

9 December 2008

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

Dear Ms. Walli:

Re: EB-2007-0707 – Phase IIA Cost Award - GEC et al Motion to Vary

Attached please find a motion seeking a variance to the Board's IPSP phase IIA costs decision of November 28th to allow for the change in the Canada/U.S. exchange rate between the submission of the costs request and the Decision. Our request is limited to the two consulting groups we retained that had hourly rates denominated in U.S. currency. A second colour-coded version of the schedule to the affidavit is included for ease of reference.

We are proposing that this motion be dealt with in writing. We do not require an opportunity to make further submissions but we reserve our right to respond to any submissions that other parties might make.

We trust this is satisfactory.

Sincerely,

A handwritten signature in black ink, appearing to read 'David Poch', with a stylized flourish at the end.

David Poch

Cc: all parties

IN THE MATTER OF sections 25.30 and 25.31 of the
Electricity Act, 1998;

AND IN THE MATTER OF an application by the Ontario
Power Authority for review and approval of the Integrated
Power System Plan and proposed procurement processes.

AND IN THE MATTER OF Rule 42 of the Board's Rules of
Practice and Procedure.

NOTICE OF MOTION FOR REVIEW AND VARIANCE

The Moving Parties, the Green Energy Coalition, Pembina and OSEA, (hereinafter GEC) bring this written motion to the Board for an order:

- (1) Varying the Decision of the Board dated November 28th, 2008 with respect to the calculation of costs for phase IIA in this matter attributable to certain of GEC's U.S. based experts to increase the cost award by \$82,849.11, being an amount sufficient to offset the change in the exchange rate between the time of the cost claim submission and the Board's Decision;
- (2) An order of the Board extending time for the filing of this Motion, should it be required; and,
- (3) Such further and other order that the Moving Party requests and that the Board considers appropriate.

The grounds for the orders are:

- (1) Since the submission of the phase IIA costs claim there has been a change in circumstances and new facts have arisen that were not previously placed in evidence in the proceeding and could not have been discovered by reasonable diligence at the time.
- (2) Since the time of the submission of the claim the Canada-US exchange rate has changed by approximately 13 cents and has done so at a pace that is unprecedented in recent times.

(3) Varying the cost award to adjust for this change will result in a fairer award and support the ability of parties appearing before the Board to engage foreign experts where appropriate in future.

(4) Rules 8, 42 and 44.01(a)(ii),(iii), and (iv) of the Board's Rules of Practice and Procedure.

THE FOLLOWING DOCUMENTARY EVIDENCE is filled in support of this motion:

Affidavit of Kai Millyard, dated December 8, 2008.

THE MOVING PARTIES PROPOSE THAT THIS MOTION BE HEARD IN WRITING.

Dated: December 9, 2008

TO: Board Secretary
Ontario Energy Board
Suite 2700, 2300 Yonge Street
P.O. Box 2319
Toronto, ON
M4P 1E4

AND TO: Ontario Power Authority and Intervenors in EB-2007-0707

Before the Ontario Energy Board

IN THE MATTER OF sections 25.30 and 25.31 of the *Electricity Act, 1998*;

AND IN THE MATTER OF an application by the Ontario Power Authority for review and approval of the Integrated Power System Plan and proposed procurement processes.

AND IN THE MATTER OF Rule 42 of the Board's Rules of Practice and Procedure.

Affidavit of Kai Millyard

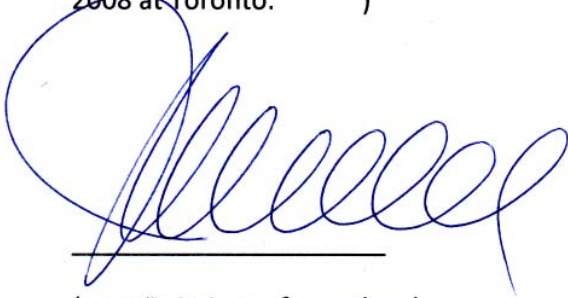
I, **KAI MILLYARD** OF THE CITY OF TORONTO, MAKE OATH AND SWEAR:

1. I act as research coordinator and case manager for the Green Energy Coalition, Pembina Institute and OSEA (hereafter GEC) in this matter and as such have knowledge of the matters hereinafter deposed.
2. This affidavit is made in support of a request to vary the phase IIA cost award in regard to certain of GEC's U.S. based experts.
3. Attached as exhibit A to this affidavit is a summary of the portion of the GEC's phase IIA cost claim reflecting the work of two U.S. experts or expert groups for which an award was made by the Board on November 28th and calculating the impact of the change in the U.S./Canadian exchange rate between the time of the cost claim submission and the Board's Decision.
4. It has been the practice of the GEC to submit cost claims related to foreign consultants and experts by asking such consultants to convert U.S. dollar invoices to claims in Canadian dollars to be submitted in accordance with the forms provided by the Board (which forms call for a statement of the exchange rate utilized).
5. In past proceedings any change in the exchange rate between the time of the submission of the claim and the award has been a risk carried by the experts and, given

the pace of change in the exchange rate typically experienced, has been a manageable risk that has not discouraged foreign experts from working for the GEC.

6. The approximately 13 cent change in the exchange rate in this instance was not anticipated by GEC or its experts and poses both a hardship for the experts and, if unmitigated, creates a risk to the ability of GEC and others to retain such experts in future.

Sworn before me this)
8th day of December,)
2008 at Toronto.)



(a commissioner for oaths...)

JACOB DE KLERK
Barrister & Solicitor



Kai Millyard

This is Exhibit A to the Affidavit of Kai Millyard, sworn before me this 10 day of December 2008.

JACOB DE KLERK
Barrister & Solicitor

Phase IIA

Cost Claim Summary		Phase 1A																		Phase 1B		Phase 2		Phase 3		Phase 4		Phase 5		Phase 6		Phase 7		Phase 8		Phase 9		Phase 10		Phase 11		Phase 12		Phase 13		Phase 14		Phase 15		Phase 16		Phase 17		Phase 18		Phase 19		Phase 20		Phase 21		Phase 22		Phase 23		Phase 24		Phase 25		Phase 26		Phase 27		Phase 28		Phase 29		Phase 30		Phase 31		Phase 32		Phase 33		Phase 34		Phase 35		Phase 36		Phase 37		Phase 38		Phase 39		Phase 40		Phase 41		Phase 42		Phase 43		Phase 44		Phase 45		Phase 46		Phase 47		Phase 48		Phase 49		Phase 50		Phase 51		Phase 52		Phase 53		Phase 54		Phase 55		Phase 56		Phase 57		Phase 58		Phase 59		Phase 60		Phase 61		Phase 62		Phase 63		Phase 64		Phase 65		Phase 66		Phase 67		Phase 68		Phase 69		Phase 70		Phase 71		Phase 72		Phase 73		Phase 74		Phase 75		Phase 76		Phase 77		Phase 78		Phase 79		Phase 80		Phase 81		Phase 82		Phase 83		Phase 84		Phase 85		Phase 86		Phase 87		Phase 88		Phase 89		Phase 90		Phase 91		Phase 92		Phase 93		Phase 94		Phase 95		Phase 96		Phase 97		Phase 98		Phase 99		Phase 100	
Firm	Name	US Rate	Original Exchange rate	\$C Rate/h	Hours	Form 1 Fees	GST	Nov 28 Exchange rate	Nov 28 \$C rate/h	Nov 28 Form 1 Fees	Form 2 Disbursements	GST	Total	Total Tax	Total Individual	Total Invoice Firm	Original Claim	Difference																																																																																																																																																																																																									
Resource Insight, Inc.	Paul Chernick	230.00	\$ 0.9342	\$246.21	527.75	\$ 129,937.33	\$ 0.805	\$ 285.71	\$ 150,785.71	\$ 6,712.85	\$ -	\$ 157,498.56	\$ -	\$ 157,498.56	\$ 498,378.58	\$ 429,470.69	\$ 68,905.89																																																																																																																																																																																																										
	Jon Wallach	230.00	\$ 0.9342	\$246.21	480	\$ 118,180.80	\$ 0.805	\$ 285.71	\$ 137,142.86	\$ -	\$ 137,142.86	\$ -	\$ 137,142.86	\$ -	\$ 137,142.86																																																																																																																																																																																																												
	Rich Mazzini	216.90	\$ 0.9430	\$230.00	422	\$ 97,060.00	\$ 0.805	\$ 269.44	\$ 113,704.10	\$ -	\$ 113,704.10	\$ -	\$ 113,704.10	\$ -	\$ 113,704.10																																																																																																																																																																																																												
	Susan Geller	200.00	\$ 0.9342	\$214.09	98	\$ 20,980.82	\$ 0.805	\$ 248.45	\$ 24,347.83	\$ -	\$ 24,347.83	\$ -	\$ 24,347.83	\$ -	\$ 24,347.83																																																																																																																																																																																																												
	Adam Auster	160.00	\$ 0.9342	\$171.27	100.25	\$ 17,169.82	\$ 0.805	\$ 198.76	\$ 19,925.47	\$ -	\$ 19,925.47	\$ -	\$ 19,925.47	\$ -	\$ 19,925.47																																																																																																																																																																																																												
	Edward Toussieh	160.00	\$ 0.9342	\$171.27	200.5	\$ 34,339.64	\$ 0.805	\$ 198.76	\$ 39,850.93	\$ -	\$ 39,850.93	\$ -	\$ 39,850.93	\$ -	\$ 39,850.93																																																																																																																																																																																																												
	Abby Chernick	30.00	\$ 0.9343	\$ 32.11	157	\$ 5,041.27	\$ 0.805	\$ 37.27	\$ 5,850.93	\$ -	\$ 5,850.93	\$ -	\$ 5,850.93	\$ -	\$ 5,850.93																																																																																																																																																																																																												
	Harriet Doucette	30.00	\$ 0.9343	\$ 32.11	1.5	\$ 48.17	\$ 0.805	\$ 37.27	\$ 55.90	\$ -	\$ 55.90	\$ -	\$ 55.90	\$ -	\$ 55.90																																																																																																																																																																																																												
Vermont Energy Investment Inc. Scudder Parker		170.00	\$ 1.0698	\$181.87	236.34	\$ 42,982.21	\$ 0.805	\$ 211.18	\$ 49,910.31	\$ 29.14	\$ 49,939.45	\$ -	\$ 49,939.45	\$ 100,476.72	\$ 86,533.49	\$ 13,943.23																																																																																																																																																																																																											
	David Hill	170.00	\$ 1.0698	\$181.87	70.5	\$ 12,821.55	\$ 0.805	\$ 211.18	\$ 14,888.20	\$ -	\$ 14,888.20	\$ -	\$ 14,888.20	\$ -	\$ 14,888.20																																																																																																																																																																																																												
	Chris Neme	185.00	\$ 1.0698	\$197.91	1.75	\$ 346.35	\$ 0.805	\$ 229.81	\$ 402.17	\$ -	\$ 402.17	\$ -	\$ 402.17	\$ -	\$ 402.17																																																																																																																																																																																																												
	Sam Dent	140.00	\$ 1.0698	\$149.77	79.75	\$ 11,944.32	\$ 0.805	\$ 173.91	\$ 13,869.57	\$ -	\$ 13,869.57	\$ -	\$ 13,869.57	\$ -	\$ 13,869.57																																																																																																																																																																																																												
	Ken Tohinaka	160.00	\$ 1.0698	\$171.17	8.5	\$ 1,454.93	\$ 0.805	\$ 198.76	\$ 1,689.44	\$ -	\$ 1,689.44	\$ -	\$ 1,689.44	\$ -	\$ 1,689.44																																																																																																																																																																																																												
	Alison-Donovan-Hollingsworth	155.00	\$ 1.0698	\$165.82	18	\$ 2,984.74	\$ 0.805	\$ 192.55	\$ 3,465.84	\$ -	\$ 3,465.84	\$ -	\$ 3,465.84	\$ -	\$ 3,465.84																																																																																																																																																																																																												
	Carol Hakstian	155.00	\$ 1.0698	\$165.82	84.25	\$ 13,970.25	\$ 0.805	\$ 192.55	\$ 16,222.05	\$ -	\$ 16,222.05	\$ -	\$ 16,222.05	\$ -	\$ 16,222.05																																																																																																																																																																																																												
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This is Exhibit A to the Affidavit of Kai Millyard, sworn before me this _____ day of December 2008.

Phase IIA

\$ 82,849.11

\$ 82,849.11