



November 7, 2008

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

Dear Ms. Walli:

Re: Consultation on Energy Issues Relating to Low Income Consumers (EB-2008-0150)

Please accept letter as the submission of the National Chief on behalf of the Assembly of First Nations (AFN) in this proceeding. The AFN is the national political organization representing 633 First Nations in Canada, 134 of these communities are located in Ontario.

We have seen the written comments filed by the Low-Income Energy Network (LIEN), the Canadian Environmental Law Association (CELA), the Advocacy Centre for Tenants Ontario (ACTO), the Income Security Advocacy Centre (ISAC), and Toronto Environmental Alliance (TEA). We agree with and support the principles and proposals outlined in those comments. This submission focuses on low-income energy issues particular to First Nations.

For the sake of clarity, the AFN does not consider these proceedings to be consultation with regards to Aboriginal rights or title, as interpreted through s. 35 of the *Constitution Act*, but rather pertain to the OEB's authority to determine energy rates in the province of Ontario.

First Nations in Ontario will be directly affected by any new policies, programs, or other measures that the Ontario Energy Board (OEB) chooses to implement as a result of its current examination of low income consumers' energy issues in relation to their use of natural gas and electricity.

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First Nations have long endured systemic discrimination and marginalization from the mainstream economy. The *Indian Act*, combined with other institutions and policies of federal and provincial governments, have undermined traditional and well-established First Nations governance, social and economic structures, to the extent that many of our communities now face deep and entrenched poverty. In Ontario, as in the rest of Canada, others have amassed wealth and accumulated valuable assets from First Nations' resources at the cost of our wellbeing.

Our communities, especially those in isolated settings, such as in Northern Ontario, remain severely disadvantaged:

- Only about half of adults in all First Nations communities are working for pay.ⁱ In 2001, 36% of First Nations individuals over 15 years of age in Ontario reported no employment income.ⁱⁱ;
- In 2001, the average income for First Nations in Ontario was \$32,874; 48% of these had an income at or below \$24,999;ⁱⁱⁱ
- First Nations' unemployment rate is twice the national average;
- Overcrowding in on-reserve homes is a much greater problem for First Nations than it is for the Canadian population and it is getting worse.^{iv} In some instances, up to 18 people have been recorded to be living in a single house;
- Almost one in five First Nation adults are living in crowded conditions (more than one person per room);^v
- First Nations suffer from higher rates of tuberculosis, diabetes, heart disease and disability than the rest of the Canadian population; and
- One third of First Nation homes need major repairs; this is four times the number of homes requiring major repairs in Canada overall.^{vi}

These poverty conditions are exacerbated by the unique environmental concerns of First Nations. First Nations peoples live closer to the land than most Canadians, and are more directly dependent on health outdoor environments to secure food and viable livelihoods. The impacts of climate change are often felt first and most deeply by Indigenous people, which speaks to an energy supply that is unsustainable in two ways – in terms of cost, and impacts on the environment.

ⁱ NAHO (2005) First Nations Regional Longitudinal Health Survey (RHS) 2002/03: The Peoples' Report. First Nations Centre, Ottawa: 51.

ⁱⁱ Statistics Canada (2001) "Total Income Groups" in *Census 2001*.

ⁱⁱⁱ Ibid.

^{iv} NAHO ...: 44.

^v Ibid: 51.

^{vi} Ibid: 44.

We urge the OEB to ensure that all examinations of energy production take into account environmental impacts. First Nations will not find acceptable energy that comes at a lower financial cost, but which has longer term costs for the health of the environment and on their ability to pursue traditional livelihoods.

First Nations require a sound low-income energy policy that has the primary goals of:

- Ensuring continued uninterrupted access to sufficient, and sustainable sourced energy to maintain good health and livelihoods; and,
- Supporting capacity building and economic development opportunities in First Nation communities for the benefit of the people living in those communities.

First Nations require equitable opportunities to further economic development in their communities. Canadian law provides that where historic discrimination and poverty place a minority in an unequal position, that minority is entitled to request positive action to effectively counter the systemic barriers to success and thereby create a level playing field of opportunity. It is lawful to treat people unequally in Canada in order to achieve substantive equality.

It is this substantive equality that First Nations seek both in being able to access sufficient energy at affordable costs for their living needs, and in being able to take advantage of the economic opportunities available within the Ontario energy sector.

Please see attached for Appendix 1, which outlines some key concerns that the OEB should take into account in developing policies, programs and measures that address the needs of First Nations energy consumers living on low-incomes.

Sincerely,



Phil Fontaine
National Chief

Policies, programs and measures that the OEB develops in relation to low-income consumers, particularly with regard to First Nations, should include the following components and considerations:

a) Customer service

- Eligibility criteria should be simple and application processes straightforward.
- Ensure that programs run consistently every year and adequate funds are set aside to last through each winter.
- Establish culturally appropriate outreach for programs to ensure uptake.
- Avoid service disconnection, especially during heating and cooling seasons and for vulnerable homes housing elderly and/or infants.
- Avoid threats of disconnection as these do not achieve desired outcomes.

b) Support for First Nation-based community-driven energy generation projects, skills training and capacity building

- The AFN has intervened in the IPSP proceeding before the Board (EB-2007-0707) to argue for introduction of affirmative action programs to allow First Nations to participate on a level playing field in Ontario's energy generation, transmission and distribution.
- Subsidized skilled worker training programs should comprise a large aspect of new energy programming in order to build teams of skilled workers located in communities who are able to deliver energy services and home maintenance and upgrade work.
- Application procedures for all programming must be simple and be accompanied by a sound, culturally appropriate outreach strategy.
- All new energy programming and sourcing should take into account sustainability and long-term environmental impacts.

c) Provision of electricity distribution to First Nations communities not currently served by the grid

- Many First Nations communities are not connected to the grid.
- Where there is electricity supply, it is often diesel generated.
- Opportunities to connect these communities to the grid and/or to distributed generation from new clean sources of energy should be explored.

d) Support for **maintenance and upgrades to existing homes** to create healthy indoor living conditions and ensure that houses are suitable for additional energy efficiency upgrades.

- Issues with existing housing include indoor moulds, asbestos, lead paint, and overcrowding: 48.5% of First Nations living in band housing report mould or mildew in their homes; 36.9% of First Nations living in non-band housing also report mould or mildew in their homesⁱ.
- Health problems are linked with poor housing conditions: 43.5% of adults with asthma and 52.2% of adults with chronic bronchitis also report mould in their homes.ⁱⁱ
- Over 1/3 of First Nations households with children are overcrowded.
- First Nations homes are about four times more likely to require major repairs when compared to Canadians overall.
- Overcrowding is 5 – 6 times higher on-reserve than the national average.

e) **Implementation of ongoing energy efficiency and conservation programs:**

- All new housing built / supported by INAC should be built to high efficiency standards, supplied with efficient appliances AND ongoing funds for upkeep should be made available.
- Free energy efficiency upgrades for First Nations.
- Simple eligibility criteria and minimal application procedures for participation in energy efficiency upgrade programs.
- Strategic replacement of high energy intensity appliances as deemed appropriate by the home-dweller. For example, refrigerator replacement can drastically reduce home energy requirements; weather sealing may be inappropriate in cases of poor indoor air quality.

ⁱ NAHO (2005) First Nations Regional Longitudinal Health Survey (RHS) 2002/03: The Peoples' Report. First Nations Centre, Ottawa: 54.

ⁱⁱ Ibid: 54.

- f) Provisions **for universal access to adequate energy to fulfill livelihood, sanitation and transportation needs, regardless of ability to pay:**
- Simple eligibility criteria and minimal application procedures for individuals wishing to participate in energy rate subsidy programs, which must account for existing ability to access energy (as many First Nations lack access to non-electric energy alternatives, which in turn, can make energy more costly to purchase).
 - Additional cost burden suffered by northern and remote communities for transportation and obtaining supplies must be accounted for in distributing program resources.
 - Emergency assistance programs to ensure that energy services are not disconnected and ongoing assistance programs that respond to unique abilities to pay.