribution for 100 MW of biomass (Canada) (2003-2005)	Ongoing
Advising a wind turbine manufacturer in the 2000 MW Hydro-Québec call for tenders (2006-2007)	Ongoing

Counsel to a Canadian company with respect to electricity supply (PPA and transmission contract) of an aluminium plant (Iceland) (2005-ongoing)	Ongoing
Counsel to a major Canadian IPP's with respect to its Industrial Water Supply Agreement in Canada (2006-ongoing)	Ongoing
Advised a Canadian IPP's on its electricity exports licence application to the United States at the National Energy Board of Canada (2005-2006)	Ongoing
Advised an aluminum company with respect to its energy supply from Hydro-Québec	Ongoing
Advised and represented an international air carrier in dispute resolution proceedings with Gaz Métropolitain (Canada) 2004-2005	Ongoing

## Publications

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Sustainable development and corporate social responsibility in Québec and Canada: A progress report Co-Author, chapter from the book "Développement durable et entreprise" published in France by Éditions Dalloz	May 2013
Bulletin de droit de l'environnement et de l'énergie Co-author, Éditions Yvon Blais	January 2012
Oil and Gas in the Gulf of St. Lawrence: From Exploration to Production Energy Law Bulletin	August 17, 2011
Quebec Shale Gas: Regulating the Development of the Industry Energy Bulletin	March 8, 2011
Annotated Climate Change Statutes and Regulations in Canada Co-author, published by Carswell	November 11, 2010
Regulatory Framework on Air Emissions Beyond Results Bulletin	August 2007
<i>Bulletin de droit de l'environnement et de l'énergie</i> Co-Author, monthly newsletter, Éditions Yvon Blais Inc./Carswell Inc.	March 31, 2007
Energy futures at the Montréal Stock Exchange Fasken Martineau Alert	February 15, 2007
Energy contracts at the Montréal Exchange	February 2007

## Energy Alert

Bill 52: Act respecting the implementation of the Québec Energy Strategy Energy Bulletin	November 2006
Canada's Clean Air Act: An Overview Environmental, Energy & Natural Resources Bulletin	October 2006
The <i>Federal Accountability Act</i> , the <i>Conflict of Interest Act</i> and new federal lobbying rules: implications for corporate CEOs and everyone doing business or communicating with the federal government Strategic Counsel Bulletin	April 2006
Lobbying in Canada/Lobbyisme au Canada	June 2005
Offsets and Influence : The Participation of Non-Governmental Organisations and Lobby Groups in the Implementation of Kyoto Protocol in Canada Co-Author, in Mar Campins Eritja, dir., <i>Los retos de la aplicación des Protocolo de Kyoto en España y Canadá</i> , University of Barcelona	2005
<i>La mise en place d'une transaction de vente de crédits de gaz à effet de serre (GES)</i>	2005
<i>Changements climatiques et gaz à effet de serre : stratégies possibles pour l'industrie</i>	2005
Bill C-43 : A first step in the implementation of Canada's greenhouse gas regulatory regime Environmental and Energy Law Bulletin	March 2005
The Lobbying Acts of Canada and Quebec: Is your business in compliance? Corporate Strategies Bulletin	January 2005
The Kyoto Accord: Implementing the system in Canada and its consequences on the electricity industry	2004
Russia's promises on Kyoto trigger a renewed push toward ratification	May 2004
Mandatory Reporting of GHG Emissions Energy and Environmental Law Bulletin	March 2004
Changements climatiques au Canada et au Québec : quels défis pour le droit de l'environnement	May 2003



La privatisation de la gestion de l'eau ou le partenariat public privé: un choix limpide ?	December 2002
Wind Power in the Great White North: Wind Energy in Canada	August 2002
Hausse importante des coûts de la matière première dans le marché de l'Énergie: des moyens pour faire baisser sa facture en énergie	May 2002
Les gaz à effet de serre et les changements climatiques: pourquoi votre entreprise devrait-elle s'en occuper?	January 2002
Le nouveau cadre de gestion pour la production indépendante: répercussions juridiques et écueils à éviter	November 2001
Droit administratif et droit de l'énergie: lignes à haute tension, niveau des barrages, facture énergétique et changements climatiques	May 2001
<i>Loi sur la Régie de l'énergie annotée</i> Co-Author, <i>Les Éditions Yvon Blais Inc./Carswell Inc.</i>	October 2000
Energy-Skyrocketing Fuel Costs in the Energy Market: How to Reduce your Energy Bills	September 2000

## Presentations

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Creating a GHG emission allowances cap-and-trade system in Québec: What are the obligations and opportunities for Québec businesses? Montréal, Quebec 5th Fasken Martineau Symposium	May 7, 2013
Quebec and the Western Climate Initiative (WCI): The New Cap-and-Trade System Montreal, Quebec Energy, Environmental, Climate Change and Regulatory	October 26, 2011
Atlantic Power Symposium Halifax, Nova Scotia Halifax, NS	June 2 and 3, 2010
Energy, Environment and Climate Change Breakfast Seminar Montréal, Quebec WHY SHOULD YOUR COMPANY CARE ABOUT GREENHOUSE GAS EMISSIONS REDUCTIONS?	February 18, 2010
2009 Fasken Martineau Symposium Montréal, Quebec	May 12, 2009

The Fasken Martineau Symposium offers corporate counsel an essential source of training that is free and accredited by the Québec Bar.

7th Annual Quebec Forum on Electricity Montréal, Quebec	May 13-14, 2008
La gestion et le financement du "risque carbone" - Impacts, financement, nouvelles législations Montréal, Quebec Insight Information	November 21-22, 2007
Annual National Environmental, Energy & Resources Law Summit Montréal, Quebec Canadian Bar Association	April 27-28, 2007
6th Annual Quebec Forum on Electricity Montréal, Quebec	April 23-25, 2007
19th Annual Conference on Environmental Law and Management Montréal, Quebec	December 11-13, 2006
Forum on Business Opportunities Related to Québec's 2006-2015 Energy Strategy Montréal, Quebec	December 4-6, 2006
Fifth Québec Forum on Electricity Montréal, Quebec	April 26-28, 2006
Is Québec's Electricity a Burden or a Boon? Montréal, Quebec	April 5, 2006
Legal and Voluntary Responses to Climate Change : Current Practice in Canada Sustainable Development Law and Climate Change, Web conference given to federally appointed Canadian judges, National Judicial Institute	February 2006
Strengthening Climate Cooperation, Compliance & Coherence: Trends and Innovations in Canadian Law and Policy to implement the Global Climate Regime Montréal, Quebec McGill University, Center for International Sustainable Development Law	December 2005
2ième journée technique Kyoto, crédits de CO2 et MDP : les aspects légaux du MDP Réseau Environnement	November 2005

12 ième Colloque annuel – Nouveau regard sur la pratique environnementale - Les impacts du Protocole de Kyoto pour les praticiens en environnement	November 2005
Climate Change and Ozone Depletion Training Course in European and International Environmental law, Jean Monnet Professorship of European Integration Studies (Université de Montréal and United Nations Institute for Training and Research (UNITAR))	July 2005
Les attributs environnementaux : le marché des certificats d'énergie renouvelable (CER) Canadian Institute	April 2005
Le Protocole de Kyoto et les obligations du Canada : 100 millions de tonnes de CO <sub>2</sub> à acheter? Insight	February 2005
Que retenir des derniers appels d'offres d'Hydro-Québec sur le 1200MW, les petites centrales et la biomasse? Canadian Institute	March 2004
Mythes et réalités entourant les contrats de vente/d'achats de crédits de GES Insight	January 2004
New Wind Energy Developments in Canada Boston, Massachusetts IBC's Wind Energy Conference	August 26-27, 2003
Changements climatiques au Canada et au Québec : quels défis pour le droit de l'environnement published in Récents développements en droit de l'environnement of the Barreau du Québec	2003
The Kyoto Accord: Implementing the system in Canada and its consequences on the electricity industry Canadian Institute	2003
National Round Table on the Environment and the Economy Montréal, Quebec Invited by CO <sub>2</sub> E.COM as expert at a session simulating emissions trading	January 18, 2002
Droit administratif et droit de l'énergie: lignes à haute tension, niveau des barrages, changements climatiques et facture énergétique Congrès du Barreau du Québec	May 11, 2001
La mise en place d'une transaction de vente de crédits de gaz à	March 28, 2001

## effet de serre (GES)

Technical workshop on clean development mechanisms (CDP) before members of the Institut de l'environnement et de l'énergie de la francophonie (IEPF) which is part of the Agence intergouvernementale de la francophonie.

Le nouveau cadre de gestion pour la production indépendante au Québec : répercussion juridique et écueils à éviter  
Montréal, Quebec  
Co-chairperson and lecturer at the "Quebec Electricity Forum", Canadian Institute

## News

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[Strongest results ever from Best Lawyers: Fasken Martineau improves ranking in 2014 edition](#) August 13, 2013  
Fasken Martineau announced today that 108 of the firm's lawyers were ranked in 40 areas in the 2014 edition of The Best Lawyers in Canada.

[Fasken Martineau rankings jump by 19% – 121 lawyers listed in Lexpert's 2013 Canadian Legal Directory](#) July 25, 2013  
Fasken Martineau announced today that the total number of firm lawyers ranked in the 2013 Canadian Legal Lexpert Directory jumped by 19% over 2012.

[La Presse Affaires quotes André Turmel on the need for oil and gas regulations in Québec](#) October 23, 2012  
"Gaz de schiste: le prix du gaz impose la patience à l'industrie" by Charles Côté, *La Presse Affaires*

[Best Lawyers in Canada 2013: Over 100 Fasken Martineau lawyers listed for third straight year](#) September 11, 2012  
Fasken Martineau announced that Best Lawyers in Canada has named 104 of the firm's lawyers to its list for 2013.

[The Montreal Gazette quotes André Turmel's disappointment to see the Montreal Biosphère's future in jeopardy](#) September 7, 2012  
"Biosphère: Cuts cloud future of nature museum" by Donna Nebenzahl, *The Montreal Gazette*

[Best Lawyers in Canada: Over 100 Fasken Martineau lawyers again listed among the best](#) September 29, 2011

[Compared Litigation in Matters of Energy Regulation in France and Canada](#) September 14, 2011  
"Le contentieux comparé de la régulation de l'énergie en France et au Canada," *Option Droit & Affaires*

[79 Fasken Martineau lawyers listed in Lexpert's 2011 Canadian](#) May 19, 2011

## Legal Directory

<p>André Turmel in interviewed on Canal Argent about what the BAPE report means for the shale gas industry in Québec "Il n'y a aura pas de moratoire sur le gaz de schiste," <i>Canal Argent</i></p>	March 10, 2011
<p>Financial Post quotes André Turmel "Gas sequestration unearths legal questions" by Drew Hasselback, <i>Financial Post</i></p>	November 24, 2010
<p>Best Lawyers in Canada: 102 Fasken Martineau lawyers listed among the best Fasken Martineau's lawyers are once again listed as leaders in more than 30 different practice areas.</p>	September 20, 2010
<p>Leaders in Canada's Law Community: Lexpert ranks 76 Fasken Martineau lawyers in 2010 Guide Fasken Martineau also maintains its place as the third largest law firm in Canada.</p>	July 15, 2010
<p>The results are in: 96 Fasken Martineau lawyers named The Best Lawyers in Canada 2010 <i>Best Lawyers</i>, the oldest peer-review publication in the legal profession, has listed 96 Fasken Martineau lawyers in its 2010 edition of <i>The Best Lawyers in Canada</i>.</p>	October 30, 2009
<p>Lexpert names nine Fasken Martineau lawyers in the 2009 list of Leading US/Canada Cross-Border Corporate Lawyers <i>Lexpert Guide to the Leading US/Canada Cross-border Corporate Lawyers</i></p>	July 31, 2009
<p>Eighty Seven Fasken Martineau Lawyers Named in The Best Lawyers in Canada 2009</p>	January 21, 2009
<p>André Turmel quoted by <i>National Post</i> on growth of wind energy sector</p>	July 31, 2008
<p>Fasken Martineau partners with MCEX, solidifying the firm's leadership in Environmental Law</p>	May 30, 2008
<p><i>Lexpert/American Lawyer's Guide to the Leading 500 Lawyers in Canada</i> features numerous Fasken Martineau lawyers</p>	January 1, 2008
<p><i>Canadian Legal Lexpert Directory 2008</i> – Fasken Martineau garners 69 nominations</p>	January 1, 2008
<p><i>The Best Lawyers in Canada 2008</i>: Fasken Martineau Garners Seventy-Nine Nominations</p>	August 13, 2007

Best Lawyers 2007: Energy Regulatory Law and Environmental Law    March 16, 2007

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## Jennifer McAleer

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Partner

### Toronto

+1 416 865 4413

+1 416 364 7813 (fax)

[jmcaleer@fasken.com](mailto:jmcaleer@fasken.com)

Jennifer McAleer practices a wide variety of corporate/commercial litigation and administrative law.

As a member of the firm's Energy Law Practice Group, she has advised clients in respect to Ontario's FIT Program, has challenged municipal by-laws impacting power development, has represented clients before the Pipeline Arbitration Committee and has acted for an electricity retailer in contract disputes.

Jennifer has been involved in two significant public inquiries. Between 2004 and 2007 she was co-counsel to the former premier of Ontario at the Ipperwash Public Inquiry and in 2007 she was appointed Assistant Commission Counsel to the Goudge Inquiry into Pediatric Forensic Pathology in Ontario.

Jennifer has significant experience in professional discipline cases and has served as independent legal counsel to the Discipline Committee of the College of Physicians and Surgeons of Ontario since 2007.

Jennifer represents clients in a wide variety of other matters including auditor's negligence, product liability, pensions, employment, contract and shareholder disputes, and has acted for both public and private entities in international arbitration.

### Honours and Awards

- Lexpert's *Guide to the Leading US/Canada Cross-Border Litigation Lawyers* 2011 as one of the "Canadian Litigation Lawyers to Watch"

### Community Involvement

- Member, World Wildlife Fund, Living Planet Circle
- Member, Toronto Humane Society

### Membership/Affiliations

- Member, Canadian Bar Association
- Member, Ontario Bar Association

### Industries

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Energy

Power

Oil & Gas

### Practices

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Litigation & Dispute Resolution

Alternative Dispute Resolution

Commercial Litigation

### Education

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BA (Hons), 1994  
University of Ottawa

LLB, 1998  
Dalhousie University

### Year of Call/Admission

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Ontario, 2000

### Languages Spoken

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English

- Member, The Advocates' Society

## Selected Experience

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Sobeys Capital Inc. v. Bayview Summit, 2013 ONSC 544 (CanLII)	January 2013
Terrace Manor Limited v. Sobeys Capital Incorporated, 2012 ONCA 782 affirming Terrace Manor Limited v. Sobeys Capital Incorporated, 2012 ONSC 2657	November 2012
Cobalt Engineering v. Genivar Inc., 2011 ONSC 4929	August 2011
Investment Planning Counsel acquires Partners in Planning and Titan Funds from Walton Global Investments	November 2010
Starfield Resources completes acquisition of Nevoro	October 2009
Linens 'N Things insolvency proceedings	October 2008
Former Ontario Premier Mike Harris cleared of responsibility for death at Ipperwash	May 2007
<i>John Doe v O'Dell</i> , (2003), 230 D.L.R. (4th) 383 (Ont.S.C.J)	September 2003
<i>Canada (Attorney General) v. Rainone Construction Ltd. et al.</i> , [2003] O.J. No. 6088 (Q.L.) (S.C.J.)	Ongoing

## Presentations

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Litigation Strategies for Administrative Tribunals Toronto, Ontario The Advocate Society	May 23, 2013
Ethical Hot Spots for In-House Counsel Toronto, Ontario Toronto Fasken Martineau Mini-Symposium	November 14, 2012
Strategy Behind the Case Toronto, Ontario Symposium for U of T Law Students	November 14, 2012
Professional Responsibility and Ethical Considerations in the Resolution of Disputes Toronto, Ontario Toronto Fasken Martineau Mini-Symposium	November 3, 2011
Take the High Ride Home Toronto, Ontario	May 11, 2011



Mentoring Dinner, The Advocates' Society

[19th and 20th Annual Operation Update](#) October 29, 2010  
 Toronto, Ontario  
 Joint Event by Ontario Bar Association and Law Society of  
 Upper Canada

[19th and 20th Annual Operation Update](#) October 2009 and  
 Toronto, Ontario 2010  
 Joint Event by Ontario Bar Association and The Law Society of  
 Upper Canada

[Evidence Tune-Up for Busy Litigators](#) September 6, 2010  
 Toronto, Ontario  
 The Advocates' Society

[Preparing for Examinations for Discovery](#) 2009 and 2010  
 Toronto, Ontario  
 University of Toronto Summer Institute

[The Use of Crown Disclosure in Civil Actions](#) September 24,  
 Toronto, Ontario 2008  
 Criminal Law Issues Affecting Civil Litigators, Ontario Bar  
 Association

[How Canadian Civil Courts Really Work](#) August 26, 2008  
 Toronto, Ontario  
 Summer Law Institute: Civil Law Confidential: Three Tough  
 Lessons, Ontario Justice Education Network

[The Future of Cyber Torts](#) June 13, 2007  
 Toronto, Ontario  
 4th Annual Commercial and Civil Litigation Series, Insight  
 Information

[Breakfast Seminar Series: More Basics of Litigation Demystified](#) October 5 & 26,  
 Toronto, Ontario November 16, 2006

## News

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[Jennifer McAleer involved in significant report on pediatric forensic pathology in Ontario](#) October 6, 2008

[Jennifer McAleer appointed to commission to examine pediatric forensic pathology in Ontario](#) May 3, 2007

**PAULA ZARNETT**

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Paula Zarnett has more than 25 years broadly based experience specializing in regulatory compliance, regulated tariffs and pricing issues for electricity and gas utilities. She has been responsible for design and implementation of a wide variety of innovative rates including time of use, both for large industrial and for residential customers, curtailment incentives, and special rates for retention of water heating loads. She has performed cost allocation studies for utilities serving customers with electricity, natural gas and steam, including a one-year, cross-functional study for a major electric distribution utility.

Following a series of rate specialist positions in both the electricity and natural gas sectors, she was promoted to the position of Manager of Marketing and Energy Management at Toronto Hydro. There, her responsibilities included all rate and regulatory issues, customer research including load research and forecasting, and customer program design with a focus on conservation and demand management.

In her consulting practice, Paula provides a variety of advisory and analytical services to clients facing the challenges of both traditional and restructured energy markets, with a focus on issues impacted by regulatory policy and process. Her work includes business case and project feasibility analysis, cost allocations and pricing designs, energy sector mergers and acquisitions, and expert testimony before regulators. She is a skilled hands-on analyst and facilitator of cross-functional project teams. She was an instructor in Cost Allocation and Rate Design at CAMPUT's Energy Regulation Course, 2006, 2007 and 2008, and has been accepted as an expert witness in New Brunswick and Ontario.

She has performed assignments for clients in North America, China, Ghana, and Barbados.

**SELECTED EXPERIENCE BY SUBJECT AREA**

(INCLUDES PROJECTS UNDERTAKEN AS A CONSULTANT, AND IN THE COURSE OF RESPONSIBILITIES WITHIN ORGANIZATIONS)

*Rate Designs and Pricing Studies*

**IGPC Ethanol Inc.** – supported the intervention of this industrial consumer in the rate application of its gas supplier, Natural Resource Gas

**Rogers Cable and Communications Inc.** – representation at Ontario Energy Board staff consultation process with regard to rate designs for Ontario's electric distribution utilities; development of policy and position documents, attendance at stakeholder meetings, analysis in support of positions on rate design for General Service classification and unmetered scattered loads; distribution cost allocation stakeholder process and 2006 distribution rate handbook.

**City of Markham (Ontario)** – recommendations for restructuring water and wastewater rates (in progress)

**Oklahoma Gas and Electric** – review of results of residential time of use rate pilot including estimation of impact of the rate design on total customer consumption and peak hour consumption (load shifting).

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**Summerside Electric/City of Summerside** – advisory and analysis service with regard to proposals of Maritime Electric for an Open Access Transmission Tariff.

**Nova Scotia Department of Energy** – advisory and analysis services to support intervention in Nova Scotia Power’s request to the regulator for approval of a fuel adjustment mechanism.

**BC Hydro** – assisted a staff team in development of a Phase I report on long-term rate strategy; research on rate designs in several North American jurisdictions.

**Energy East (RGE and NYSEG)** – analysis as to the potential value of load shifting which might take place as result of rate-driven (time of use or critical peak pricing) programs supported by universal interval metering in the State of New York; regulatory precedents as to cost recovery for advanced metering and meter reading technology

**East China Grid Company** – advice in developing and simulating an unbundled electricity distribution tariff for Shanghai Municipal and four provincial electric power companies

**British Columbia Ministry of Energy and Mines** – advisory and due diligence services with regard to recommendations by the British Columbia Utilities Commission for implementation of proposed Heritage Contract and stepped rates to wholesale and industrial customers.

**Perth-Andover Electric Light Commission** – long-term rate strategy and detailed bundled retail rate designs for all electricity consumer classifications.

**Toronto Hydro-Electric System** – development of market-based transfer pricing proposal for services to the regulated distribution utility, from a proposed competitive business affiliate.

**Volta River Authority (Ghana)** – development of tariff structure and preliminary rates for open access use of the national electric transmission system in Ghana.

**Enwave District Energy Limited** – determination of appropriate customer classification and pricing design alternatives for a district steam system in a context of competitive electricity and gas markets and wider service choices for existing and potential customers.

**Toronto Hydro** – development and initial implementation of time of use rates for residential and large industrial customers; development of pricing strategies and policies for all customer classes.

**Toronto Hydro** – development of all customer rate designs, implementation strategy, and preparation of annual submissions for approval of the rates. Managed a team of specialists in the preparation of associated detailed studies, load forecasts and load research.

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*Testimony before Regulators*

**ORAL:**

**Toronto Hydro-Electric System** – Testified before the Ontario Energy Board in support of the allocated costs of service to customers that are individually metered suites in multi-unit residential buildings.

**Saint John Energy** – Testified before the New Brunswick Public Utilities Board in support of intervention in the Cost Allocation and Rate Design application of New Brunswick Power Distribution and Customer Service Corp.

**ICG Utilities** – coordinated preparation of applications, supporting materials, and other aspects of regulatory process for regional gas utility managements, as member of a head office specialist team; provided expert technical services in rate design, cost allocation, and working capital allowance determination (lead-lag); testified in three hearings before British Columbia regulator on the subject of lead-lag studies.

**Toronto Hydro** – Testified before Ontario Energy Board on bulk power rate issues

**Rogers Cable and Communication Inc.** – Testified before Ontario Energy Board in support of consensus for treatment of certain unmetered electricity loads in the development of guidelines for electricity distribution rates.

**WRITTEN ONLY:**

**Greater Sudbury Hydro** – study to allocate costs of services purchased from affiliate

**Bluewater Power** – study to allocate costs of services provided to and purchased from affiliates

**Kingston Hydro** – study to review transfer pricing methodologies and allocation of shared costs for services provided by non-regulated affiliates.

**FortisOntario** – Three studies to allocate corporate and shared costs among regulated and non-regulated affiliates

**EnWin Utilities** – study to allocate corporate and shared costs among corporate affiliates

**Ontario Power Authority** – model development and analysis in support of evaluation of a potential generation, transmission and demand response alternatives in York Region; report in support of generation alternative to the Ontario Energy Board.

**City of Summerside** – expert testimony in support of intervention in the application of Maritime Electric to the Island Regulatory and Appeals Commission for approval of an Open Access Transmission Tariff (public oral hearing to follow).

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*Cost Allocation and Load Research*

**Rogers Cable and Communications Inc.** – now representing this consumer stakeholder in a regulator-driven process to resolve issues regulator-mandated methodology for the allocation of costs to street lighting and other unmetered loads

**Toronto Hydro-Electric System** – Study to allocate the cost of service to customers that are individually metered suites in multi-unit residential buildings.

**Rogers Cable and Communications Inc.** – represented a consumer stakeholder in a regulator-sponsored stakeholder process to determine a cost allocation methodology and analysis approach for information filings by all electric distribution utilities in Ontario.

**FortisOntario** – methodology review of allocation of shared costs to regulated and non-regulated business units and preparation of evidence for application to Ontario Energy Board for approval of 2006 electricity distribution rates

**Perth-Andover Electric Light Commission** – study to allocate the bundled costs of electricity service to customer classes and assess the impacts on cost allocation of changes to the wholesale rate structure.

**Saint John Energy** – two studies to allocate the bundled costs of electricity service to customer classes; one of these studies included analysis of metered system load profiles and publicly available typical customer profiles to develop demand allocation factors (third study including load research data now in progress).

**Enwave District Energy Limited** – study to allocate costs of service for a district steam system as a basis for pricing redesign; study included analysis of detailed time-related customer consumption data as a basis for allocation of costs, as well as operating and financial data.

**Toronto Hydro** – planning and execution of customer load research projects, including deployment of research metering, load data analysis and related customer research and surveys.

**Toronto Hydro** – coordination of first comprehensive cost of service study, a one-year cross-functional project, including in-depth data collection, selection of allocation methodologies and development of computer-based analytical tools. Led subsequent updates and refinements to the study.

**ICG Utilities Ltd.** – fully allocated cost of service studies for natural gas distribution systems in Manitoba and Alberta, including data analysis and development of computer-based analytical framework.

*Business and Strategic Planning,  
Mergers and Acquisitions*

**City of Edmundston/Energy Edmundston** – business plan reflecting acquisition of distribution service territory and new supply contracts with NB Power

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**City of Edmundston/Energy Edmundston** – analysis and strategic support in negotiation of contracts with NB Power for:

- Acquisition of 3,000 customers within the territorial boundaries of the City of Edmundston
- Purchase of wholesale electricity supply
- Sale of output of the City’s hydro generators; and
- Sale of a portfolio of rental water heaters.

**City of Sault Ste. Marie** – review of municipally-owned electricity distribution company with regard to ownership options, capital structure and financing.

**Brantford Power** – facilitation of strategic planning session for Board of Directors.

**Orillia Power** – facilitation of strategic planning session for Board of Directors and key staff

**Oakville Hydro** – facilitation of regulatory strategic plan

**Burlington Hydro Inc.** – advisory services and analysis in connection with bid to acquire a local distribution utility.

**Markham Hydro Distribution Inc. and Town of Markham** – Due diligence services in support of amalgamation with Hydro Vaughan Distribution Inc. to form PowerStream Inc.

**City of Guelph** – independent advisor to the City with regard to fairness of ownership proportion in proposed merger; analysis of ownership options

**Oshawa PUC Networks Inc.** – policy recommendations for customer connections and capital contributions.

**Township of King** - advice to municipality staff with regard to potential construction of a peaking generator in response to a contract award from Ontario Power Authority

**Hydro Ottawa Holdings Inc.** – as part of a larger project to provide strategic advice on four business units, provided financial modeling for valuation of Energy Ottawa Generation.

**Town of Markham, City of Vaughan and City of Barrie** – analysis, due diligence and advisory services in evaluation of potential investment in the solar business of PowerStream Inc.

**PUC Distribution Inc.** – advisory services and analysis in connection with certain issues of new assets and affiliate relationships

**Ontario Energy Board** – comparison of heritage contracts and similar arrangements in leading jurisdictions

**Ontario Energy Board** – identification of appropriate roles and responsibilities for the OEB under alternative industry and market structure scenarios, including default supply arrangements

**Barbados Public Utilities Board** – study to recommend procedures, rules and systems for oversight of the natural gas sector by a new regulatory agency.

**Toronto Hydro** – testimony in public hearings before the Ontario Energy Board on subjects of wholesale and retail rate policy and electricity market development; advised management in strategy related to regulatory compliance and industry regulatory issues.

**Electricity Distributors Association** -- analysis of cash flow patterns of electricity distribution utilities in Ontario reflecting customer payment patterns and market settlement requirements

**Electricity Distributors Association** – study to determine the financial benefit to municipalities of ownership of local distribution companies (LDCs).

**National Grid Co.** -- Assessment and overview report on regulatory framework and issues in Ontario.

**Bruce Power** – Assessment and overview on industry structure, generation and transmission capacity, pricing and issues in New Brunswick

**CMS Energy** – report on Ontario electricity industry structure, market, and regulatory environment, in support of decision to respond to RFP for new generation in the province

**New Brunswick Municipal Electric Utilities Association** – cross jurisdictional survey with respect to policy as to regulation of municipal utilities and rural cooperatives.

## CAREER HISTORY

*2001 – Present*

**BDR** – consultant specializing in rate designs, cost and financial analysis, business planning and energy market restructuring issues.

*1998 – 2001*

**In association with Acres Management Consulting** – consultant specializing in rate designs, cost and financial analysis, business planning and energy market restructuring issues.

*1995 – 1998*

**Toronto Hydro** – Manager, Marketing and Energy Management

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<i>1993 – 1995</i>	<b>Toronto Hydro</b> – Special Assistant to the General Manager (responsible for organizational performance improvement initiatives)
<i>1986 – 1992</i>	<b>Toronto Hydro</b> – Supervisor of Rates and Cost Analysis
<i>1984 – 1986</i>	<b>Toronto Hydro</b> – Senior Rate Analyst
<i>1981 – 1984</i>	<b>ICG Utilities Ltd.</b> – Coordinator, Rate Administration
<i>1979 – 1981</i>	<b>H. Zinder &amp; Associates Canada Ltd.</b> , Senior Analyst

### **EDUCATIONAL AND PROFESSIONAL QUALIFICATIONS**

<i>Degrees and Designations</i>	Society of Management Accountants of Manitoba, CMA University of Calgary, Masters of Business Administration (Finance) University of Toronto, Bachelor of Arts (Hon), Anthropology
<i>Professional Association</i>	Society of Management Accountants of Manitoba
<i>Continuing Professional Development</i>	Queens University School of Business, Marketing Program Queens University School of Business, Sales Management Program Society of Management Accountants of Canada—Customer Profitability Analysis Society of Management Accountants of Canada—Strategic Cost Management Society of Management Accountants – Auditing I

### **PROFESSIONAL INVOLVEMENT**

<i>Teaching and Training, Industry Committees</i>	Instructor in Cost Allocation and Rate Design for Annual Energy Regulation Course, CAMPUT (Canadian Association of Members of Public Utility Tribunals) 2006, 2007, 2008. Member and present Vice-Chair, Electricity Distributors Association Commercial Members Steering Committee (2007 to present) Member – Ontario Energy Board Cost Allocation Working Group (2003 and 2005-6) Member – Ontario Energy Board Working Group on Cost Allocation for Unmetered Electricity Loads (2012-2013) Member – Municipal Electric Association Cost of Service Sub-Committee (1986-1988)
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