



June 9, 2008

Ms Shelly Jamieson  
Clerk of the Executive Council  
Executive Council Office  
The Cabinet Office  
Room 4440, Whitney Block  
99 Wellesley Street West  
Toronto, ON M7A 1A1

**Petition to Lieutenant Governor in Council by the Association of Major Power Consumers in Ontario**

Dear Madam:

Pursuant to the provisions of Section 34 of the Ontario Energy Board Act (the "OEB Act"), we are hereby petitioning the Lieutenant Governor in Council ("LGIC") to seek an order providing policy direction to the Ontario Energy Board (the "Board") respecting the exercise of the Board's legal power to order rates which over-charge certain customers so that others may be subsidized.

The Petitioner is the Association of Major Power Consumers in Ontario ("AMPCO"), a not-for-profit consumer interest advocacy organization that serves the interests of Ontario's industrial power consumers.

This Petition is filed by AMPCO in respect of the decision of the Board dated May 16, 2008, respecting a Motion for Re-Hearing brought by AMPCO (Board file EB-2008-0099) concerning a previous Order of the Board approving a revenue requirement and setting distribution rates for the Oshawa Public Utility Corporation (Board File EB-2007-0710).

AMPCO's motion requested that the Board reconsider its previous decision authorizing distribution rates that over-charged large volume customers in a range of 125 to 257 percent in 2008. The Board declined to review the decision on the grounds that it has "wide discretion" with respect to allocating costs among customers such that it may require some customers to over-pay for the benefit of others, even where those others are the shareholder of the utility itself. The decision of the Board effectively asserts its prerogative to order rates to advance a range of social policy objectives at its discretion. AMPCO submits that it is inappropriate for the Board to authorize subsidies between customers. Whether, and under what conditions the Board should exercise that power is, in our submission, a matter that is appropriately determined by government policy.

**Association of Major Power Consumers in Ontario**

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AMPCO submits that this case is appropriate for review by the LGIC. The Petition raises two key questions:

1. Should the OEB's rate making authority be used to impose higher rates on some customers so that other customers can receive subsidies; and
2. If it is appropriate to do so, under what conditions and in consideration of what factors?

This question is particularly acute in light of the Divisional Court's decision in *Low Income Energy Network v Ontario Energy Board* (dated May 16, 2008), which held that the OEB may set rates taking into account a customer's ability to pay. If the LGIC considers that it is appropriate for the Board to do so, AMPCO requests the opportunity to provide submissions on the factors that the OEB should take into account.

AMPCO's written submissions that it provided to the Board in support of this position are attached. Please contact me if any further information is required in connection with this Petition.

Sincerely yours,



Adam White  
President

Copies: Mr. Howard Wetston, Q.C., Chair, Ontario Energy Board  
Mr. Peter Wallace, Deputy Minister of Energy  
Mr. Irv Harrell, Chairperson, Oshawa Public Utilities Corporation  
AMPCO members  
Parties to OEB Proceedings EB-2007-0710 and EB-2008-0099