

Reply to the Attention of Mike Richmond
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Our File No. 231915
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Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Attention: Board Secretary

Dear Ms. Walli:

**Re: Concern regarding Procedural Order No. 1
EB-2016-0004**

We are counsel to the Canadian Propane Association (the “CPA”), an intervenor in EB-2016-0004.

We have reviewed Procedural Order No. 1 (“PO#1”) issued by the Board on February 10, 2016.

We note that Board has set a deadline of February 26, 2016 for parties to comment on the Draft Issues List. CPA is of the view that the Draft Issues List is too narrow to fully examine all of the benefits and drawbacks of the various options in order to give the Board a complete view, and therefore plans to submit comments on the Draft PO#1 by the February 26 deadline.

The CPA presumes that other parties may similarly provide comments on the Draft Issues List.

We note, however, that PO#1 does not indicate when the Board will revert with a final and possibly revised Issues List, after having considered the comments that the Board invited. Presumably it will be some time after February 26. Even if the Board reverts on the next business day, that would be Monday, February 29, 2016, at the earliest (though we would not fault the Board for taking more than 1 day to consider the comments it receives on the Draft Issues List).

We also note that the deadline for the submission of evidence is March 4, 2016.

We do not know whether the Board intends to issue the final (and possibly revised) Issues List before March 4 or not, but even if it issued before March 4, it will not be before March 1.

The unintended consequence is that parties are expected to submit their evidence either:

- 1, 2 or 3 days after seeing the final Issues List, if the final Issues List is released prior to March 4, 2016; or
- prior to seeing the final Issues List, if the final Issues List is released after March 4, 2016.

The Board expects parties' evidence to relate to the Issues List. Accordingly, we respectfully submit that the Board ought to allow parties to see the final Issues List before determining what evidence to present, and certainly before preparing and submitting that evidence. Otherwise the evidence will not speak to the Issues, which will lead not only to an unfocussed proceeding, but also to unnecessary delay as parties bring motions challenging the admissibility and relevance of other parties' evidence.

In the CPA's case, the evidence we lead will vary significantly depending on whether the expanded issues that we intend to propose are accepted or not. The CPA is not in a position, however, to retain experts and commission reports addressing those expanded issues if those issues will not be considered in the hearing. The CPA is happy to expend the resources necessary to provide the Board with all of the evidence it needs in order to make an informed decision on the issues, but at the present time we do not know what those issues will be.

The CPA respectfully requests that, pursuant to Section 7.01 of the OEB Rules of Practice and Procedure, the Board reconsider the timetable set out in PO#1 in order to ensure that:

- i. the Board gives itself sufficient time to consider the comments it receives on the Draft Issues List and to revise the Issues List if appropriate based on those comments;
- ii. the Board gives parties sufficient time after the final Issues List is released to prepare their evidence and to ensure that such evidence responds to the issues on the Issues List (and only to the issues on the Issues List).

We appreciate that this may lead to a slight extension in the timetable, but believe that it is both necessary in the interests of procedural fairness, and desirable in order to make the actual hearing as efficient and meaningful as possible.

Yours truly,



Mike Richmond

cc. Intervenor in EB-2015-0179