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October 11, 2019

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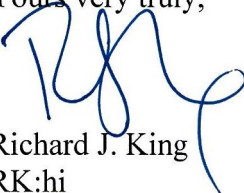
Ms Kirsten Walli
Board Secretary
Ontario Energy Board
27th Floor
2300 Yonge Street
Toronto, ON M4P 1E4

Dear Ms Walli:

**AMPCO – Market Rule Amendment Review
Board File No.: EB-2019-0242**

We are counsel to the Association of Power Producers of Ontario (APPrO). Please find enclosed APPrO's Notice of Intervention requesting participant status and cost eligibility in the above-noted proceeding.

Yours very truly,



Richard J. King
RK:hi

Enclosure

c: Ian Mondrow/Laura Van Soelen (Counsel to AMPCO)
Michael Lyle (IESO)
David Butters (APPrO)
E. Barz (Osler)

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Electricity Act, 1998*,
S.O. 1998, c. 15, Sched. A, as amended;

AND IN THE MATTER OF an application by the Association of
Major Power Consumers in Ontario requesting that the Ontario
Energy Board review a set of Market Rule amendments made by the
Independent Electricity System Operator (MR-00439-R00 to R05:
Transitional Capacity Auction).

EB-2019-0242

**NOTICE OF INTERVENTION &
REQUEST FOR COST ELIGIBILITY**

OF

ASSOCIATION OF POWER PRODUCERS OF ONTARIO

October 11, 2019

A. Application for Intervenor Status

1. The Association of Power Producers of Ontario (“APPrO”) hereby requests status to participate in the application brought by the Association of Major Power Consumers in Ontario (“AMPCO”) pursuant to section 33 of the *Electricity Act, 1998* (the “EAct”) requesting that the Ontario Energy Board (“OEB” or “Board”) review a set of Market Rule amendments made by the Independent Electricity System Operator (“IESO”) (MR-00439-R00 to -R05: Transitional Capacity Auction). This request includes the opportunity to participate in the AMPCO motion to stay the operation of the Market Rule amendments. The Board’s consideration of the AMPCO application and motion is referred to herein as the “AMPCO Review”.
2. This notice of intervention is filed pursuant to Rule 22 of the Board’s *Rules of Practice and Procedure*, including Rule 22.05, and the Board’s Notice of October 1, 2019.

B. APPrO and its Interest in the Proceeding

3. APPrO is a non-profit organization representing a wide range of organizations active in the Ontario electricity industry. APPrO members own and/or operate a large number of facilities which collectively produce more than 90 per cent of the electricity generated in Ontario. APPrO’s generator members produce electricity from clean and renewable resources including nuclear, co-generation, hydro-electric, natural gas, wind, wood waste, and solar energy. APPrO’s membership is not limited to electricity generators. It also includes fuel suppliers and marketers, contractors, equipment suppliers, consultants, local distribution companies, legal services providers, financial organizations, and customer service providers. APPrO’s mission is to achieve an economically and environmentally sustainable electricity sector in Ontario that supports the business interests of electricity generators, ratepayers, and the provincial economy.
4. APPrO has been an active, Board-approved, cost eligible intervenor in several Board proceedings, including the only other Market Rule Amendment review to have been fully heard by the Board (12x ramp rate) (EB-2007-0040), the current Hydro One Transmission Rates application (as it relates to the export transmission service charge) (EB-2019-0082),;

the 2019 IESO Expenditures, Revenue Requirements and Fees case (EB-2019-0002), and numerous other recent and past OEB proceedings.¹ The OEB has accepted APPrO's request for cost eligibility on the grounds that APPrO's members are customers of the IESO and energy utilities, and that in many OEB proceedings the views of APPrO members are important to the consideration of important policy matters before the OEB. This case is, in APPrO's view, no different.

5. APPrO has a direct and substantial interest in the AMPCO Review in that the Market Rule amendments at issue would extend eligibility to participate in the Transitional Capacity Auction ("TCA") to certain members of APPrO – in particular, non-committed, dispatchable generators in Ontario. At present, the demand response auction ("DRA") excludes participation by any Ontario generators. As such, the outcome of the AMPCO Review proceeding will determine whether certain APPrO members can participate in this bridging component of the IESO's Market Renewal regime, or whether it is excluded from same. The OEB should have the best information before it to assess the Market Rule amendments, and that information includes the perspectives of APPrO members.

C. Nature and Scope of APPrO's Intended Participation

6. APPrO intends to be an active participant in the AMPCO Review and will act responsibly to coordinate with other intervenors where common issues may arise. APPrO otherwise intends to participate actively in order to provide comments, test evidence in accordance with the stipulated processes and timelines, and provide argument/submissions. It reserves the right to adduce evidence should the Board's procedures provide for same.

¹ These include the Board consultation on Rate Design for Commercial Industrial Customers (EB-2015-0043); the Board's consultation process regarding proposed amendments to the Distribution System Code associated with connection cost responsibility of renewable generation (EB-2009-0077); the Board's consultation process to examine its policies regarding cost responsibility for generation and load connections to transmission systems (EB-2008-0003); the Post-2020 DSM Framework Consultation (EB-2019-0003); DSM Mid-Term Review (EB-2017-0127/EB-2017-0128); Enbridge's 2014- 2018 IRM Proceeding (EB-2013-0459); Union's application for an order or orders approving a one-time exemption from its approved rate schedules to reduce certain penalty charges applied to direct purchase customers who did not meet their contractual obligations (EB-2014-0154); Union's 2013 Rebasing Proceeding (EB-2011-0210); Union's 2014-2018 IRM Proceeding (EB-2013-0202); and Union's and Enbridge's applications for approval of their 2015-2020 DSM plans (EB-2015-0029/EB-2015-0049) and many others (e.g., transmission project development planning, transmission and distribution cost responsibility proceedings, RRFE, etc.).

D. Costs

7. APPrO is both cost award eligible and should be granted cost award eligibility in accordance with section 3.03(a) and (b), section 3.04(d), and section 3.07 of the Board's *Practice Direction on Cost Awards* (the "**Practice Direction**") on the grounds that:

- (a) APPrO represents electricity producers that are consumers of services that are regulated by the Board. Electricity producers, including those with potential to provide services via the TCA, make significant payments to the IESO and energy utilities for station service, transmission and distribution service (including costs for connections, impact studies, mandatory upgrades, etc.). APPrO should therefore be afforded cost eligibility in accordance with section 3.03(a) of the Practice Direction.
- (b) At the heart of the AMPCO Review is who will be able to provide the Ontario market with capacity, as the market evolves pursuant to the IESO's Market Renewal process. This raises issues of the cost of electricity, fairness in market participation, and the utilization of non-utility and other generation assets as they come off contract. These issues touch on a number of the Board's statutory objectives as set out in section 1 of the *Ontario Energy Board Act, 1998*, namely: protecting the interests of consumers with respect to prices; promoting economic efficiency and cost effectiveness in the generation, sale and demand management of electricity; and facilitating the maintenance of a financially viable electricity industry. APPrO should therefore be afforded cost eligibility in accordance with section 3.03(b) of the Practice Direction.
- (c) APPrO is a non-profit industry association, whose members are currently excluded from participation in the DRA. A number of APPrO members have facilities that have recently (or will soon) come off contract, and may be eligible to participate in the TCA (i.e., non-contracted, dispatchable generation). How these assets get utilized within the broader Ontario electricity sector (and the electricity pricing implications thereof) will be partially determined in this proceeding. As such, important public interest issues (as they pertain to Ontario's electricity sector) are

at stake in this proceeding. APPrO should therefore be awarded cost eligibility in accordance with section 3.04(d) of the Practice Direction.

- (d) Finally, the AMPCO Review raises a unique issue that has not come before the Board previously, yet does have implications for the IESO-administered markets and therefore the price that consumers will ultimately pay for electricity. This falls squarely within the ambit of the OEB's jurisdiction with respect to consumer pricing. APPrO is uniquely positioned to provide the OEB with useful context as to how its members view the TCA, their ability to participate in the TCA (if allowed to come into effect), and other issues of asset utilization tied to the TCA. While supportive of the TCA, APPrO understands that it would only partially address the looming issues of: (a) a need for additional capacity in the province in the coming years; and (b) how to best utilize spare capacity from existing assets. As such, APPrO submits that there are special circumstances that warrant a finding that APPrO should be afforded cost eligibility in accordance with section 3.07 of the Practice Direction.

E. APPrO's Representatives

8. APPrO hereby requests that further communications with respect to this matter be sent to:

Association of Power Producers of Ontario
67 Yonge Street, Suite 1040
Toronto, ON M5E 1J8

Attention: David Butters, President and CEO
Telephone: 416-322-6549
Email: david.butters@appro.org

and its Counsel:


Osler, Hoskin & Harcourt LLP

1 First Canadian Place, Box 50
100 King Street West, Suite 6200
Toronto, ON M5X 1B8

Attention: Richard J. King
Telephone: 416-862-6626
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Email: rking@osler.com

Attention: Evan J. Barz
Tel: 416-862-4209
Facsimile: 416-862-6666
Email: ebarz@osler.com

ALL OF WHICH IS RESPECTFULLY SUBMITTED,
this 11th day of October, 2019



OSLER, HOSKIN & HARCOURT LLP,
Counsel for the Association of Power Producers of Ontario
Per: Richard J. King