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APPrO
ASSOCIATION OF
POWER PRODUCERS
OF ONTARIO

February 29, 2016

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, Suite 2700
Toronto, ON
M4P 1E4

Re: APPrO Intervention Request: EB-2015-0275: Independent Electricity System Operator 2016 Expenditure and Revenue Requirement Application

Dear Ms. Walli:

The Independent Electricity System Operator ("IESO") has filed its 2016 Expenditure and Revenue Requirement Application (EB-2015-0275) with the Ontario Energy Board (the "OEB" or the "Board"). The Association of Power Producers of Ontario ("APPrO") hereby requests intervenor status in this proceeding.

A. APPrO and Its Interest in the Proceeding

APPrO is a non-profit organization representing more than 100 companies involved in the generation of electricity in Ontario, including generators and suppliers of services, equipment and consulting services. APPrO's members produce electricity from natural gas, hydro, nuclear, wind, biogas and other sources. A description of APPrO, its mandate and objectives, membership and representative constituency, and programs and activities are summarized in Attachment I.

APPrO's interest in this matter is in respect of the IESO's proposal to institute a new, single fee that is applicable to exports.

The Board's Notice of Application for this proceeding (the "Notice") notes that the IESO has applied for a written hearing and that the Board is considering this request. The Notice invites submissions as to why an oral hearing may be needed in this proceeding. APPrO submits that the following factors weigh against a written hearing in this case, at

least in relation to the issue of the proposed single fee that will apply to domestic load and exports:

- The IESO's proposal to have a single fee that is applicable to exports is a case of first instance that has never been approved in a Board decision. The initial application of the IESO's fees to export customers was approved in a settlement agreement in RP-1999-0049. As the Board is aware, the Board's approval of a settlement agreement does not have precedential effect (see, for example, EB-2010-0142, Partial Decision and Order issued July 7, 2011 at p. 40 and EB-2007-0776, Decision and Order issued April 23, 2009 at p. 2);
- The imposition of a fee on exporters raises a number of contested issues, which is demonstrated by the fact that the Board has not approved an applicant's export fee proposal as filed (see, for example, EB-2012-0031 and EB-2010-0279); and
- The evidence entitled "Cost Allocation and Rate Design" filed in this application (Ex. B-1-1, Attachment 1) may raise issues of credibility, which are best addressed in an oral hearing.

B. APPrO's Experience as a Frequent Intervenor

APPrO has a record of frequent participation in OEB proceedings as an intervenor. This includes proceedings for Union Gas, Enbridge, Hydro One, the IESO and the former Ontario Power Authority, as well as OEB-sponsored consultations.

C. Nature and Scope of APPrO's Intended Participation

APPrO intends to be an active participant in this proceeding, and will act responsibly to coordinate with other intervenors where common issues may arise and be otherwise addressed. APPrO intends to participate by requesting information, participating in any requisite motions, testing evidence through the stipulated processes, submitting written interrogatories and providing argument in accordance with the Board's procedures stipulated for this proceeding. Subject to the development of the record in this matter, APPrO may also submit evidence.

D. Costs

In accordance with the Board's Practice Direction on Cost Awards (the "Cost Awards Direction"), APPrO is eligible to seek an award of costs from the IESO, as APPrO is a

party that represents the direct interests of customers (generators and exporters) in relation to IESO services that are regulated by the Board (s. 3.03(a)).¹ Furthermore, although s. 3.05 of the Cost Award Direction stipulates that despite s. 3.03, generators are not eligible for a cost award, s. 3.06 states that notwithstanding s. 3.05, a party which falls into one of the categories listed in section 3.05 may be eligible for a cost award if it is a customer of the applicant.

Therefore, APPrO submits that it should be eligible for its reasonably incurred costs on the grounds that it represents a class of IESO customers in this proceeding. All APPrO generator members are participants in the IESO administered market ("IAM") and sell into it. APPrO members export significant energy through it to other neighbouring control areas. The IAM is their primary channel of sales and they currently pay IESO fees to access this market. Changes to fees may have a significant and negative impact on their business. APPrO has participated on this basis in previous OEB proceedings addressing the imposition of payments on power exports, including Hydro One's application for approval of its 2013 and 2014 transmission rates (EB-2012-0031) and the OPA's application for approval of its 2011 fees (EB-2010-0279).

Moreover, APPrO has applied for, been found eligible for and received costs in a number of proceedings including the above-noted Hydro One application for approval of its 2013/14 transmission rates (EB-2012-0031), as well as Hydro One's application for its 2011/12 transmission rates (EB-2010-0002). APPrO submits that it should once again be found eligible for its reasonably incurred costs in this proceeding.

E. APPrO's Representatives

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¹ APPrO notes that s. 3.03(a) of the Cost Awards Direction refers to "consumers" as opposed to "customers". If s. 3.03(a) is meant to capture solely the definition of consumers as defined in the *OEB Act* and *Electricity Act* (as opposed to, more broadly, customers of an applicant), APPrO is nevertheless eligible to apply for costs under s. 3.03 as APPrO primarily represents an interest or policy perspective relevant to the Board's mandate and to the current proceeding, pursuant to s. 3.03(b).

And to APPrO's counsel:

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Respectfully,

A handwritten signature in black ink, appearing to read 'David Butters', enclosed within a large, hand-drawn oval. The signature is fluid and cursive.

David Butters
President & CEO

Ms. Nancy Marconi, Senior Manager, Regulatory Affairs, IESO.
Mr. Fred Cass, Counsel for IESO