



August 29, 2008

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, Ontario M4P 1E4

**Re: EB-2007-0905 OPG Payment Amounts for Prescribed Facilities
Association of Major Power Consumers in Ontario (AMPCO) - Cost Claim**

Dear Ms. Walli:

We are in receipt of OPG's letter of August 21, 2008 raising concerns about AMPCO's cost claim in the above noted proceeding. Subsequently, in response to our request, we received information from OPG on August 26, 2008 relating to the cost claims of intervenors in the case.

We note first that OPG does not object to the claim as submitted. OPG does, however, suggest to the Board that it consider in its evaluation "that the magnitude of the claim is materially higher than claims from other Intervenor with similar levels of participation."

AMPCO acknowledges that AMPCO's claim for costs for 1210.35 hours (representing 28.1 percent of the total hours submitted for the period pre June 20) is the largest single claim. We note, however, that the costs submitted by AMPCO (\$310,997.88) represent only 25.6 percent of the total costs. On a per hour basis, therefore, AMPCO's claim is not the most expensive. Of the 8 organizations submitting claims, 5 were more expensive on a per-hour basis than AMPCO.

AMPCO's calculus for choosing cases in which it should intervene, on which issues and to what degree, considers the value at risk, the significance of the case from a legal, regulatory or policy perspective, and a sense of the extent to which our intervention might affect the outcome. On all these measures, the OPG application ranks high.

- OPG has applied for payment amounts so substantially higher than current rates that it will increase costs to AMPCO members alone of \$50 million per year in 2008 and 2009 and would, if approved, raise the baseline for these assets to cause higher costs in future. The magnitude of the present value of these future costs would be measured in the hundreds of millions of dollars. The comments of OPG's Counsel in his opening submission reinforce the importance of this case and help explain AMPCO's motivation from the outset in pursuing a fulsome intervention: "...the revenue requirement needed to operate these facilities safely and efficiently is large, by Ontario standards. That's because the facilities themselves are large and complex and provide almost half of Ontario's electricity needs." (EB-2007-0905 Transcript of Proceedings, Volume 1, May 26, 2008, Page 8, lines 27 and 28, and Page 9, lines 1-3).

- OPG's application is without precedent and marks the first time ever that the management, operation and costs of these or any other generation assets are being scrutinized in a full-blown cost-of-service proceeding before the Board. Decisions made in this case will establish precedents in the practices of the Board, applicants and intervenors in subsequent cases and constitute an important contribution to the regulatory doctrine of the Board.
- As participants in the proceeding will acknowledge, AMPCO, its counsel and experts, have played a leading role in the case. Starting in April of 2006 when the Board first published a Notice of Regulatory Process to consider methodologies for setting payment amounts for OPG prescribed assets, AMPCO has been a full and constant participant in the process. AMPCO worked with intervenor groups with similar interests to ensure our work was neither duplicative nor repetitive. AMPCO coordinated with other intervenors to streamline the presentation of final arguments. AMPCO was lead cross-examiner on more of the witness panels put up by OPG than any other intervenor. AMPCO was the only intervenor to file evidence on two different topics on the Issues List: cost of capital and payment amounts. Responses to AMPCO's interrogatories were referenced by others throughout the hearing, including members of the Board. AMPCO submitted argument dealing with virtually the entire matter before the Board.

In preparing our response, we took the opportunity to review our claim and identified a minor error. In preparing a summary statement of hours for our legal team, an incorrect tariff was applied to an articling student. The corrected pages are attached.

In summary, we note that while OPG does not object to our claim, it seeks to make a general point about the amount being in some way too high. While we acknowledge our claim is higher, we reject the inference it's too high. Our intervention has been marked by thoughtfulness, frugality and care. Over the nearly two years during which this case has been before us, we have expended hundreds of hours in internal analysis and consultation, none of which are included in our claim. In light of OPG's proposal to increase its rates by over \$1 billion per year, their suggestion that our cost claim should invite extra scrutiny because it is a few thousand dollars higher than other intervenors is out of context given the circumstances of the case.

All of which is respectfully submitted,



Adam White
President

Copy: Colin Anderson, OPG

FORM 1

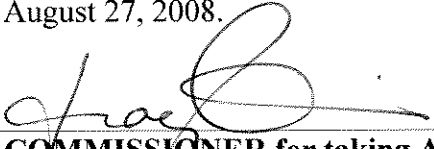
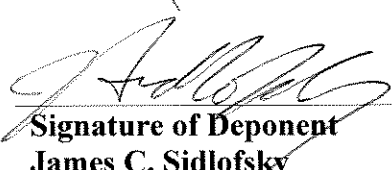
SUMMARY STATEMENT OF HOURS – CONSULTANT

EB-2007-0905		Association of Major Power Consumers in Ontario	
Board File Number		Party Name	
John Vellone		Borden Ladner Gervais LLP	
Legal Counsel Name		Law Firm	
2008		Year of Call	
Consultant Name		Consultant Firm	
Years of Relevant Experience (curriculum vitae must be attached)			
Hours	Hourly Rate	Sub-total	GST
Total			
Preparation	8.10	\$100.00	\$40.50
Attendance – Technical Conference			
Attendance – Settlement Conference			
Attendance – Oral Hearing			
Argument			
Case Management			
TOTALS	8.10	\$100.00	\$40.50
		\$810.00	\$850.50

Note: All claims must be in Canadian dollars. If applicable, state exchange rate _____, and country of initial currency _____.

FORM 3

AFFIDAVIT IN SUPPORT OF COST CLAIM

<u>EB-2007-0905</u> Board File Number	<u>Association of Major Power Consumers in Ontario</u> Party Name		
Items Claimed excluding GST			
Legal/Consultant Fees	+	Disbursements =	Net Sub-Total
\$ 294,153.75		\$ 1,483.01	\$ 295,636.76
Goods and Services Tax			
... Full Registrant		... Qualifying Non-Profit (GST at 3%)	
... Unregistered (GST at 6%)		... Tax Exempt (no GST)...	
Other \$14,765.77	GST at 5 %	Other	GST at
Total Cost Claim			
Net Sub-Total	+	Total GST Claimed =	Total Cost Claim
\$ 295,636.76		\$ 14,765.77	\$ 310,402.53
I, JAMES C. SIDLOFSKY of the City of Toronto in the Province of Ontario, MAKE OATH AND SAY:			
<ol style="list-style-type: none">1. I am a representative of the above noted party (the "party") and as such have knowledge of the matters attested to herein.2. I have examined the above Cost Claim and all of the documentation in support of it.3. The above Cost Claim represents only costs incurred directly and necessarily by the party for the purpose of its intervention in the Ontario Energy Board process (the file number of which is set out above).			
SWORN (OR AFFIRMED) BEFORE ME at the City of Toronto in the Province of Ontario on August 27, 2008.			
 COMMISSIONER for taking Affidavits Tracy Denise Chin Robillard		 Signature of Deponent James C. Sidlofsky	