



October 16, 2013

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

Re: Review of Framework Governing the Participation of Intervenors in Board Proceedings
AMPCO's Final Comments
Board File No. EB-2013-0301

Dear Ms. Walli:

We are pleased to submit to you our final comments regarding the Ontario Energy Board review of the framework governing the participation of intervenors in applications, policy consultations and other proceedings before the Board. AMPCO filed initial comments on October 2, 2013 and I participated in the Stakeholder Consultation on October 8, 2013 to provide further comments on AMPCO's perspective. Our final comments are primarily in response to issues raised at the Stakeholder Conference.

Cost Cap Awards

The issue of cost cap awards was discussed at the Stakeholder Consultation whereby limits on hours per intervenor would be set by the Board for a rate proceeding similar to the maximum number of hours set for intervenor activities in policy proceedings. In AMPCO's view this process works very well in policy consultations where the activities for each intervenor are consistent and unlikely to change such as reviewing and commenting on a Board report or preparing for and attending a meeting at the Board. However, due to the varied quality of rate applications amongst Applicants and the changing nature of rate applications based on updated evidence, unexpected developments in the case and shifts in intervenor focus due to issues raised through the interrogatory and intervenor evidence processes, AMPCO does not believe setting cost caps is practical or will provide intervenor cost certainty. AMPCO predicts that cost caps would likely need to be revisited frequently by many intervenors during most applications. In AMPCO's view the suggestion that intervenors could bring forward a motion to adjust its cost caps due to extraordinary and unanticipated circumstances would be onerous and time consuming to administer and would likely result in increased intervenor costs.

AMPCO does not object to filing a preliminary budget as a guide but sees that there would need to be a simplistic Board process to deal with changing budgets as required that does not impact the effectiveness of intervenor participation.

Expectations of Intervenors

It was suggested that cost awards should be granted on the basis that the costs claimed are focused on the substantial issues identified at the Request for Intervention stage, and the intervenor offered a unique

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viewpoint (no repeating of positions of other parties).

In AMPCO's experience, issues can arise during a proceeding of interest to AMPCO members that were not evident during the initial review of the application at the time of requesting intervenor status. While it is reasonable to anticipate interventions will follow interests raised at the request stage, issues pursued by intervenors and cost awards should not be restricted to those initial scoped interests. A constrained approach would not be supported by AMPCO's Board as it expects that if an issue of interest to its members were to surface during a proceeding it needs to be adequately explored by its representatives in consultation with AMPCO's Board. In AMPCO's view, attaching this restriction to the award of costs does not appropriately reflect the diverse interests of intervenors nor does it add value to the Board in its decision-making role or better protect the interests of consumers.

With respect to unique positions of intervenors, AMPCO notes that intervenor positions vary by application and instances where intervenor positions are similar is typically the result of thorough analysis and testing of an issue by interested parties that can result in a common position. AMPCO sees this outcome of value to the Board in that many parties with diverse perspectives have reached the same conclusion. In terms of costs, AMPCO believes that intervenor cost claims are reduced when one party adopts the position of another in final submissions as it appropriately avoids duplication of effort.

AMPCO supports the concept of a lead intervenor on issues where appropriate but does not believe that should limit other parties from exploring the same issue to a lesser extent from their own perspective. In AMPCO's experience, many issues before the Board are complex and even the most seasoned intervenors can miss salient points. It is the combined efforts of many diverse parties in Board proceedings that improve the quality of the record and assist the Board in its determination of an application. Every effort should be made to ensure this comprehensive process is not deconstructed to the point where input is restricted.

Potential Modifications to Current Process to Enhance Effectiveness/Efficiency

AMPCO sees value in Board Staff filing interrogatories and final submissions further in advance of other parties than presently done and suggests a minimum of 7 business days or 10 calendar days ahead to allow adequate time for review and consideration. This practice has the potential to minimize duplication and reduce the number of interrogatories by others thereby reducing the costs associated with responding to interrogatories.

AMPCO also sees value in making the Settlement Proposal process more transparent. One modification would be for parties to include more details in the agreement without revealing the confidential negotiations between the parties. In AMPCO's experience, settlement agreements are sometimes thin on details making interpretation of the agreements reached more challenging than it needs to be in subsequent proceedings, especially for those who did not participate. More transparency in this way will likely lead to less regulatory costs in the future.

We appreciate the opportunity to make these submissions.

Sincerely,



Adam White

President

Association of Major Power Consumers in Ontario