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September 27, 2013

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

Dear Ms. Walli:

Re: EB-2013-0301 – Review of Framework Governing the Participation of Intervenors in Board Proceedings - Consultation and Stakeholder Conference - Written Comments of the London Property Management Association

I. INTRODUCTION

The Ontario Energy Board ("Board") initiated a consultation by way of a letter dated August 22, 2013 to review the framework governing the participation of intervenors in applications, policy consultations and other proceedings before the Board. The stated objective of the review is to determine whether there are ways in which the Board's approach to intervenors might be modified in order to better achieve the Board's statutory objectives.

The Board has posed a number of questions in the first phase of the consultation, which is to examine whether or not there are modifications that should be made in the short term related to the Board's approach to intervenor status, cost eligibility and cost awards.

In the second phase of the consultation the Board plans to examine whether, in the longer term, it should adopt a different model from the current framework related to the representation of consumers interests in Board proceedings.

As the Board stated in the August 22, 2013 letter, intervenors currently play an active and important role in Board proceedings. Intervenors have historically included many groups and associations representing the interests of virtually every type of consumers: residential, institutional, commercial and industrial, both large and small. Consumers are

not the only groups represented in many proceedings. Interventions on behalf of generators, marketers, retailers, energy service providers, landowners, policy advocacy organizations and environmental groups are also common. Individual customers also occasionally intervene in proceedings.

The Board states that the review of the framework governing the participation of intervenors in Board proceedings is appropriate at this time for three reasons.

First, the is the implementation of the Renewed Regulatory Framework for Electricity ("RRFE"), a central feature of which is a strong emphasis on the need for electricity distributors to engage with a broad range of customers and other stakeholders during the development of the capital and operational plans that will be reflected in a rate application.

Second, the Board is reviewing its application and hearing process with a goal of enhancing the efficiency and effectiveness of the process. In particular, the Board states that is interested in considering whether changes to the Board's approach to the determination of intervenor status, cost eligibility and cost awards might further enhance the efficiency and effectiveness of the application and hearing process.

Third, the Board is reviewing the way in which it consults with stakeholders, including consumers, in the review and development of regulatory policy, including the use of consumer focus groups and consumer surveys in the policy development process.

The comments in this letter on the questions posed by the Board are being provided on behalf of our client, the London Property Management Association ("LPMA").

II. LPMA and its Participation in Board Proceedings

LPMA is a non-profit organization whose overall goal is to help property managers and those who own/operate residential income properties in the City of London and surrounding communities. The LPMA offers information and assistance to its members to help them deal with the legislation, rules and regulations that affect their business.

LPMA represents the interests of both large and small property owners. The association has more than 400 owner members that represent approximately 35,000 rental units. The majority of members own or manage 10 or less rental units.

Membership in the association is open to landlords and property management professionals who own or manage one more residential rental unit. Associate

memberships are available for companies that provide goods or services to the property management industry.

Proceedings before the Ontario Energy Board that deal with energy costs and policies have significant impacts on owners, managers and tenants. Unlike virtually all other suppliers used by LPMA members, the distribution of electricity and natural gas are provided by monopolies. As an association, LPMA recognized the need to be proactively involved in the regulatory process of these monopolies on behalf of its members to ensure that rates were reasonable and quality services provided.

As noted above, LPMA is a non-profit organization. As such, the ability of the LPMA to participate in proceedings before the Board is dependent upon receiving intervenor status and positive cost eligibility decisions. LPMA relies on the cost awards it receives from the Board to effectively participate in, and assist the Board, in regulatory proceedings and consultations. The Board has found the LPMA to be eligible for cost awards in numerous natural gas, electricity and policy proceedings before the Board.

LPMA has been an active intervenor since 1999 in proceedings pertaining to various policy and other consultatives initiated by the Board, Union Gas proceedings, London Hydro proceedings and Hydro One Networks (Transmission) proceedings.

LPMA's intervention in proceedings before the Board is to represent the interests of its members in their role as customers and ratepayers of utilities which are regulated by the Board. LPMA's representative in those proceedings communicates the results of the intervention to the President of the LPMA. This position is elected by the LPMA Board of Directors, which are in turn, elected by the members. When requested, meetings take place with the Board of Directors to discuss specific issues or general policies, presentations are made at Members' General Meetings and articles are written for inclusion in the newsletters published by the LPMA. When an individual member has a question or concern related to regulated services, they are provided with information to contact the LPMA's representative at Board proceedings directly.

III. NEED FOR REVIEW

As noted earlier, the Board has provided three reasons for the review of the framework governing the participation of intervenors in Board proceedings. Comments are provided on each of the three reasons below. LPMA notes that it has had the opportunity to see the draft comments of a number of ratepayer intervenors while preparing these comments and generally supports those comments.

A) Implementation of the Renewed Regulatory Framework for Electricity

As indicated by the Board, a central feature of the RRFE is a strong emphasis on the need for electricity distributors to engage with a broad range of customers and other stakeholders during the development of the capital and operational plans that will be reflected in rate applications. In particular, the Board states that is interested in considering how this early consultation and engagement by a distributor with customers and other stakeholders might affect the role of intervenors in the more formal process that is initiated by the Board once an application is filed.

It is submitted that early consultation could be a valuable tool for customers and their representatives in the subsequent Board proceeding. More understanding is always better than less. However, this does not necessarily mean more acceptance of utility proposals. It may inevitably lead to more interrogatories in the formal hearing process. It is just as likely that more information leads to more questions than it does to fewer questions.

The need for the representatives of the customers to attend such consultations is obvious. Individual customers are not experts in utility capital and operational plans. Nor are they experts in the regulatory process. Nor should they be expected to be experts.

When an LPMA member needs to have some electrical or plumbing work done on their property, they generally do not do it themselves. While they may be experts in rental property ownership or management, that does not make an expert in these other technical areas. They hire the experts they know will do the job for them - qualified electricians and plumbers.

The same applies to the regulatory process. Experts with knowledge of the regulatory process are hired to represent the interests of the members of the association. As the Board is aware, people, companies and organizations (which includes customers) that are not involved in the regulatory process on a day to day basis are often confused and intimidated by it.

Any attempt to bypass these experts in an early consultation is akin to a contractor telling a homeowner that they do not need a building permit to add a second storey to a one storey house. The contractor either does not know any better or is being deceitful. The expert being bypassed in this example is the building inspector/bylaw office of the local municipality. These services exist to ensure that the homeowner has information needed to make a good decision.

LPMA also notes that consultations take time. LPMA members have full time jobs and may not be able to attend consultations. Again this is what they hire their representatives to do.

Having attended several early consultations and engagements by parties, one of the fatal flaws is that the people who are invited to attend often leave with a bad taste in the mouth. In some cases it is clear that all the planning has been done and the meeting was called to tell you what is going to happen rather than asking you what you think should happen. In other cases, the parties listen to the concerns and ideas of the people invited, but turn around and ignore them. In other instances, the party that called the meeting uses the meeting as a type of discovery so they can bolster their evidence in preparation for a filing.

In such cases the early engagement not only fails, but it creates a combination of resentment and mistrust.

In conclusion, the engagement with a broad range of customers through an early consultation and engagement with a distributor does not reduce the need for experts retained on behalf of those customers. It increases the need.

B) Application and Hearing Process Review

The Board is currently undertaking a review of its application and hearing process with the goal of enhancing the efficiency and effectiveness of that process. The Board indicates that it is interested in considering whether changes to the Board's approach to the determination of intervenor status, cost eligibility and cost awards might further enhance the efficiency and effectiveness of the application and hearing process.

LPMA supports an efficient and effective application and hearing process. After all, it is the ratepayers that pay for this process in its entirety.

i) Effectivness

LPMA submits that the for the process to be effective and to achieve the desired results, including the Board's statutory objectives, there needs to be diversity. This diversity is needed in many aspects of an application and hearing process and include, but is not limited to, views, approaches and objectives.

"We need diversity of thought in the world to face the new challenges."
Sir Timothy John Berners-Lee

Distributors, customers and the Board have faced many new challenges over the last number of years, with many new challenges on the horizon. The current regulatory process has served all parties well during these sometimes difficult times. That is because the regulatory process is sufficiently flexible to adapt to the needs of the industry. Any attempt to reduce diversity, in the view of LPMA, will diminish the end product. That end product, of course, is a healthy utility sector with just and reasonable rates for consumers. Intervenors and the regulatory process are a big part of the "just and reasonable" view that consumers need to have in order to be satisfied with the rates they have no choice in paying.

"If everyone is thinking alike, then someone isn`t thinking."
George S. Patton

As an active participant in numerous Board proceedings, it is clear to LPMA that the diversity of the views, objectives and approaches brought to the table by the intervenor groups is essential to good public policy.

LPMA notes that the Province of Ontario also supports diversity. Premier Wynne is quoted as saying (Globe and Mail (Ontario Edition), September 4, 2013): *"It is very important to me that Ontario is a diverse province - that our laws and our policies reflect that diversity. I believe it is fundamentally one of our strengths, and as we talk about our place, Ontario's place, in the global economy, our diversity is part of that."*

Echoing these comments, LPMA submits that the diversity of intervenors within the Board`s application and hearing process is a fundamental strength and results in a high degree of effectiveness.

Given that the current regulatory process is already highly effective, LPMA sees no need to make changes to the Board`s approach to the determination of intervenor status, cost eligibility or cost awards.

ii) Efficiency

Even though the current regulatory process is effective, all parties involved must ensure that it is also efficient.

Distributors work with one another through industry associations (such as the Electricity Distributors Association) and distributors learn of best practices in many areas.

One area where distributors collaborate and learn from one another is the application and hearing process. Sometimes this is done directly between distributors, other times it is through the use of common counsel and consultants. The preparation of a cost of service application, in particular, can be daunting to a distributor that only does it every 4 years. Knowledge gained through one iteration may be lost before the next filing due to personnel changes or just the evolution of the filing requirements. The knowledge gained by the experienced counsel and consultants in one application can be applicable to others, at a much reduced cost. There is no need to invent the regulatory wheel over and over for each distributor. This is one aspect of efficiency that distributors bring to the table.

Experienced intervenors bring a similar efficiency to the table. Most intervenors representatives are involved in multiple proceedings every year. This means that these individuals quickly learn what new issues and challenges emerge each year. It means they know how to process an application efficiently and effectively.

Intervenors bring another aspect of efficiency to the table. That aspect is the level of co-operation that exists among intervenors. For example, all intervenors do not review all of the evidence in the same level of detail. One party may do a cursory review of the load forecast to see if they have any major issues, knowing that another party will be reviewing this evidence in detail. At the same time, the two parties may have a different view of the evidence; one may not have a major issue with the forecast while another may. Exploration of the evidence and discussions among the intervenors make for an efficient review of the entire application.

If one or more of the intervenors did not qualify for costs and thus was unable to participate, the remaining intervenors would have to pick up the slack. As each of the remaining parties would now have to do a more intensive review of more of the evidence, it would take longer for each to complete its review. This would result in a longer process and higher cost claims from the remaining intervenors, likely resulting in little if any savings.

LPMA is not aware of any significant inefficiencies in the current application and hearing process. If other parties believe there are inefficiencies, LPMA invites them to bring them forward so a full and frank transparent discussion can take place.

iii) The Facts About Costs

LPMA has been involved in two recent cost of service applications in the past year or so. One was for London Hydro and the other was for Union Gas.

The London Hydro proceeding (EB-2012-0146) had a total of 4 intervenors that were eligible for cost awards. The total costs awarded to these intervenors was just under $88,000. London Hydro identified their materiality threshold as $294,000. Clearly the intervenor costs were not material. Further, the $88,000 in intervenor costs are to be amortized over four years, representing the base test year and the following three years under IRM. In other words, the annual cost of intervenors paid for by ratepayers is less than $22,000, less than 7.5% of the materiality threshold.

In the Union Gas 2013 rates proceeding (EB-2011-0210) total intervenor costs totaled just under $1.3 million. That proceeding involved 11 intervenors that were eligible for cost awards. Union`s approved revenue requirement was in excess of $930 million.

Having reviewed these numbers and Board's statement that intervenor costs in the during the 2012-2013 fiscal year totaled $5.5 million, LPMA thought that it would be useful to analyze the intervenor costs so that the facts were available to all.

Appendix A attached to these comments provides an analysis of the intervenor costs approved by the Board from April 1, 2012 through March 31, 2013. The costs have been divided into three main components: Policy Related, Natural Gas Related and Electricity Related.

As shown in Appendix A, policy related cost awards totaled about $1.1 million or 19.9% of the total intervenor cost claims. Natural gas related proceedings totaled $2.75 million or 49.6% of total intervenor costs. Electricity related costs totaled $1.7 million or $30.5% of the total.

Within the policy related costs, the RRFE processes accounted for more than 95% of the costs claimed. In fact, the RRFE costs represent more than 19% of the total cost claims of intervenors in this fiscal year. All of the other policy related proceedings during this period totaled less than $50,000 for the year.

Within the natural gas related costs, LPMA has subdivided the costs into the 5 main types of proceedings that took place: cost of service applications ($1,293,910.74), IRM related applications ($587,227.90), DSM & Biomethane applications ($786,536.80), QRAM applications ($12,786.82) and Other ($68,320.73).

The highest costs in the natural gas section were for a Union Gas cost of service application - as noted above - that followed 5 years of IRM, Union's DSM plan (a multi-year plan) and the biomethane proceeding of Union and Enbridge Gas Distribution.

These proceedings total a little over $2 million and represent about 75% of the cost awards for natural gas related proceedings.

Within the electricity related costs, LPMA has subdivided the costs into the 5 main types of proceedings that took place: cost of service applications ($879,792.22), IRM related applications ($87,763.81), smart meter cost recovery ($62,761.54), Transmission related ($265,657.13) and Other ($396,048.48). The CANDAS proceeding accounted for the vast majority of the Other costs, at $286,149.56.

The analysis provided in Appendix A shows that the two largest proceedings/processes (Union Gas COS & RRFE) account for just over $2.35 million or 42.4% of the total cost claims of intervenors during this period.

Neither of these costs, in the view of LPMA, are excessive. The Board has directed a lot of time and energy into the RRFE. The costs awarded reflect the value received by the Board in devising the new regulatory framework. The Union Gas costs were for a proceeding that rebased rates after 5 years of incentive regulation and that would be used as base rates for the following 5 years. The intervenor cost claims represent about 0.14% of the total approved revenue requirement of Union Gas.

Moreover, the deficiency claimed by Union decreased from $71 million to a Board approved figure of about $13 million, a savings of $58 million for ratepayers. While not all of the reduction can be directly attributable to the participation of intervenors, a significant portion can be. If only 50% of the savings are attributed to the participation of intervenors (a very, very conservative estimate), then the savings to ratepayers are a minimum of $174 million ($29 million a year for the base year and 5 years of IRM). Dividing this figure by the $1.3 million in intervenor costs yields a benefit to cost ratio for ratepayers of more than 130! Money well spent on behalf of ratepayers.

The natural gas related costs that were IRM were also done cost effectively, given the unique issues that were identified in those proceedings. The DSM proceeding, as the Board is aware, dealt with highly technical aspects of implementing a Board policy. The Biomethane proceeding dealt with a complex issue that could have had significant impacts on ratepayers and on Board policy.

With respect to the electricity related cost awards, LPMA submits that the costs associated with the IRM related proceedings are more than reasonable, averaging less than $1,000 per application for a standard IRM filing and about $6,400 for a non-standard application that included incremental capital modules and/or other special requests.

Smart meter cost recovery costs were less than $2,100 on average, again a reasonable amount given the issue. Similarly, the Transmission related costs and costs for the Other proceedings all appear to be reasonable given the specific issues in each application.

This brings us to the cost of service applications. As shown in Appendix A, the number of intervenors varies by the size of the distributor. Large distributors had 5 intervenors, mid-sized distributors had 2 or 3 intervenors participating, and the smaller distributors had 1 intervenor. This reflects ongoing co-operation among the active ratepayer intervenors to ensure that ratepayers of all distributors have the benefit of representation while ensuring costs are kept to a minimum, especially for the smaller distributors.

The question of whether or not the cost awards in these cost of service applications represent efficient and effective interventions in the proceedings can be partly answered by the comparison of these costs to the total revenue requirement. The second page of Appendix A contains not only the cost claims for the electricity cost of service applications, but also the approved revenue requirements and the ratio of the two figures. The ratios of cost to the revenue requirement range from 0.1% to 1.71%. For all of the cost of service applications with cost awards in the 2012-2013 year, the ratio of cost claims ($879,792.22) to the approved revenue requirements ($387,762,269) is 0.23%. This figure is less than half of the Board defined materiality threshold of 0.5%.

As noted above, the highest individual ratio is 1.71% and a number of the other ratios are higher than the Board's 0.5% materiality threshold. However, the cost claims are one-time costs that are amortized over the base year and the following IRM years, which total four years. In other words, on an annual basis, the cost claims are one-quarter of the total and, as a result, the highest ratio of 1.71% is actually less than 0.43% on an annual basis. All of the cost awards shown for the cost of service applications are, by the Board's definition, immaterial.

In addition to the above analysis, LPMA has seen the draft comments of the School Energy Coalition ("SEC") with respect to the $5.5 million in intervenor costs relative to those of the Board and distributors, including the costs paid by ratepayers for the distributors to lobby on behalf of their shareholders through various organizations. SEC calculates that in addition to the $35 million of Board costs paid for by customers, the costs incurred by the distributors, and paid for by ratepayers, total another $45 million. In other words, costs awarded to ratepayers represent only about 6% of the total regulatory costs of about $85.5 million.

C) Review of Regulatory Policy Consultation

The third reason for the review at this time is that the Board is undertaking a review of the way in which consults with stakeholders in the review and development of regulatory policy. The Board anticipates that going forward it will include use of consumer focus groups and consumer surveys in the policy development areas.

LPMA submits that the use of surveys and focus groups is a welcome addition to the policy debate. This would mirror, in some respects, the interaction between members and elected directors of industry associations such as LPMA.

However, the use of customer focus groups and consumer surveys is an augmentation to the regulatory process and not a replacement for ratepayer representation by experts. Again, good policy comes from diverse views and opinions. Intervenors like LPMA can only participate in these policy consultation if they are found to be eligible for costs.

One change that LPMA suggests that the Board should make is to allow intervenor groups to apply for funding to do customer surveys. These surveys would support the Board's objective of using such information in policy development.

IV. LPMA'S RESPONSES TO THE BOARD'S QUESTIONS

Intervenor Status

1. What factors should the Board consider in determining whether a person seeking intervenor status has a "substantial interest" in a particular proceeding before the Board? For instance, should the Board require a person seeking intervenor status to demonstrate consultation or engagement with a constituency directly affected by the application?

The current *Rules of Practice and Procedure* indicate that the person applying for intervenor status must satisfy the Board that he or she has a substantial interest in proceeding. LPMA does not believe that any measures should be introduced by the Board which could limit the factors that a person seeking intervenor status may rely on to support their contention of a substantial interest. The Board should not introduce any constraints that reduce its current discretion to grant intervenor status.

In particular, LPMA does not believe that the Board should require a person seeking intervenor status to demonstrate consultation or engagement with a constituency directly affected by the application, unless it has reason to believe that the intervenor is not acting in the interests of its members.

Organizations such as the LPMA have represented the interests and provided education and assistance to their members for more than 45 years. It is not the Board's place to tell any organization how they should consult or engage with their membership.

2. ***What conditions might the Board appropriately impose when granting intervenor status to a party? For instance, should the Board also require an intervenor to demonstrate how the intervening group or association governs the participation by its legal counsel and other representatives in the application?***

Once intervenor status has been granted to a party, the response to this question is obvious. There is no need for the Board to require an intervenor to demonstrate how the intervening group or association governs the participation of its legal counsel and other representatives in an application any more than there is for the Board to require an applicant to demonstrate how it governs the participation of its legal counsel and other representatives. A similar situation is how Board Staff receives its instructions.

It is not clear to LPMA what impact there would be if intervenors had to demonstrate how it governs the participation by its legal counsel and other representatives. Would the Board determine that one way is better than another? If so, would it impose its views on the intervenor and dictate to them how to govern their participation? How does the Board believe that this interference would lead to a more effective and efficient regulatory process?

Cost Eligibility

1. ***What factors should the Board consider in determining whether a party primarily represents the direct interests of consumers (e.g. ratepayers) in relation to services that are regulated by the Board? For instance, should the Board require the party to demonstrate consultation or engagement with a class of consumers directly affected by the application?***

Similar to the response to Intervenor Status Question 1, LPMA submits that it is not appropriate for the Board to require the intervening party to demonstrate consultation or engagement with a class of consumers directly affected by the application.

The Board may want to make a distinction between intervenors that have a ratepayer focus and those that would be considered public interest intervenors. LPMA supports the submissions of the SEC related to this distinction.

2. ***What factors should the Board consider in determining whether a party primarily represents a public interest relevant to the Board's mandate?***

The Board should take into consideration all of the information upon which a party relies on to support their view that they represent a public interest relevant to the Board's mandate.

3. What conditions might the Board appropriately impose when determining the eligibility of a party for costs? For instance, what efforts should the Board reasonably expect a party to take to combine its intervention with that of one or more similarly situated parties? Should the Board reasonably expect parties representing different consumer interests to combine their interventions on issues relating to revenue requirement (as opposed to cost allocation)?

The Board should not establish conditions of eligibility which are incompatible with the guiding principles on which the Board's existing cost award system is based. The Board requires a broad range of interests to be represented and benefits from the diversity of views and approaches brought by different intervenors to the table.

As indicated in the cost award analysis provided above, there is no evidence that the immaterial costs associated with cost awards to intervenors are the result of material inefficiencies in the existing system.

LPMA supports the comprehensive comments of the Canadian Manufacturers & Exporters ("CME") related to the statement that the Board cannot reasonably expect cost eligible intervenors to join forces with respect to the presentation of a common position with respect to their overlapping interests in a proceeding until each of them have analyzed the application, participated in the pre-hearing discovery process and in the initial settlement conference process where positions are formulated.

It is at this settlement conference stage of a proceeding that intervenors formulate a common position on the issues. LPMA notes that it has been involved in many settlement conferences and it is often the case that the negotiations among the intervenors with respect to the revenue requirement are as difficult and complex with one another as it is with the utility. The experienced distributors acknowledge this and often thank the intervenors for their efforts to arrive at a common proposal, even if it cannot be accepted by the distributor.

This effort by the intervenors through the settlement process is extremely effective and efficient. As the Board is aware, most applications are either settled in their entirety or the majority of the issues are resolved through the settlement process. This reduces the regulatory costs (intervenor costs, distributor costs, Board costs) and time for the Board to render a Decision. This is a desirable outcome and is a direct result of melding the diverse views and approaches of intervenors.

Of course, many distributors do not like the process and, by extension, intervenors, because they feel they have nothing to gain and everything to lose by ultimately agreeing to a reduced revenue requirement through the settlement process. This dislike is no basis upon which the Board should make changes to the regulatory process that again and again demonstrates significant and uncontested value on behalf of ratepayers.

4. Should the Board consider different approaches to administering cost awards in adjudicative proceedings? For instance, should the Board consider adopting an approach that provides for pre-approved budgets, pre-established amounts for each hearing activity (similar to the approach for policy consultations), and pre-established amounts for disbursements?

LPMA agrees with the comments of the CME on this point that until a convincing demonstration that the existing approach results in cost awards to intervenors which are unreasonable and excessive (and hence of no value to ratepayers), there is no need to consider different approaches to determining cost awards in adjudicative proceedings.

If costs that were awarded were unreasonable or excessive, the Board did not do its job. LPMA submits that this is not the case. The Board does its job and where appropriate, reduces costs awards from that claimed.

Indeed, as the Board is aware, applications can be thousands upon thousands of pages of information in the application, updates and interrogatory responses. The distributors always point to this when they try to justify their costs of a cost of service application. There is no doubt that it takes a lot of time to put together an application and respond to interrogatories. LPMA's regulatory consultant has in the past and still continues to assist utilities in the preparation of applications, evidence and interrogatory responses.

At the same time the Board and distributors need to acknowledge that it takes considerable time to review all of the material and understand it well enough to provide assistance to the Board in making its findings.

LPMA does not support pre-approved budgets for a number of reason. First, the hearing process is often not defined adequately at the beginning because the Board does not have a crystal ball. For example, the need for a second round of interrogatories or a technical conference is often determined based on the responses to the first round of interrogatories.

Use of a technical conference instead of a second round of interrogatories can add costs to the process. Instead of sending the second round interrogatories to the applicant, parties do that and then show up for a technical conference where they often get written responses to the questions, which they can then follow up on. Not only does this add

many hours to the intervenor cost claims, it also involves the additional time and effort of the distributors and Board Staff. In addition, intervenors from out of town incur additional costs for travel and accommodation.

Distributors often provide updated evidence either at the request of intervenors or Board Staff or because something has changed materially. This involves reviewing additional evidence and doing additional interrogatories from what was originally budgeted for.

It thus becomes very difficult to put together a budget that would or could take into account all of the potential paths through the regulatory process. Again, as noted above, there is no evidence that cost awards to intervenors are unreasonable and excessive, given that they are immaterial, as noted in the cost award analysis provided earlier.

It is also interesting and informative to note that the cost claims of intervenors have fallen steadily since 2009-2010. Intervenor cost awards totalled about $6.4 million in that year, falling to $6.0 million in 2010-2011, $5.6 million in 2011-2012 and to $5.5 million in 2012-2013. As the Board is aware, the complexity of the issues and the number of applications to be dealt with have, if anything, increased over this period. This is reflected in the Board's expenses, which have risen from $32.6 million in 2009-2010 to the range of $33 million in 2012-2013. This 1.2% increase over this period reflects a moderate increase, but pales in comparison to the 14% decrease in intervenor costs over the same period. LPMA submits that this reflects efficiency gains on the part of intervenors.

Recommended Modifications

1. Are there modifications that the Board should consider making to the Rules and the Practice Direction?

At this point, LPMA does not see the need for any modifications to the Rules and the Practice Direction. The current provisions give the Board all the power it needs to continue to determine matters pertaining to intervenor participation in proceedings before the Board in a fair and transparent manner.

As a final comment, Thomas Bertram Lance, the Director of the Office of Management and Budget in Jimmy Carter's 1977 administration was quoted in the newsletter of the US Chamber of Commerce, *Nation's Business*, May 1977:

Bert Lance believes he can save Uncle Sam billions if he can get the government to adopt a simple motto: *"If it ain't broke, don't fix it."* He explains: *"That's the trouble with government: Fixing things that aren't broken and not fixing things that are broken."*

Sincerely,

Randy Aiken

Randy Aiken
Aiken & Associates

APPENDIX A

COST AWARDS BY CASE BY TYPE - APRIL 1, 2012 - MARCH 31, 2013

A - POLICY RELATED

		COST AWARD	# OF INTERVENORS	AVERAGE AWARD PER INTERVENOR	% OF TOTAL	Approved Revenue Requirement	Cost Award As % of Rev. Reqt.
EB-2010-0377 ET AL	RRFE	1,057,600.82	26	40,676.95	19.1%		
EB-2012-0003	CDM CODE	10,351.53	7	1,478.79			
EB-2008-0150	EFA WORKING GROUP	6,979.82	3	2,326.61			
EB-2010-0280	NATRUAL GAS CUSTOMER SERVICE STANDARDS	21,150.13	5	4,230.03			
EB-2007-0722	ELEC. DIST. RATE CLASSIFICATION	1,678.05	1	1,678.05			
EB-2012-0062	RRR REVIEW	8,533.80	2	4,266.90			
		1,106,294.15					
	POLICY RELATED TOTAL	**1,106,294.15**			**19.9%**		

B - NATURAL GAS RELATED

		COST AWARD	# OF INTERVENORS	AVERAGE AWARD PER INTERVENOR	% OF TOTAL	Approved Revenue Requirement	Cost Award As % of Rev. Reqt.
COST OF SERVICE							
EB-2011-0210	UNION GAS 2013 RATES	1,293,910.74	11	117,628.25		933,424,000	0.14%
		1,293,910.74			23.3%		
IRM RELATED							
EB-2011-0025	UNION GAS 2012 RATES	118,907.61	11	10,809.78			
EB-2011-0277	EGD 2012 RATES	162,416.53	10	16,241.65			
EB-2011-0038	UNION GAS 2010 ESM & DEF ACCT	281,859.96	8	35,232.50			
EB-2012-0206	UNION GAS 2010 ESM & DEF ACCT MOTION	24,043.80	4	6,010.95			
		587,227.90			10.6%		
DSM & BIOMETHANE							
EB-2011-0327	UNION GAS DSM PLAN	432,997.50	13	33,307.50			
EB-2011-0242	EGD & UNION BIOMETHANE	353,539.30	11	32,139.94			
		786,536.80			14.2%		
QRAM							
EB-2012-0238	EGD 2012 QRAM	1,123.01	2	561.51			
EB-2012-0428	EGD 2013 QRAM	1,559.19	2	779.60			
EB-2012-0054	EGD 2012 QRAM	1,654.67	2	827.34			
EB-2012-0352	EGS 2012 QRAM	1,827.00	2	913.50			
EB-2012-0345	UNION GAS 2012 QRAM	1,520.49	2	760.25			
EB-2012-0437	UNION GAS 2013 QRAM	1,628.41	2	814.21			
EB-2012-0249	UNION GAS 2012 QRAM	1,585.47	2	792.74			
EB-2012-0070	UNION GAS 2012 QRAM	1,888.58	2	944.29			
		12,786.82			0.2%		
OTHER							
EB-2012-0048	UNION GAS DEF. ACCT. CLOSURE	26,780.38	3	8,926.79			
EB-2011-0077/78/79	TRIBUTE RESOURCES PROJECT	41,540.35	2	20,770.18			
		68,320.73			1.2%		
	NATURAL GAS RELATED TOTAL	**2,748,782.99**			**49.6%**		

C - ELECTRICITY RELATED

		COST AWARD	# OF INTERVENORS	AVERAGE AWARD PER INTERVENOR	% OF TOTAL	Approved Revenue Requirement	Cost Award As % of Rev. Reqt.
COST OF SERVICE							
EB-2012-0161	POWERSTREAM	162,575.78	5	32,515.16		164,069,373	0.10%
EB-2012-0033	ENERSOURCE	264,273.13	5	52,854.63		122,824,870	0.22%
EB-2011-0272	NORFOK POWER	37,703.68	3	12,567.89		12,322,334	0.31%
EB-2011-0123	GUELPH HYDRO	72,437.33	3	24,145.78		27,972,312	0.26%
EB-2011-0271	HALTON HILLS	70,760.14	3	23,586.71		9,780,531	0.72%
EB-2012-0121	ERIE THAMES	45,524.49	3	15,174.83		9,973,033	0.46%
EB-2012-0112	CANADIAN NIAGARA	57,698.50	3	19,232.83		18,966,180	0.30%
EB-2011-0103	WASAGA	23,995.59	2	11,997.80		3,967,935	0.60%
EB-2011-0249	WELLINGTON NORTH	32,192.03	2	16,096.02		2,366,300	1.36%
EB-2011-0274	RIDEAU ST. LAWRENCE	23,442.44	2	11,721.22		2,630,848	0.89%
EB-2011-0250	LAKEFRONT	23,810.16	2	11,905.08		4,417,968	0.54%
EB-2012-0147	MIDLAND POWER	26,947.12	2	13,473.56		3,954,361	0.68%
EB-2011-0319	ESPANOLA	9,054.48	1	9,054.48		1,778,702	0.51%
EB-2011-0326	HYDRO 2000	9,237.67	1	9,237.67		538,818	1.71%
EB-2011-0293	ATIKOKAN	7,904.64	1	7,904.64		1,358,050	0.58%
EB-2011-0322	CHAPLEAU	12,235.04	1	12,235.04		840,654	1.46%
		879,792.22			15.9%	387,762,269	0.23%
IRM RELATED							
EB-2011-0178	KINGSTON	10,891.65	3	3,630.55			
EB-2011-0207	WOODSTOCK	6,923.01	3	2,307.67			
EB-2011-0173	HYDRO HAWKESBURY	6,190.27	2	3,095.14			
EB-2011-0160	CENTER WELLINGTON	5,749.55	2	2,874.78			
EB-2011-0169	GREATER SUDBURY	4,126.89	2	2,063.45			
EB-2011-0152	ALGOMA POWER	4,563.43	2	2,281.72			
VARIOUS	VARIOUS - 1 INTERVENOR PER APPLICATION	49,319.01	50	986.38			
		87,763.81			1.6%		
SMART METER COST RECOVERY							
VARIOUS	VARIOUS - 1 INTERVENOR PER APPLICATION	62,761.54	30	2,092.05			
		62,761.54			1.1%		
TRANSMISSION							
EB-2011-0140	EAST-WEST TIE	215,556.84	12	17,963.07			
EB-2012-0082	LAMBTON - LONGWOODS	20,070.70	1	20,070.70			
EB-2012-0300	GREAT LAKES 2013 RATES	30,029.59	3	10,009.86			
		265,657.13			4.8%		
OTHER							
EB-2011-0399	HYDR ONE USGAAP	13,642.88	4	3,410.72			
EB-2012-0035	TORONTO HYDRO MOTION	12,358.72	2	6,179.36			
EB-2011-0361	GOLDCORP	45,061.97	2	22,530.99			
EB-2011-0432	OPG USGAAP	1,345.55	1	1,345.55			
EB-2012-0180	HYDRO ONE DEF. ACCOUNT	6,078.49	5	1,215.70			
EB-2011-0394	WIND LEAVE TO CONSTRUCT	500.00	1	500.00			
EB-2011-0120	CANDAS	286,149.56	3	95,383.19			
EB-2011-0142	TORONTO HYDRO 2011 SUITE METERING	28,205.31	3	9,401.77			
EB-2012-0079	TORONTO HYDRO USGAAP	2,706.00	1	2,706.00			
		396,048.48			7.1%		
	ELECTRICITY RELATED TOTAL	**1,692,023.18**			**30.5%**		

GRAND TOTAL **5,547,100.32**

137 TOTAL FILES

TOP 4 FILES **3,138,048.36** **56.6%**