

ONTARIO ENERGY BOARD

IN THE MATTER OF sections 25.20 and 25.21 of the
Electricity Act, 1998;

AND IN THE MATTER OF a Submission by the Ontario
Power Authority to the Ontario Energy Board for the review of
its proposed expenditure and revenue requirements and the fees
which it proposes for the year 2014.

NOTICE OF MOTION

Canadian Manufacturers & Exporters ("CME"), Association of Major Power Consumers in Ontario ("AMPCO"), Vulnerable Energy Consumers Coalition ("VECC"), Building Owners and Managers Association, Greater Toronto ("BOMA") and Energy Probe Research Foundation ("Energy Probe") (hereinafter referred to collectively as the "Moving Parties") will make a motion to the Ontario Energy Board (the "Board") at its offices at 2300 Yonge Street, Toronto, on a date and at a time to be fixed by the Board.

PROPOSED METHOD OF HEARING:

The Moving Parties request that this motion be dealt with orally.

THE MOTION IS FOR:

1. An Order requiring the Ontario Power Authority ("OPA") to provide a full and adequate response to the following interrogatories:
 - (a) Issues 1/Board Staff/4;
 - (b) Issues 1-5/Board Staff/5;
 - (c) Issue 1.1/CME 4; and
 - (d) 4.1-SEC-7.
2. Such further and other relief as the Moving Parties may request and the Board may grant.

THE GROUNDS FOR THE MOTION ARE:

1. All of the Moving Parties are Intervenors in this proceeding.
2. Pursuant to Procedural Order No. 2 issued on June 3, 2014, Intervenors and Board Staff were permitted to deliver written interrogatories to OPA on or before June 17, 2014. All of the Moving Parties delivered interrogatories.
3. All of the interrogatories at issue in this motion relate to various audits conducted by the OPA. In particular, they relate to the following evidence set out at Exhibit B, Tab 4, Schedule 1, Page 12 of 38:

Internal Audit Program

During this period, the OPA managed and coordinated 35 internal audit projects to confirm the effectiveness and efficiency of its business processes and systems. The status of actions taken to implement ongoing improvements in operations provided in the audit recommendations confirmed that the OPA has addressed all outstanding recommendations. In addition, the OPA achieved further assurance through internal audits conducted at the program counter party level (i.e. at the LDC level). These related to the review of the legitimacy and accuracy of amounts paid or received pertaining to OPA funded conservation and FIT programs.

4. In CME Interrogatory No. 4, the OPA was requested to provide copies of all written audits referred to at Exhibit **B**, Tab **1**, Schedule 1. OPA responded as follows:

(d) Given their scope, and the nature of the LDC information contained within, audit reports are considered to be confidential and as such will not be provided.
5. SEC Interrogatory No. 7 requested that the OPA provide copies of all internal audit reports and value for money audit reports, conducted since 2011, referred to at Exhibit B, Tab 4, Schedule 1, pages 4 and 12. The OPA responded as follows:

The OPA 's internal audit reports are confidential in nature and are not disclosed as their purpose is to generate frank and open communication regarding OPA programs, practices and processes. Their function would be compromised if subject to public dissemination.

6. Board Staff Interrogatories Nos. 4 and 5 also requested descriptions of the findings and recommendations arising from the internal audits and the actions the OPA has taken to address those recommendations or findings. The OPA has failed to provide a meaningful description of the findings and recommendations arising from the internal audits and the actions which the OPA has taken to address the recommendations.
7. The only basis which the OPA has claimed for refusing production of the internal audits is that they are confidential in nature.
8. The OPA has the ability to seek to have any document it is asked to produce treated as confidential pursuant to the Board's Practice Direction on confidential filings. Where a document is confidential in nature, or contains confidential information, the mere fact that a document is confidential in nature, or contains some confidential information, is not a basis to refuse producing the document to the Board and to those parties that have signed confidentiality undertakings in accordance with that Practice Direction.
9. The Moving Parties submit that the fact that the internal audit programs have been relied upon by the OPA in its own evidence demonstrates that the internal audits are relevant.
10. Such further and other grounds as counsel may advise and the Board may permit.

THE FOLLOWING DOCUMENTARY MATERIAL AND EVIDENCE WILL BE RELIED UPON AT THE HEARING OF THE MOTION:

1. The Record in EB-2013-0326, and in particular, Board Staff Interrogatory Nos. 4 and 5, CME Interrogatory No. 4, and SEC Interrogatory No. 7. These four interrogatories are attached to this motion; and
2. Such further and other material as counsel may advise and the Board may permit.

DATE: July 15, 2014

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TAB A

BOARD STAFF INTERROGATORY #4

Issue 1.1 Is the Operating Budget of \$10,588 thousand allocated to Goal 1 reasonable?

INTERROGATORY

Issues 1/Board Staff/4

Reference: Pre-Filed Evidence of OPA, Exhibit B, Tab 1, Schedule 1, page 22.

Preamble: OPA states:

"In 2013, independent quality control and quality assurance assessments of LDCs were undertaken. More than 30 LDCs were assessed for compliance in their delivery of programs, and 21 LDCs were also assessed to ensure proper program administrative spending as outlined in the Master Agreement."

Questions:

a) What were the general findings of the compliance audits? Were any issues raised?

b) What were the general findings of the assessments of the 21 LDCs on proper program administrative spending as outlined in the Master Agreement? Were any issues raised?

c) How has the OPA responded or intend to respond to the results of the audits and assessments?

RESPONSE

a) As of June 2014, 70 LDC compliance audits have been initiated; 40 of which have been fully completed. All LDC compliance audits will be complete by year-end 2014.

In general, the auditor responsible for conducting the compliance audits (Bronson Consulting) has found manageable compliance-related issues within the CDM operations of the LDCs reviewed. Many of these issues - as expected for any large, multi-year program - occurred early on in the 2011-2014 CDM programs period and have been determined by the auditor to be the result of LDC inexperience and lack of familiarity with program delivery requirements. Examples of these compliance issues include: the process used by LDCs to contract with third-party service providers; failure to collect all required information for completed CDM projects; and LDCs' approaches to the submission of incentive payment requests,

As discussed in part c) of this response, all issues identified by the auditor have been resolved with the LDC.

1 b) As of June 2014, 33 LDC program administration budget ("PAB") audits have been
2 initiated; 25 of which have been fully completed. All LDC PAB audits will be
3 completed by year-end 2014.

4 The following three separate parties have been responsible for the 25 completed
5 PAB audits:

- 6 • Deloitte (4 completed);
- 7 • OPA (17 completed); and,
- 8 • Bronson Consulting (4 completed).

9 Bronson Consulting will be responsible for completing the balance of the LDC CDM
10 PAB audits.

11 Overall, the results of all PAB audits undertaken to-date demonstrate that LDCs
12 continue to spend their PAB budgets in compliance with contractual obligations.

13 c) Following the completion of an LDC compliance audit, the OPA initiates a
14 Management Response process with each LDC. This process is used to:

- 15 a. Inform the LDC on the results of their compliance assessment (by providing a
16 copy of the final compliance audit report generated by Bronson Consulting); and,
- 17 b. Ensure any observed deficiency within the LDC's CDM operations is
18 appropriately addressed and cured.

19 At a high-level, the following provides an overview of the steps included within this
20 Management Response process:

- 21 1. OPA provision of the final QA/QC report to the LDC.
- 22 2. OPA provision of a response document to the LDC for purposes of providing a
23 Management Response to all observed deficiencies.
 - 24 a. For all deficiencies, LDCs are required to discuss how the situation will be
25 remedied as well as associated timelines for remedy implementation.
 - 26 b. LDCs are given between two (2) and three (3) weeks to provide Management
27 Responses. Time given for management responses is based on the
28 significance and/or number of deficiencies observed.
- 29 3. OPA meeting with LDC to discuss Management Responses.
 - 30 a. Should the OPA be unsatisfied with any remedial actions planned by the
31 LDC, this meeting is used to develop jointly agreeable solutions to the
32 observed deficiency.
- 33 4. Thirty (30) days following the submission of the approved Management
34 Response document, the OPA follows-up with the LDC to ensure remedial
35 actions have been implemented and the desired outcome(s) of the action has
36 been obtained.

2 As of June 2014, the OPA has fully completed the Management Response Process
with over 30 LDCs. To be considered complete, an LDC must:

- 3 • Acknowledge the observed deficiency as being valid;
- 4 • Propose or agree to a viable and appropriate solution to the deficiency;
- 5 • Implement the solution within approved timelines; and,
- 6 • Demonstrate resolution implementation to the OPA within agreed to timelines.

7 All audit reports, recommendations and follow-ups are also reviewed with
8 management and "in camera" on an ongoing basis by the OPA Board of Directors'
Audit Committee.

10 Following PAB audits, a follow-up process has not been required given LDCs have
11 been determined to be compliant. Should, during a future PAB audit, an LDC be
12 found to be non-compliant with contractual obligations, a similar Management
13 Response process to that described for the compliance audit process will be used.

TAB B

BOARD STAFF INTERROGATORY #5

Issue 1.1 Is the Operating Budget of \$10,588 thousand allocated to Goal 1 reasonable?

Issue 2.1 Is the Operating Budget of \$5,749 thousand allocated to Goal 2 reasonable?

Issue 3.1 Is the Operating Budget of \$15,028 thousand allocated to Goal 3 reasonable?

Issue 4.1 Is the Operating Budget of \$24,577 thousand allocated to Goal 4 reasonable?

Issue 5.1 Is the Operating Budget of \$4,389 thousand allocated to Goal 5 reasonable?

INTERROGATORY

Issue 1-5/Board Staff/5

Reference: Pre-Filed Evidence of OPA, Exhibit B, Tab 4, Schedule 1, page 12.

Preamble: OPA states:

"Internal Audit Program

"During this period, the OPA managed and coordinated 35 internal audit projects to confirm the effectiveness and efficiency of its business processes and systems. The status of actions taken to implement ongoing improvements in operations provided in the audit recommendations confirmed that the OPA has addressed all outstanding recommendations. In addition, the OPA achieved further assurance through internal audits conducted at the program counter-party level (i.e. at the LDC level). These related to the review of the legitimacy and accuracy of amounts paid or received pertaining to OPA funded conservation and FIT programs."

Question:

Please describe the recommendations and what actions the OPA has taken to address the recommendations arising from the internal audits.

RESPONSE

The mandate of the OPA is varied with respect to the types of programs under its administration. Accordingly, the range of internal audits is equally broad to cover off the different aspects of the business. The internal audits that are performed are primarily operational in nature, in that they review a specific program, fund or internal process/group. While there are numerous findings, they can be categorized as:

a) controls assessment;

b) gap identification / process improvement; and

c) best practice recommendations.

1 Each of the findings is also categorized as High/Medium/Low risk, to assist in the
2 prioritization of implementation. At the conclusion of the audit, there is a management
3 response to each finding, which includes a course of action to remediate the finding.
4 Additionally, the OPA performs an annual follow-up audit, to review the progress made
5 on all outstanding recommendations since the last follow-up audit was performed.

TAB C

CME INTERROGATORY #4

Issue 1.1 Is the Operating Budget of \$10,588 thousand allocated to Goal 1 reasonable?

INTERROGATORY

Ref: Exhibit B, Tab 1, Schedule 1

Issue 1.1

CME 4

At page 8 of 36 of Exhibit B, Tab 1, Schedule 1, the OPA confirms that it manages contracts with 76 LDCs for the delivery of LDC delivered programs. CME understands that the OPA's management activities include audits of the LDC expenditure of program administration budget provided as part of the contract, quality assurance audits for program delivery and audits of third party service providers serving LDCs. OPA states in the evidence that those audits to date have demonstrated compliance. CME wishes to better understand this audit process. Please provide the following information:

(a) How many of the 76 LDCs have been subject to:

(i) Audits of the LDC expenditure of the program administrative budget provided as part of the contract?

(ii) Quality assurance audits for program delivery and project applications? and

(iii) Audits of third party service providers serving LDCs?

(b) Have any of the audits conducted identified shortcomings in the LDC expenditure of the program administrative budget, of quality assurance, or of the services of third party providers serving LDCs? If so, please provide the details of the shortcomings as well as a summary of the recommendations arising out of the audit and steps that have been taken to implement those recommendations.

(c) Are the audits conducted internally by OPA or by external auditors? If they are conducted by external auditors, please identify the identity of those auditors.

(d) Please provide copies of all of the written audits.

RESPONSE

(a) In total, the OPA is currently engaged in four separate vendor assurance projects to assess LDC-related CDM activity. Combined, these four projects, listed below, are being used to ensure the ongoing effective operation of CDM initiatives in Ontario.

1. Quality Assurance Inspections: to ensure LDCs continue to administer their CDM portfolio of programs in accordance with the CDM Master Agreement. This project is also used to assess CDM project activity carried out by third parties. Specifically, this project assesses, amongst other functional responsibilities, that third parties have correctly determined participant eligibility, calculated the correct level of participant incentive, have not submitted duplicative incentive claims for the same project, etc.
2. Home Assistance Program Review: to ensure third-party delivery agents are delivering the initiative in compliance with contractual requirements and to assess the level of participant satisfaction with provided services.
3. Small Business Lighting (SBL) - Third-Party Service Provider Audit: to ensure the service provider, contracted to oversee the processing of SBL incentive claims, continues to maintain an appropriate process.
4. Heating and Cooling Incentive (HCI) - Third-Party Service Provider Audit: to ensure the service provider, contracted to oversee the processing of HCI incentive claims, continues to maintain an appropriate process.

In addition to the above, the OPA intends to implement one additional audit in 2014. This project is a Decommissioning Process Assessment, which will assess participants in various CDM retrofit initiatives to determine their level of compliance with required equipment decommissioning processes.

- (i) and (ii) Please see the response to Board Staff Interrogatory 4, at Exhibit I, Tab 1, Schedule 1.04.
- (iii) As described above, the five listed audits currently underway, or to be initiated, target, in whole or in part, third party service providers.

(b) Please see the response to Board Staff Interrogatory 4.

(c) The table below demonstrates the party responsible for the audits and services.

Audit Project	Service Provider
Quality Assurance Inspections	Bronson Consulting Inc.
Home Assistance Program Review	Bronson Consulting Inc.
Small Business Lighting: Third-Party Service Provider Audit	A vendor has been selected; however, a contract is yet to be signed. Note: Bronson is not the auditor
Heating and Cooling Incentive: Third-Party Service Provider Audit	A vendor has been selected; however, a contract is yet to be signed. Note: Bronson is not the auditor
Decommissioning Process Assessment	RFP to be posted Q3 2014

- (d) Given their scope, and the nature of the LDC information contained within, audit reports are considered to be confidential and as such will not be provided. Please refer to Board Staff Interrogatory 4 for a description of how the OPA responds to results of the audits.

TAB D

1 **SEC INTERROGATORY #7**

2 **Issue 4.1** Is the Operating Budget for \$24,577 thousand allocated to Goal 4 reasonable?

3 **INTERROGATORY**

4 4.1-SEC-7

5 [B-4-1/p.4, 12] Please provide copies of all i) internal audits reports , and ii) value for money
6 audit reports, conducted since 2011.

7 **RESPONSE**

8 The OPA's internal audit reports are confidential in nature and are not disclosed as their
9 purpose is to generate frank and open communication regarding OPA programs, practices
10 and processes. Their function would be compromised if subject to public dissemination.

11 All internal audit reports, recommendations and follow-ups are reviewed "in camera" on an
12 ongoing basis by the OPA Board of Directors and its Audit Committee. For further
13 information on the OPA internal audit program please refer to Board Staff Interrogatory 5,
14 at Exhibit I, Tab 1, Schedule 1.05.