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May 27, 2014

VIA EMAIL, RESS and COURIER

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, Ontario
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Dear Ms. Walli:

Re: Ontario Power Authority - 2014 Revenue Requirement Submission
Ontario Energy Board File No. EB-2013-0326
Reply Submissions of the Ontario Power Authority to the Proposed Issues List

On March 6, 2014 the Ontario Power Authority ("OPA") filed its application and 2014 Revenue Requirement Submission ("RRS") with the Ontario Energy Board ("Board" or "OEB") for review and approval. The OPA has a planned operating budget of \$60.3 million, which is a reduction of nearly 6% from its Board-approved 2011 operating budget, and has requested a usage fee of \$0.439/MWh, which is a 20.3% decrease from the OPA's 2010-2013 Board-approved fee.

In accordance with Procedural Order No. 1 dated May 6, 2014 ("PO1"), please consider this correspondence the OPA's reply submission to comments received from intervenors as to whether the Board should proceed by way of a written hearing, and on the Proposed Issues List. Four parties filed submissions on these topics: the Building Owners and Managers Association, Greater Toronto ("BOMA"); the Canadian Manufacturers & Exporters ("CME"); Energy Probe Research Foundation ("Energy Probe"); and the Vulnerable Energy Consumers Coalition ("VECC"). The OPA will first address submissions regarding whether the application should proceed by way of an oral or written hearing, and then will reply to submissions regarding the Proposed Issues List.

Oral Hearing

In PO1, the Board indicated that it will proceed by way of a written hearing unless an intervenor demonstrates, by filing written reasons that satisfy the Board, that there is good reason for not proceeding by way of a written hearing. The OPA submits that a written hearing is the most suitable and effective process for the Board's consideration of the Revenue Requirement Submission.

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BOMA, CME, and Energy Probe all state that an oral hearing is necessary because the OPA's 2014 RRS is the first Board assessment of the OPA's fees since the 2011 revenue requirement submission three years ago. Although it is true that the OPA was not able to submit a revenue requirement in 2012 and 2013 due to the absence of an approved business plan, the OPA has prudently managed its activities and associated administrative costs over this period. In fact, the OPA's fees and operating expenses have decreased since 2011, and the number of regular full time employees has remained essentially flat from Board-approved levels in 2011. The OPA's prefiled evidence presents budgets and activities for 2014, as well as for the interim years. Therefore, the OPA does not believe that a written hearing in any way limits the ability of parties to examine and scrutinize its activities since it last appeared in front of the Board. In addition, the OPA does not believe that the fact that three years has passed between reviews is in and of itself sufficient to trigger the need for an oral hearing. Indeed the Board's Renewed Regulatory Framework for Electricity allows for a 5-year span before a rebasing application is required of an LDC, and at the time of rebasing, the Board has the option to proceed by way of either a written or oral hearing.

BOMA's submission also states that an oral hearing is required because the OPA's activities have changed considerably since the last review and that the OPA's program expenditures have increased by 100%. The OPA points out that the Board confirmed in its January 11, 2011 Issues Decision that "...its mandate in this case is limited to approval of the OPA's administrative fees...". Therefore, although a review of the OPA's administrative fees may include an assessment of the performance of the OPA's charge funded activities as a means of determining the reasonableness of its Board-approved fees, the charges themselves will not be examined in an OEB review. Therefore, any change in program charges, whether material or not, is out of scope, and should not trigger the need for an oral hearing.

BOMA's submission also states that "[t]he initial OEB review of the OPA's revenue requirement took place in a public hearing; this proceeding is no less important". The OPA submits that the importance of a review is not reduced if the Board chooses to proceed by way of a written hearing. The OPA also notes that it may have been appropriate for the Board to choose to commence with an oral hearing in order to become familiar with the OPA as a new organization, however, every subsequent RRS submitted by the OPA has not proceeded by way of an oral hearing – the OPA's 2009 RRS (EB-2008-0312) and 2010 RRS (EB-2009-0347) proceeded by way of a written hearing.

CME's submission states that the complexity of the OPA's evidence is justification for an oral hearing, but its submission lacks any specific indication of why the evidence is seen to be complex. In fact, the OPA believes that its evidence is far less complex than the evidence filed in many cases before the Board, many of which proceed effectively by way of a written hearing.

The OPA respectfully disagrees with the arguments made by BOMA, CME, and Energy Probe in support of their recommendation for the Board to pursue an oral hearing. The OPA finds that their arguments are lacking any explanation of how specific aspects of the

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OPA's application are more suitable for consideration in an oral hearing than a written hearing. Generalizations about a perceived need to question the performance of the OPA's activities, to assess the reasonableness of the proposed fees and other such arguments, do not explain how this proceeding falls outside the range of cases that can be effectively dealt with by way of a written hearing.

Although the OPA would prefer this case to proceed by way of a written hearing, at a minimum, the OPA would suggest that the Board defer the decision until after the interrogatory phase and any settlement conference is complete. At that point, it may be more evident as to whether there are outstanding issues that would benefit from an oral hearing. This is consistent with the approach proposed by VECC.

Additions to the Proposed Issues List

The OPA believes that the additional issues submitted by BOMA and CME are subsumed under the broad issues already contained in the Proposed Issues List. The OPA is of the opinion that adding these more specific additional issues is redundant, and could be interpreted as narrowing the scope of the Proposed Issues List by their specificity. In other words, if an exhaustive list of potential issues is created, anything not listed would seem to be out of scope. Instead, in the OPA's opinion, it is preferable for the final issues to be worded broadly, as currently proposed, allowing specific questions to be asked under these more open issues.

As mentioned above, the OPA believes the Proposed Issues List is inclusive of the additional issues proposed by BOMA and CME.

Specifically, the OPA is of the view that the following additions proposed by BOMA are already within the scope of the existing issues on the Proposed Issues List.

The OPA believes that the first proposed addition **"Are the OPA's proposed milestones for each of the five divisional goals reasonable, appropriate, and responsive to the Board's findings expressed in its EB-2010-0279?"** is covered under Issues 1.1 through 5.1, and 6.4.

The OPA believes that the second proposed addition **"Are the OPA's proposed performance and efficiency measurement tools, set out at Exhibit C of its evidence, reasonable, appropriate, and responsive to the Board's findings in EB-2010-0279?"** is covered under Issue 6.4.

The OPA believes that the third proposed addition **"Are the OPA's proposed enhancements to its stakeholder consultations, set out in Exhibit B5.1 reasonable, appropriate, and responsive to the Board's findings in EB-2010-0279?"** is covered under Issue 6.4.

The OPA believes that the fourth proposed addition **"Does the evidence on the conservation division, set out at B.1.1 adequately address the resource and organizational implications of the Minister's Directive dated March 31, 2014, on the 2015-2020**

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Conservation First Framework, and the LTEP 2013 CDM Target?” is covered under Issue 1.1.

The OPA believes that the fifth proposed addition **“Is the allocation of resources among the five goals reasonable and appropriate?”** is covered under Issues 1.1 through 5.1.

The OPA believes that the sixth proposed addition **“Do the tasks outlined in the evidence result in undue duplication of effort between the OPA and the IESO, particularly in the area of demand response and storage, taking into account the Minister’s Directives to the OPA dated March 31, 2014, relating to both initiatives?”** is covered under Issue 3.1 as the evidence related to Goal 3 describes the work underway in response to this directive and how it is being coordinated with the IESO.

Similarly, the OPA is of the view that the additions proposed by CME are subsumed within existing issues on the Proposed Issues List.

The OPA believes that CME’s request to add Issues 1.2 to 5.2, which ask **if the Operating Budget for Goals 1 to 5 are appropriately allocated among the initiatives**, is covered under Issue 6.4 as the Board’s decision in the OPA’s 2011 RRS discussed allocating internal staff costs. As well, the issue of divisional budgets is addressed by Issues 1.1 through 5.1 of the Proposed Issues List.

The OPA also believes that CME’s proposal to add Issues 1.3 to 5.3, which ask whether **Goals 1 to 5 adequately reflect the tasks that the OPA is charged with by statute and directives in 2014, and do the initiatives capture the range of activity required to achieve that end**, and Issues 1.4 to 5.4, which ask whether **the 2014 milestones associated with Goals 1 through 5 reasonable and appropriate for the purpose of determining the achievement and efficiency of the OPA’s performance**, are covered under Issues 1.1 through 5.1. of the Proposed Issues List to the extent that these items are within the Board’s purview. In EB-2010-0279 the Board found that “Although the evidence and argument relating to the six strategic objectives can be relevant in considering the proposed revenue requirement and fees, the Board does not actually “approve” the objectives or the Business Plan itself.” The OPA also does not believe that the Electricity Act contemplates that the Minister’s approval of activities and milestones in the Business Plan could be overturned by the Board. The OPA’s initiatives and milestones under each goal are taken from its Business Plan which received approval by the Minister of Energy on January 29, 2014. The OPA believes that Ministerial approval is indicative that the activities to achieve its directives and statute are adequate. With that said, the OPA notes that discussion of the reasonableness of a budget will inherently include some examination of the activities required to be undertaken with that budget, and that will presumably reference work that the OPA is required to do under the statute and directives. The OPA believes that Issues 1.1 to 5.1. on the Proposed Issues List allow for this examination of activities undertaken with respect to the OPA’s budget.

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In summary, the OPA's submissions with respect to the Proposed Issues List are as follows:

- BOMA Proposed Issue 1 is subsumed respectively under Issues 1.1 through 5.1 and 6.4; BOMA Proposed Issues 2 and 3 are subsumed respectively under Issue 6.4; BOMA Proposed Issue 4 is subsumed respectively under Issue 1.1; BOMA Proposed Issue 5 is subsumed respectively under Issues 1.1 through 5.1; and BOMA Proposed Issue 6 is subsumed under Issue 3.1, and therefore should not be added to the Proposed Issues List.
- CME Proposed Issues 1.2 through 5.2 are subsumed respectively under Issue 6.4; and CME Proposed Issues 1.3 to 5.3 and 1.4 to 5.4 are subsumed respectively under Issues 1.1 through 5.1 to the extent that these items are within the Board's purview.

The OPA appreciates the opportunity to provide its comments on these matters.

Yours truly,

(original signed)

Nancy Marconi
Manager, Regulatory Proceedings
Legal, Aboriginal & Regulatory Affairs

cc: Mr. Fred Cass, Aird & Berlis
Mr. Michael Bell, Ontario Energy Board
Mr. Michael Miller, Ontario Energy Board
EB-2013-0326 intervenors