mcmillan

Reply to the Attention of: Mike Richmond
Direct Line: 416.865.7832
Email Address: mike.richmond@mcmillan.ca
Our File No.: 267730
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BY RESS AND COURIER

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
26th Floor, Box 2319
Toronto, ON M4P 1E4

Re: EB-2019-0018
MANA Intervenor Request

This letter is delivered pursuant to Rule 22.08 of the Board's Rules of Practice and Procedure.

In response to Alectra's letter questioning whether MANA is a member of AMPCO and therefore whether MANA's interests may be represented by AMPCO, we confirm that MANA is not a member of AMPCO and is not represented by AMPCO. AMPCO's self-declaration that it represents the interests of Ontario's steel industry does not make it so. In any event, the interests of "industry and manufacturing" are not uniform across all of the sectors which AMPCO claims to represent. Even within the "steel industry" in particular, the interest of all steel companies are not uniform. As a non-member, AMPCO is not familiar with and does not represent the interests of MANA.

Unlike all of the other applicants for intervenor status in this matter, MANA is a direct Alectra customer, and is therefore the only intervenor applicant directly affected by a change in Alectra's rates or the allocation thereof, and the only intervenor with a direct substantial interest at stake in this matter.

This is not a generic hearing to consider lofty policy issues, but a rate hearing to determine actual rates to be charged to actual customers. It would be odd for the Board to allow various interest groups to participate in a utility rate application while refusing to hear from those actual customers.

In terms of cost eligibility, the burden referred to in 3.02 is a burden to establish that the criteria set out in 3.03 are met, not a burden to come up with other rationalizations. Nonetheless, we submit that it is in the public interest to hear from interested parties in matters such as these, including above all customers; but the costs of doing so discourage such participation. For an individual customer like MANA making rational economic decisions, the cost of participating could easily exceed the actual annual distribution cost increase at issue in the hearing, leading to an inevitable decision not to participate. The Board should not make it more financially attractive for MANA to simply accept unjustified rates than to provide important evidence and contributions.

Notwithstanding the foregoing, as stated above, the burden referred to in 3.02 is a burden to establish that the criteria set out in 3.03 are met. Section 3.03(a) of the Board's Practice Direction on Cost Awards states that a party is eligible where they "primarily represent the direct interests of consumers (e.g. ratepayers) in relation to regulated services." The burden is on MANA to establish that is satisfies such eligibility test. In this case, MANA not only "primarily represents the direct interests of consumers"; it is a direct consumer, and *entirely* (not just primarily) represents its own interests.

Furthermore, MANA is not an Applicant, transmitter, wholesaler, generator, electricity retailer, gas marketer or the IESO, and therefore its eligibility as established by 3.03(a) is not subsequently voided by section 3.05.

Without questioning the Board's ultimate power to make whatever decision it considers appropriate, it is worth noting that section 3.06 of the Practice Direction indicates that the Board may in special circumstances find a party to be eligible for costs even though excluded by 3.05; but there is no corresponding section which explicitly contemplates finding a party to be ineligible even though included by way of 3.03.

The Board will, at the end of this hearing, determine whether MANA should or should not *actually* be awarded costs, and if so, what amount. But the issue currently before the Board is not whether MANA will receive costs, but whether MANA is eligible to apply for costs. Based on the facts and the Practice Direction as outlined above, we respectfully submit that it is eligible to apply.

Yours truly,

Mike Richmond