



December 22, 2008

DELIVERED BY E-MAIL & COURIER

E. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, Ontario
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Dear Ms. Walli:

**Re: Ontario Power Authority ("OPA") Application for Approval of the Integrated Power System Plan and Procurement Processes ("IPSP")
OEB File No. EB-2007-0707 - Decision and Order on Cost Awards for the interrogatory process of the IPSP proceeding**

Further to our letter of December 18, 2008, please find accompanying this letter two copies of the Motion Record of the Association of Major Power Consumers in Ontario ("AMPCO"), the Ontario Mining Association (the "OMA") and the Ontario Federation of Agriculture (the "OFA"), in respect of the request by AMPCO, the OMA and the OFA that the Board review its November 28, 2008, Decision and Order on Cost Awards for the interrogatory process (Phase 2A) of the IPSP proceeding.

An electronic version of the motion material is being delivered by e-mail today. Hard copies, including originals of the sworn Affidavits in support of the Motion, are being delivered by courier.

As noted in our letter of December 18th, AMPCO has also initiated a Motion to the Board for the review of its November 10, 2008 Decision and Order relating to intervenor cost awards in the OEB's proceeding in respect of the determination of payment amounts for Ontario Power Generation Inc. ("OPG") Prescribed Generation Assets (EB-2006-0064), and we reiterate our suggestion in that letter that the Board combine the two motions and dispose of them together. AMPCO submits that this will create a more efficient process for the parties to these proceedings.

Should you have any questions or require any further information in this regard, please do not hesitate to contact me.

Yours very truly,

A handwritten signature in black ink, appearing to read "Adam White".

Adam White

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Jamie Lim, Ontario Forest Industries Association
Jessica Annis, Ontario Stone Sand and Gravel Association
Teresa Sarkesian, Cement Association of Canada (Ontario)
Murray Newton, Industrial Gas Users' Association
Intervenors of Record in EB-2007-0707

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.

MOTION RECORD

Association of Major Power Consumers in Ontario, Ontario Mining Association
and Ontario Federation of Agriculture Motion for an Order varying the Ontario
Energy Board's November 28, 2008 IPSP Phase 2A Costs Decision

December 22, 2008

**ASSOCIATION OF MAJOR POWER CONSUMERS
IN ONTARIO**

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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 a Motion by the Association of Major Power Consumers in Ontario, the Ontario Mining Association and the Ontario Federation of Agriculture for an Order varying the Ontario Energy Board's November 28, 2008 IPSP Phase 2A Costs Decision

NOTICE OF MOTION

The Association of Major Power Consumers in Ontario ("AMPCO"), the Ontario Mining Association (the "OMA") and the Ontario Federation of Agriculture (the "OFA"), collectively referred to as the "Moving Parties", will bring a motion to the Ontario Energy Board (the "Board") at a time and place to be determined by the Board.

The Moving Parties note that AMPCO has also initiated a motion to the OEB for the review of its November 10, 2008 Decision and Order relating to intervenor cost awards in the OEB's proceeding in respect of the determination of payment amounts for Ontario Power Generation Inc. ("OPG") Prescribed Generation Assets (EB-2006-0064). In that Decision, the OEB reduced the AMPCO cost claim by 10%. As the reasons given by the Board for the reduction in the AMPCO cost award in the OPG case are similar to those given by the Board in respect of part of the cost claim in the IPSP Phase 2A Costs Decision, the Moving Parties respectfully request that the OEB combine the two review motions and dispose of them together. The Moving Parties submit that this will create a more efficient process for the parties to these proceedings.

THE MOTION IS FOR:

1. A review of the Board's November 28, 2008 Decision and Order on Cost Awards for the Interrogatory Process of the Integrated Power System Plan ("IPSP") Proceeding (referred to as the "Phase 2A Costs Decision"), and an order varying the Phase 2A Costs Decision as follows:

- (a) Setting aside the Board's determination in the Phase 2A Costs Decision that AMPCO's cost claim is to be reduced by \$47,906.25, representing amounts charged by Mr. Adam White, President of AITIA Analytics Inc., and permitting AMPCO to recover this amount as part of its cost award;
- (b) That the Board's 25% reduction in the cost claims of each of the members of the Alliance of Energy Consumers (the "Alliance") that made such claims – specifically, AMPCO (whose claim was reduced by a further 25% after the deduction of the claim related to Mr. White's accounts), the OMA and the OFA be set aside and that each of AMPCO, the OMA and the OFA shall receive 100% of their claimed fees for counsel and consultants, subject only in AMPCO's case to applicable adjustments referred to at page 10 of the Phase 2A Costs Decision pertaining to "errors associated with GST calculations and data transfer errors between forms";
- (c) That AMPCO, the OMA and the OFA be permitted to recover their costs of this motion in accordance with the tariff set out in the Board's Practice Direction on Cost Awards; and
- (d) Providing for such further and other relief that the Moving Parties may request and the Board allow.

THE GROUNDS FOR THE MOTION ARE:

Background:

1. AMPCO is a not for profit consumer interest advocacy organization. AMPCO promotes the global competitiveness of Ontario industry through an efficient electric sector that produces competitive electric rates and provides an economic, open, reliable transmission and distribution network. AMPCO is a frequent participant in Board proceedings on behalf of Ontario's largest power consumers. As with other intervenor organizations, AMPCO typically receives intervenor cost awards that assist it in participating in those proceedings.

2. The OMA was established in 1920 to represent the mining industry of the province. Its fifty-seven members are engaged in exploring, producing and processing mineral resources in an environmentally responsible manner.
3. The OFA is a farmer-led organization which works to represent the interests of its farm members to government. As the largest, voluntary general farm organization in the country, the OFA has more than 38,000 members, as well as 32 organizational members and affiliates representing most agricultural commodity groups.
4. In its December 14, 2007 Decision on Cost Eligibility and Direction to Parties (the “Cost Eligibility Decision”), the Board determined that AMPCO and the OMA, among other intervenors, were eligible for cost awards in the IPSP proceeding, as they “primarily represent the direct interests of consumers in relation to regulated services, or primarily represent a public interest relevant to the Board’s mandate in this proceeding.” (See page 2 of the Cost Eligibility Decision, Exhibit E to the Affidavit of Adam White.) At page 5 of the Cost Eligibility Decision, the Board wrote:

“As it has done in the past, the Board will require co-operation among parties with similar interest, and will consider any lack of co-operation when determining the amount of a cost award. The Board notes the following examples:

 - The Green Energy Coalition, the Ontario Sustainable Energy Association and the Pembina Institute have co-operated to hire one counsel and make one submission to the Board. The Board expects other intervenors with an interest in environmental and sustainable energy issues to co-operate with this group and each other to eliminate duplication in their presentations to the Board.
 - Representatives of large electricity customers, such as the Association of Major Power Consumers of Ontario, the Building Owners and Managers Association, the Canadian Chemical Producers Association, the Ontario Mining Association and the Canadian Manufacturers and Exporters should be able to co-operate to put forward a joint presentation on some issues.”
5. The OFA applied for, and was granted, eligibility for a cost award for Phase 2 of the IPSP proceeding in the Board’s May 26, 2008 Decision on Phase 2 Cost Eligibility.
6. After inviting representatives of large electricity consumers to participate in a coalition in this proceeding, AMPCO and the OMA assembled a coalition of intervenors of similar

interests that had expressed an interest in cooperative participation, referred to in this proceeding as the Alliance of Energy Consumers (the “Alliance”). The eight members of the Alliance included:

- AMPCO;
- Canadian Chemical Producers Association;
- Cement Association of Canada (Ontario);
- Industrial Gas Users Association;
- OFA;
- Ontario Forest Industries Association;
- OMA; and
- Ontario Stone, Sand and Gravel Association.

7. The Alliance was represented by one counsel, and cooperated in the preparation of evidence. In June of this year, AMPCO and the OMA brought a motion to the Board for an extension of the deadline for the filing of intervenor evidence in this proceeding, and for the extension of other deadlines set out in the Board’s Procedural Order No.3. At page 2, paragraph 3 of the AMPCO/OMA June 12, 2008 Notice of Motion, a copy of which is enclosed at Tab 5 of the Record for the within Motion, AMPCO and the OMA noted that “The Board has recognized the importance of understanding the probable impact of the IPSP on electricity prices and rates. At pages 8-9 of its March 26, 2008 Decision with Reasons with respect to IPSP Issues, the Board found:

‘In this proceeding, the Board will review in detail the OPA evidence relating to the costs of the various initiatives in the Plan, as part of its review of economic prudence and cost effectiveness. However, the Board will not require the OPA to provide detailed evidence on the potential effect of IPSP initiatives on electricity prices and rates. Prices and rates are set in many different ways, such as Board rate hearings for distribution and transmission, the Global Adjustment Charge, the Regulated Price Plan, and the retail and wholesale commodity electricity market. The Board does not believe that the OPA is able to assess, nor the Board to review, the price and rate impacts of the Plan in any level of detail. However, it is important to understand the probable directional impact of the Plan on prices and rates. In this way the Board’s review of the economic prudence and cost effectiveness of the IPSP will be informed by the objective of protecting consumers with respect to prices in a manner that is appropriate to the test set out in section 25.30(4) of the Electricity Act.’”

8. AMPCO and the OMA submitted in their motion (at page 3, paragraph 4) that:

“The IPSP positions gas-fired generation as the principal incremental, schedulable generation resource over at least the mid term. The OEB must consider whether the IPSP is a robust and economically prudent plan not only if events unfold according to forecast, but also if the future turns out somewhat different than expected. Among other matters, AMPCO and the OMA are concerned with the potential consequences of a scenario in which Ontario requires more natural gas resources than those contemplated in the IPSP. In that regard, AMPCO has requested, and the OPA has agreed to provide, modelling information...that would take into account high load growth and/or growth consistent with the IPSP, but a reduced ability to rely on alternatives to natural gas (whether through the increased availability of other fuel sources such as nuclear, or due to lower than anticipated success of conservation and demand management measures).”

9. AMPCO and the OMA explained that AMPCO’s request for this information was set out in AMPCO Interrogatory No.80, and submitted that an understanding of these potential consequences will make an important contribution to evaluating the prudence and cost effectiveness of the IPSP, and will assist the Board and the parties in understanding the probable directional impact of the IPSP on prices and rates. This evidence will be relevant to, among others the following issues on the Board-approved Issues List in this proceeding:

- 17. How can gas be used for peaking, high value and high efficiency purposes?
- 19. Is the IPSP’s plan for additional gas resources for peaking, high value and high efficiency purposes and for contributing to transmission capacity constraints economically prudent and cost effective?
- 23. Will the IPSP’s combination of gas and transmission resources meet these remaining requirements in the earliest practical timeframe and in a manner that is economically prudent and cost effective?

10. AMPCO and the OMA explained (at page 5, paragraph 6) that the preparation of the Alliance evidence is an iterative process:

“It will begin with an analysis of the OPA interrogatory responses and the Additional OPA Modelling Information from a natural gas perspective by Mr. Peter Howard, Vice President, Research, for the Canadian Energy Research Institute (“CERI”), an expert in that area retained by the OMA. Mr. Howard’s natural gas-related findings will be analyzed, relied upon and incorporated into an electricity pricing report prepared by Dr. Anindya Sen, Associate Professor of Economics at the University of Waterloo, AMPCO’s expert consultant. Finally, an overall report reviewing the findings of those

experts and commenting on the probable directional impact of the IPSP on prices and rates and impacts of such directional pricing on the Ontario economy, will be prepared by a third expert, Mr. Ernie Stokes, of The Centre for Spatial Economics.”

11. The Board granted the requested extensions. At page 4 of its June 25, 2008 Decision on the AMPCO/OMA and GEC-Pembina-OSEA motions, the Board held (in part):

“The Board has considered the motions filed by GEC-Pembina-OSEA and AMPCO-OMA, as well as the submissions filed by other intervenors. These parties have stated that they require additional time to review the OPA’s interrogatory responses and to prepare their evidence. Further, the parties have stated that they require time to coordinate the preparation of evidence with other intervenors. As noted in previous decisions and orders, the Board expects all intervenors to co-operate to create a useful and focused record....

The Board will grant the relief requested in the motions to the extent of accepting the new dates proposed for the procedural steps in this proceeding....

In granting the extensions of time sought, the Board has relied on the statements of intervenors that the additional time will be used to create relevant and focused evidence, and presumes that the results of the co-operation among intervenors will be evident during the course of the proceeding. Duplication, overlap and other inefficiencies will not be accepted by the Board. There is a significant public interest in reviewing the application in a timely manner.

12. As noted by the Board in the Phase 2A Costs Decision, four reports were delivered by the Alliance, and two reports were delivered by the OFA. Additionally, prior to the Board’s adjournment of the IPSP proceeding until further notice in October of this year, the Alliance had delivered interrogatories related to a broad range of issues in the proceeding, and delivered responses to interrogatories related to its evidence; indicated that it anticipated participating in cross-examination of all Ontario Power Authority (“OPA”) witness panels; agreed to take a lead role with respect to the cross-examination of the OPA’s “Plan Performance” witness panel; and advised that it would be presenting its own witness panel or panels to address its evidence.
13. As will be discussed in the Affidavits in support of this motion, the members of the Alliance have cooperated throughout this proceeding to date. The Alliance submits that the results of the co-operation among the members of the Alliance would have been evident during the course of the oral hearing as well, were it not for the suspension of the proceedings on October 2, 2008 following the issuance of the Minister of Energy and

Infrastructure's Supplementary Directive of September 17, 2008. AMPCO and the OMA submit that there is nothing in the record of this proceeding to date to suggest a lack of cooperation among the members of the Alliance.

The Phase 2A Costs Decision:

14. On November 28, 2008, the Board issued its Phase 2A Costs Decision, addressing cost awards for the preparation of intervenor evidence and interrogatories. At page 4 of the Phase 2A Costs Decision, the Board acknowledged that many of the principles set out in Section 5 of its Practice Direction on Cost Awards:

"...relate to the conduct of a party during a proceeding, and an assessment of the value that the party's participation and evidence has brought to the proceeding. The oral hearing was adjourned on October 2, 2008 before most of the evidence was heard. However, the Board has invited and will determine cost claims for the preparation of intervenor evidence and interrogatories. The adjournment was unforeseen and the eligible parties have incurred costs to prepare interrogatories, prepare evidence and respond to interrogatories.

Parties must recognize that the findings on cost claims in this decision are not a final indication that the intervenor evidence that has been filed is relevant to the issues in this proceeding or of value to the Board. When the hearing resumes, the eligible parties will have an opportunity to present their evidence and to be cross examined. If the evidence is found to be irrelevant, unfocused, duplicative, not coordinated with other parties, or not helpful to the Board, parties are at risk for claims related to costs incurred during the proceeding. As always, the conduct of parties, whether they have filed evidence or not, will be considered in awarding costs for participation in the hearing."

15. The Board reduced the cost claims of Alliance members (claims had been made by AMPCO, the OMA and the OFA) by 25%. In AMPCO's case, the reduction was to be made after an initial reduction of \$47,906.25 related to time claimed by Mr. White. After both reductions, the total claim by Alliance members in the amount of \$758,506.49 was reduced to \$534,882.19.
16. In its Phase 2A Costs Decision, the Board suggested a number of grounds for the reductions. With respect to the portion of the AMPCO claim related to Mr. White, they can be summarized as follows:

- (a) The Board found a portion of that time to have been spent in 2007 and in the period covered by the Board's Phase 1 cost award, and it is therefore not eligible for recovery in Phase 2; and
 - (b) "The description provided for many of [Mr. White's] tasks are clearly within the scope of Mr. White's role as President of AMPCO.... The Board concludes that Mr. White's cost claim as a consultant to AMPCO is not supported by the record provided."
17. With respect to the balance of the Alliance claims, the grounds for the reduction can be summarized as follows:
- (a) "There appears to be some overlap in subject matter and lack of co-ordination amongst the members of the Alliance to co-operate and create a useful and focused record for the proceeding." (page 8)
 - (b) The Issues Decision stated that the Board is not able "to review the price and rate impacts of the Plan in any level of detail."
 - (c) The GEC-Pembina-OSEA claim (\$893,506.18) behalf of GEC, Pembina and OSEA) and the Alliance claim (\$758,506.49) were the two largest claims. "The interrogatories and evidence filed by the Alliance referred to many parts of the OPA's pre-filed evidence and many of the issues, however, its principal foci were the natural gas issues (A15 to A19 of the Issues Decision) and the consumer pricing issue which is included in issue B3 of the Issues Decision. GEC, on behalf of itself, Pembina and OSEA, filed 9 reports that combined covered almost all of the issues identified in the Issues Decision. GEC's interrogatories also covered many issues, including conservation, renewable supply, nuclear for baseload, natural gas and sustainability."
 - (d) "As noted previously, none of the evidence filed by the eligible parties has been tested to determine its value to the Board in this proceeding. However, the Board finds that the cost claim for the Alliance is excessive relative to breadth of issues

addressed in the evidence, and with respect to lack of co-ordination amongst its members.”

Error in the Reduction of the AMPCO claim related to Mr. Adam White:

18. The Moving Parties respectfully submit that the Board erred in fact in disallowing the portion of the AMPCO claim related to Mr. White’s time, and that there has been a misunderstanding with respect to Mr. White’s relationship with AMPCO.
19. The particulars of this error are discussed in the affidavit of Adam White filed in support of this motion.
20. Mr. White is neither an employee nor an officer of AMPCO. Consequently, any disallowance of Mr. White’s time cannot be based on Rule 6.05 of the Board’s Practice Direction on Cost Awards.

Error in the 25% Reduction of the Alliance claims:

21. The Moving Parties respectfully submit that the Board erred in reducing the Alliance claims by a further 25% in the following ways:
 - (a) Having suggested that the evidence will be subject to scrutiny for relevance, focus, duplication, coordination and helpfulness when the hearing resumes and the evidence is presented and challenged, the Board pre-emptively reduced the Alliance claim by 25% on the basis of alleged overlap and lack of co-ordination. In addition to the apparent prematurity of such a determination, the Moving Parties submit that the Board has erred in fact in determining that the reports filed by the Alliance and those filed by the OFA overlap.
 - (b) The Board acknowledged (in its Issues Decision) the inability of the OPA to assess and the Board to review the price and rate impacts of the Plan in any level of detail and the importance of understanding the probable directional impact of the IPSP on prices and rates; and it granted the Moving Parties’ June 12th motion for an extension of time for the filing of intervenor evidence on the basis of the

submissions in that motion – submissions that clearly explained the nature of the natural gas-related evidence to be provided by the Moving Parties and its significance to the Board's consideration of the IPSP. The Moving Parties submit that the Board erred in reducing the Moving Parties' cost award in these circumstances, where the Moving Parties explained what evidence they intended to produce, received from the Board the additional time needed to produce it, and in fact produced what they had said they intended to produce. No one, including the Board, suggested that the Alliance evidence overlapped, or that the matters being addressed in the Alliance evidence were duplicative of that of other parties or beyond the scope of the IPSP proceeding.

- (c) The Board erred in applying an arbitrary method of assessing and comparing the contributions made to the proceeding by the GEC-Pembina-OSEA coalition and the Alliance – that is, by essentially counting the number of reports produced and the number of issues to which those reports pertained. The Alliance submitted interrogatories on a range of issues. Additionally, as noted previously, the Alliance had indicated that it expected to be participating in a broad range of issues and witness panels during the hearing, and it had proposed to lead the cross-examination of the Plan Performance panel. The Moving Parties' evidence goes to fundamental assumptions underlying the IPSP and, as explained in the June 12th motion (at page 4, paragraph 5), the evidence will make an important contribution to evaluating the prudence and cost effectiveness of the IPSP and will assist the Board and the parties in understanding the probable directional impact of the IPSP on prices and rates. The Moving Parties submit that it is not appropriate to assess the value of the Moving Parties' evidence and related cost claim simply by counting reports and issues.
- (d) The Board erred in fact with respect to the extent of coordination and cooperation among the members of the Alliance. These matters are addressed in the Affidavits made in support of this motion.

- (e) As explained in the June 12th motion (see page 5, paragraph 6), the preparation of the Alliance evidence was an iterative process, involving three independent experts at significant cost to the Alliance. Those costs were necessarily incurred in order to prepare cogent, defensible and coordinated evidence related to the probable directional impact of the IPSP on prices and rates. The Moving Parties acknowledge that the Board has complete discretion to apply its own cost rules, but respectfully submit that if the Board, having granted an extension of time for the preparation of evidence the nature and significance of which was explained by the Moving Parties in advance, then denies the recovery of costs related to it, the risk is that intervenors will be unprepared to expend funds for the preparation of expert evidence. The implication of this is that intervenors will be significantly disadvantaged in proceedings before the Board, and this would appear to run counter to the rationale for intervenor funding and the desire for meaningful public participation in those proceedings. Moreover, the Moving Parties submit that if the province's large consumers are unable to reasonably assume that their costs will be recoverable in major proceedings such as this, and this affects their ability to participate and provide input into proceedings that will have long-term impacts on the availability and pricing of electricity in Ontario, this may in turn affect the Board's ability to satisfy the objectives set out in Section 1 of the *Ontario Energy Board Act, 1998*.
- (f) The Moving Parties respectfully submit that they have not contravened any of the Board's principles in awarding costs as set out in section 5.01 of the Board's Practice Direction on Cost Awards.
22. The Moving Parties request that the Board vary its Phase 2A Costs Decision as requested herein pursuant to its authority under Rule 42 of the Board's *Rules of Practice and Procedure*.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used as the hearing of the motion:

- (a) The Affidavit of Adam White, sworn December 22, 2008;
- (b) The Affidavit of Cheryl Brownlee, sworn December 18, 2008;
- (c) The Affidavit of Ted Cowan, sworn December 19, 2008; and
- (d) Such further documentary evidence as counsel for the Moving Parties may submit and the Board allow.

Dated December 22, 2008

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IN ONTARIO**

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

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 a Motion by the Association of Major Power Consumers in Ontario, the Ontario Mining Association and the Ontario Federation of Agriculture for an Order varying the Ontario Energy Board's November 28, 2008 IPSP Phase 2A Costs Decision.

AFFIDAVIT OF ADAM WHITE

I, ADAM WHITE, OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO, HEREBY MAKE OATH AND SAY AS FOLLOWS:

1. I am the President and Chief Executive Officer of AITIA Analytics Inc., a consulting firm providing services to the Association of Major Power Consumers in Ontario ("AMPCO") and other energy sector clients, and as such have knowledge of the matters hereinafter deposed to.
2. AMPCO is a member of the Alliance of Energy Consumers (the "Alliance"), a group of customer-representative organizations of similar interest in the above-captioned proceeding. The Board, in its November 28, 2008 Decision and Order on Cost Awards for the Interrogatory Process of the Integrated Power System Plan ("IPSP") proceeding (referred to as the "Phase 2A Costs Decision"), reduced AMPCO's cost claim by \$47,906.25 for the following reasons:
 - (i) Information provided in my CV indicating that I was the president of AMPCO;
 - (ii) Section 6.05 of the Board's practice direction on cost guidelines which states that "a party will not be compensated for time spent by its employees or officers in preparing for or attending at Board processes"; and

- (iii) Certain work incorporated into that portion of the AMPCO cost claim pertained to Phase I of this proceeding.
3. The Board then reduced the cost awards of those members of the Alliance that filed cost claims (AMPCO, the Ontario Mining Association, referred to in this Affidavit as the “OMA”, and the Ontario Federation of Agriculture, referred to in this Affidavit as the “OFA”) by 25% of the amounts claimed. In the case of AMPCO, the 25% reduction was to be taken after the initial removal of the \$47,906.25 related to my time and accounts.
4. This Affidavit addresses both the removal of the \$47,906.25 related to my time and accounts and the overall 25% reduction of the AMPCO/OMA/OFA cost claims.

Costs claimed for time related to Adam White

• **Reduction based on role as President of AMPCO**

5. The Decision and Order of the Board to deny AMPCO’s costs for time spent by me was based on an outdated curriculum vitae that identified me as the President of AMPCO. My updated CV is attached as Exhibit “A” to this Affidavit.
6. I resigned as AMPCO President effective October 31, 2007. The letter of resignation is attached as Exhibit “B” to this Affidavit.
7. Effective November 1, 2007, AITIA Analytics Inc. has been contracted to provide services to the Association of Major Power Consumers in Ontario (“AMPCO”) pursuant to the terms of a Consulting Services Agreement (the “Agreement”). The Agreement provides that “In carrying out the services described herein and in Schedule “A” the Consultant shall provide to AMPCO the services of Adam White to advise and act as President of AMPCO and perform all matters relating to the tasks and duties outlined in Schedule “A” attached, and shall promptly carry out those responsibilities reasonably assigned by AMPCO to the

Consultant in this connection.” The schedule of services to be provided is attached as Exhibit “C” to this Affidavit.

8. I am not prepared to place a copy of the Agreement on the public record. Appendix B of the Board’s Practice Direction on Confidential Filings provides that among the factors the Board may consider in addressing confidentiality of filings made with the Board are:

“(a) the potential harm that could result from the disclosure of the information, including:

- i. prejudice to any person’s competitive position;
- ii. whether the information could impede or diminish the capacity of a party to fulfill existing contractual obligations;
- iii. whether the information could interfere significantly with negotiations being carried out by a party; and
- iv. whether the disclosure would be likely to produce a significant loss or gain to any person;”

9. Paragraph (g) of Appendix B also contemplates “any other matters relating to FIPPA and FIPPA exemptions” as factors that the Board may consider. Appendix F of the Practice Direction on Confidential Filings sets out relevant provisions of the *Freedom of Information and Protection of Privacy Act*. Appendix F states, in part:

Under section 17(1), the Board must not, without the consent of the person to whom the information relates, disclose a record where:

- (a) the record reveals a trade secret or scientific, technical, commercial, financial or labour relations information;
- (b) the record was supplied in confidence implicitly or explicitly; and
- (c) disclosure of the record could reasonably be expected to have any of the following effects:

- i. prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons or organization;
- ii. result in similar information no longer being supplied to the Board where it is in the public interest that similar information continue to be so supplied;
- iii. result in undue loss or gain to any person, group, committee or financial institution or agency; or
- iv. reveal information supplied to or the report of a conciliation officer, mediator, labour relations officer or other person appointed to resolve a labour relations dispute.

10. I believe that the public disclosure of the terms of the Agreement will harm my competitive position as a consultant, and may produce significant losses to me. If necessary, and if directed by the Board to do so, I am prepared to file a copy of the Agreement with the Board in confidence, and to provide a copy of the Agreement to the OPA subject to the OPA's execution of the Board's form of Declaration and Undertaking.
11. The Agreement to "act as" president has been interpreted by AMPCO and AITIA Analytics Inc. as contracting me to perform the duties that the president would perform.
12. AMPCO's Bylaw No. 1 provides that "The board of directors shall, annually, or more frequently as may be required, elect from among themselves a Chairman, a Vice-Chairman and a Treasurer and shall appoint a Secretary, and may appoint a President..." Such an appointment would come into force pursuant to a resolution of the AMPCO board of directors. No such resolution has been made.
13. Since I am neither an employee nor an officer of AMPCO, the Board's disallowance of costs claimed by AMPCO for services provided to AMPCO by me in my capacity as President and CEO of AITIA Analytics Inc. cannot be based on Rule 6.05 of the Board's Practice Direction on Cost Awards.

- **Costs claimed for time spent in relation to IPSP Phase 1**

14. The Board's Phase 2A Costs Decision makes reference to hours worked in 2007 and January 2008 that are related to Phase 1. The decision notes that these costs are no longer eligible for cost recovery.
15. The Board issued a letter on April 17, 2008 in which it stated that "the Board will not consider any phase 1 cost claims in the next phase of the proceeding." The letter is attached as Exhibit "D" to this Affidavit.

16. This letter (sent by email) was addressed only to “Parties eligible for costs who have not filed phase 1 cost claims”.
17. Since AMPCO was eligible and had filed cost claims for some work in phase 1, this letter was not sent to AMPCO.
18. The letter provided that “Therefore, if you wish to recover any costs for phase 1, please file your claim for consideration by the Board no later than Wednesday, April 23, 2008.”
19. AMPCO became aware of the existence of this letter when it received the Board’s Decision and Order on Phase 1 costs on May 8, 2008. At page 4 of that Decision and Order, the Board wrote:

“On April 17, 2008, the Board sent a letter to those parties that were found eligible for cost awards but had not filed any claims for costs incurred in the Phase 1 of the IPSP Proceeding. In the letter, the Board noted that it would not consider any Phase 1 cost claims in the next phase of the proceeding and stated that any parties that had Phase 1 cost claims must file the cost claims by April 23, 2008.”

(OEB Decision and order on cost awards related to Phase 1, May 8, 2008, page 4)

20. The date on which the Board’s decision and order on phase 1 costs was released was three weeks after the deadline the Board had set for claims for costs incurred in phase 1.
21. AMPCO’s Phase 2A cost claim indicated that it was requesting special consideration from the Board with respect to its claim for Phase 1 costs, because information about the Board’s deadline for submission of these claims was not provided to AMPCO. AMPCO was aware of the February 8, 2008, deadline for phase 1 cost claims set out in the Board’s Procedural Order No. 3, dated January 28, 2008, but that order did not stipulate that this deadline would be the only and final opportunity for submitting claims for costs associated with phase 1 activity. (In fact it was not the only and final deadline.) AMPCO decided to defer its claim for these costs until a future submission ordered by the Board, a decision which only would

prejudice AMPCO to the extent that reimbursement for these costs would occur at a later date. The Board's decision that no cost claims for phase 1 would be accepted after April 23, 2008 (as clarified in the Board's letter of April 17, 2008) was not communicated to AMPCO. If it had been, then AMPCO would have submitted its claim by April 23, 2008. I believe that under the circumstances set out above, it is appropriate that that portion of the AMPCO cost claim that relates to Phase 1 costs should be allowed at this time.

Overlap in subject matter

22. The Board's Phase 2A Costs Decision enumerates the reports submitted by the Alliance and by the OFA:

The Alliance's evidence was comprised of four reports:

- *The Interests of Consumers;*
- *Assessment of the IPSP's Treatment of Natural Gas Related Issues;*
- *Estimating the Determinants of Wholesale Electricity Price Scenarios for Natural Gas and Electricity; and*
- *Estimating the Determinants of Wholesale Electricity Prices in Ontario: An Economic Analysis.*

OFA filed two additional pieces of evidence:

- *Efficiency and Prudence: Considerations in Assessing the IPSP (filed July 21, 2008); and*
- *Cost Allocation & Prices Implicit in the IPSP: Are they Efficient, Prudent, Equitable? (Filed July 28, 2008).*

(OEB Decision and Order on phase 2 costs, November 28, 2008, page 8)

23. The Board's decision also cites excerpts from the summary of the Alliance submission and a summary of the OFA submission.
24. Based on this information, the Board concludes that there was an appearance of "some overlap in subject matter and lack of co-ordination amongst the members of the Alliance".

25. The Alliance's evidence comprised:

- (i) "The Interests of Consumers" – a document that reviewed the Board's decision on issues and other legal matters and summarized the other three reports;
- (ii) "Assessment of the IPSP's Treatment of Natural Gas-Related Issues" – a fundamental analysis of the factors affecting the future supply of natural gas and a forecast of annual gas prices;
- (iii) "Estimating the Determinants of Wholesale Electricity Prices in Ontario: An Economic Analysis" – an econometric analysis of the determinants of wholesale prices and a forecast of annual electricity prices; and
- (iv) "The Economic Impacts on the Ontario Economy of Different Price Scenarios for Natural Gas and Electricity" – a report on the implications of gas and electricity prices resulting from the IPSP on the economy of Ontario based on input-output modelling of the Ontario economy.

26. The OFA's evidence comprised:

- (i) "Efficiency and Prudence: Considerations in Assessing the IPSP" – which "sets out a view on what efficiency and prudence are and how the concepts can be used to shape and review a plan to provide and conserve electricity"; and
- (ii) "Cost Allocation & Prices Implicit in the IPSP: Are They Efficient, Prudent, Equitable?" – which "examines data provided in the IPSP with a view to developing possible costs of power, the manner in which those costs may be allocated regionally and/ or between users with different peak to base profiles and to assess whether prices and implicit allocations are likely to be efficient, prudent and equitable.

27. Regardless of the appearance of the words "cost" or "price" in the titles or summary paragraphs of these submissions, any substantive review will show that the reports cover different issues, using different data and applying different methodologies.

28. However, the reports are complementary:

- (i) The fundamental analysis of natural gas supplies and prices informs the econometric forecast of electricity prices.
- (ii) The forecasts of natural gas and electricity prices inform the input-output modelling of the potential impacts of the IPSP on the Ontario economy.
- (iii) The theoretical review of efficiency and prudence and the application of these concepts in an alternative planning framework shows how an understanding of costs, prices and rates could be used in the development of a plan; and
- (iv) The discussion of how cost and price impacts of the Plan will be allocated regionally and implications for electricity policy and regulation speaks to practical concerns of consumers with respect to how the Plan and the issues in the proceeding may affect them.

29. The analysis and discussions found in these reports are found nowhere else in the record of this proceeding. Accompanying my Affidavit in support of this motion is the Affidavit of Ted Cowan. In that Affidavit, Mr. Cowan provides a more detailed summary of the six reports and concludes that there is no overlap among the reports. I have had an opportunity to read that Affidavit and I agree with Mr. Cowan and believe that the Board has erred in its determination that there is overlap in the Alliance evidence.

Coordination and Cooperation

30. The Board's Practice Direction on Cost Awards provide:

"8.01 In a case where a number of eligible parties have joined together for the purpose of a combined intervention, the Board will normally allow reasonable expenses necessary for the establishment and conduct of such a group intervention."

(OEB Practice Direction on Cost Awards, as revised November 14, 2008)

31. In its December 14, 2007 Decision on Cost Eligibility and Direction to Parties (the “Cost Eligibility Decision”), the Board determined that AMPCO and the OMA, among other intervenors, were eligible for cost awards in the IPSP proceeding, as they “primarily represent the direct interests of consumers in relation to regulated services, or primarily represent a public interest relevant to the Board’s mandate in this proceeding.” (See page 2 of the Cost Eligibility Decision, accompanying this Affidavit as Exhibit “E”.) At page 5 of the Cost Eligibility Decision, the Board wrote:

“As it has done in the past, the Board will require co-operation among parties with similar interest, and will consider any lack of co-operation when determining the amount of a cost award. The Board notes the following examples:

- The Green Energy Coalition, the Ontario Sustainable Energy Association and the Pembina Institute have co-operated to hire one counsel and make one submission to the Board. The Board expects other intervenors with an interest in environmental and sustainable energy issues to co-operate with this group and each other to eliminate duplication in their presentations to the Board.
- Representatives of large electricity customers, such as the Association of Major Power Consumers of Ontario, the Building Owners and Managers Association, the Canadian Chemical Producers Association, the Ontario Mining Association and the Canadian Manufacturers and Exporters should be able to co-operate to put forward a joint presentation on some issues.”

32. Acting in accordance with the direction provided by the Board, BOMA and CME were invited to participate in the Alliance. BOMA indicated that it intended to pursue its interests separately. The Alliance and CME did correspond and worked together to ensure that interrogatories were coordinated and to eliminate overlap and duplication. A summary of consultations among members of the Alliance and with other intervenors accompanies this Affidavit as Exhibit “F”.
33. Other consumer interest organizations that also were invited to participate in the Alliance included the Schools Energy Coalition (SEC), the Vulnerable Energy Consumers Coalition (VECC), the Consumers Council of Canada (CCC) and the Canadian Federation of Independent Business (CFIB).

34. In addition to AMPCO and the OMA, efforts undertaken to establish and conduct a group intervention resulted in additional parties joining the Alliance, including:
- (i) Cement Association of Canada (Ontario)
 - (ii) Industrial Gas Users Association
 - (iii) Ontario Forest Industries Association
 - (iv) Ontario Stone, Sand and Gravel Association , and
 - (v) the OFA.
35. Together, Alliance members represent more than 50,000 energy customers including industrial, commercial and farm customers.
36. AMPCO supports the Board's direction that parties with similar interests should endeavour to work together to coordinate interventions as far as possible to reduce overlap and duplication. An explicit objective of forming the Alliance for the IPSP proceeding was to establish a working relationship and framework for future collaborative interventions in regulatory proceedings containing issues of interest to industrial, business and farm consumers.
37. It was agreed that AMPCO would act as informal treasurer and secretary for the Alliance, explaining why only AMPCO's cost claim includes hours for legal counsel and case management for the Alliance.
38. AMPCO took on responsibility for overall management of the proceeding, including retaining expert consultants to review the application, to develop interrogatories, to review submissions, interrogatories and interrogatory responses of other parties, and to lead the development of Alliance submissions, including any motions and the evidence submitted on behalf of the Alliance on July 31, 2008.

39. The OMA took on responsibility for retaining expert consultants to prepare submissions related to natural gas supply and price issues, and to cover those issues as they arose in the proceeding.
40. The OFA took on responsibility for covering economic issues related to efficiency, prudence and equity, and the regional effects of potential costs, changes in price and risks arising from the Plan.
41. The Alliance held several conference calls and three meetings in-person between February and August 2008 to discuss its approach to the proceeding, to develop positions and to build consensus on a coordinated approach. Copies of agendas for those meetings accompany this Affidavit as Exhibit "G".
42. I believe that AMPCO and other members of the Alliance made exemplary efforts to cooperate throughout this proceeding to date, hiring common counsel, developing common positions on issues, and working together to make joint submissions including those submitted on July 31, 2008, as "Evidence of the Alliance of Energy Consumers".

The ability of the Board 'to review the price and rate impacts of the Plan'

43. The Phase 2A Costs Decision (at page 8) stated:

"Further, the Issues Decision stated that the Board is not able "to review the price and rate impacts of the Plan in any level of detail."

44. The complete quotation from the Issues Decision is:

In this proceeding, the Board will review in detail the OPA evidence relating to the costs of the various initiatives in the Plan, as part of its review of economic prudence and cost effectiveness. However, the Board will not require the OPA to provide detailed evidence on the potential effect of IPSP initiatives on electricity prices and rates. Prices and rates are set in many different ways, such as Board rate hearings for distribution and transmission, the Global Adjustment Charge, the Regulated Price Plan, and the retail and wholesale commodity electricity market. The Board does not believe that the OPA is able to assess, nor

the Board to review, the price and rate impacts of the Plan in any level of detail. However, it is important to understand the probable directional impact of the Plan on prices and rates. In this way the Board's review of the economic prudence and cost effectiveness of the IPSP will be informed by the objective of protecting consumers with respect to prices in a manner that is appropriate to the test set out in section 25.30(4) of the Electricity Act.

(OEB Issues Decision, March 26, 2008, pages 8-9, emphasis added)

45. I understood this to mean:
- (i) That the Board would not require the OPA to provide detailed evidence; and
 - (ii) That the Board was uncertain as to whether the OPA would be able to assess or the Board to review price and rate impacts in any level of detail; but
 - (iii) That it is important to understand the probable directional impacts of the Plan on prices and rates.
46. I did not interpret the Issues Decision as meaning the Board was somehow incapable or unwilling to review evidence relating to the price and rate impacts of the Plan if that evidence were provided by other parties, and particularly if it spoke to the “probable directional impact of the Plan on prices and rates”.
47. The evidence submitted by the Alliance was intended as a direct response to this question, i.e., whether it was possible to assess or review the price and rate impacts of the Plan in any level of detail, and/or whether such an assessment could promote understanding of the probable directional impact of the Plan on prices and rates.

The level of costs in relation to breadth of evidence

48. In the Phase 2A Costs Decision (at page 9), the Board wrote:
- “[The] Board finds that the cost claim for the Alliance is excessive relative to breadth of issues addressed in the evidence, and with respect to lack of co-ordination amongst its members.”*
49. AMPCO has previously made clear to the Board that it cannot afford and does not intend to investigate the entire range of issues brought forward by applicants or put forward for

comment by the Board. In my letter to Howard Wetston of May 23, 2007 (accompanying this Affidavit as Exhibit "H"), I informed Mr. Wetston that:

"Where we choose to intervene or participate in consultations, we must be increasingly selective in terms of the issues we investigate and for which we prepare and provide evidence and testimony for the Board's consideration."

50. The Alliance makes no comment on submissions of other parties or the breadth thereof.
51. The claim submitted by AMPCO on behalf of the Alliance covers costs related to the preparation of evidence and other activities related to this proceeding. These cover costs for "the establishment and conduct of a group intervention", for experts and legal counsel to review the many thousands of pages submitted by the OPA, preparing interrogatories on the breadth of evidence submitted by the OPA, reviewing the hundreds of interrogatories submitted by other intervenors and the OPA's responses to them, reviewing the submissions of other parties, and preparing interrogatories and reviewing their responses, preparing responses to other intervenors' interrogatories to the Alliance, and preparing for the commencement of the hearing on September 2, as shown in the table on the following page.

Table 1 – AMPCO Costs on Behalf of the Alliance by Task

TASK		Total	% of Total
Establishment and conduct of Alliance	CONSULTANT	\$38,905	10%
	LEGAL	\$13,398	22%
	TOTAL	\$52,303	12%
Review Application	CONSULTANT	\$59,068	15%
	LEGAL	\$580	1%
	TOTAL	\$59,648	13%
Project team coordination meeting	CONSULTANT	\$13,086	3%
	LEGAL	\$2,175	4%
	TOTAL	\$15,261	3%
Preparation of interrogatories	CONSULTANT	\$32,688	9%
	LEGAL	\$7,540	12%
	TOTAL	\$40,228	9%
Preparation of motion	CONSULTANT	\$588	0%
	LEGAL	\$13,138	22%
	TOTAL	\$13,726	3%
Preparation of evidence	CONSULTANT	\$181,858	47%
	LEGAL	\$14,355	24%
	TOTAL	\$196,213	44%
Review intervenor evidence	CONSULTANT	\$2,248	1%
	LEGAL	\$3,915	6%
	TOTAL	\$6,163	1%
Prepare interrogatories on intervenor evidence	CONSULTANT	\$12,180	3%
	LEGAL	\$2,726	5%
	TOTAL	\$14,906	3%
Review IR Responses	CONSULTANT	\$27,614	7%
	LEGAL	\$0	0%
	TOTAL	\$27,614	6%
Preparation for hearing	CONSULTANT	\$2,555	1%
	LEGAL	\$2,726	5%
	TOTAL	\$5,281	1%
Case Management	CONSULTANT	\$12,845	3%
	LEGAL	\$0	0%
	TOTAL	\$12,845	3%
Total CONSULTANT COSTS		\$383,633	
Total LEGAL COSTS		\$60,553	
Total COSTS		\$444,186	

Why did AMPCO and the Alliance participate in this hearing?

52. On May 23, 2007, I wrote to Howard Wetston, OEB Chair, explaining that after consideration of the significant regulatory proceedings scheduled for 2007 and 2008, and the then-current Practice Direction on Cost Awards and Tariffs of the Board, AMPCO had concluded that it was financially infeasible to participate in the OEB proceeding considering the IPSP.
53. In my letter, I indicated that the current tariffs resulted in AMPCO recovering on average approximately 55 percent of the costs of participating in OEB proceedings.
54. Subsequently, the OEB initiated a review of the Practice Direction and Tariff (EB-2007-0681) one result of which was to increase the tariffs.
55. As a result of these changes, and other changes made by AMPCO (e.g., to increase the reliance on consultants charging rates at or below the tariff and to reduce reliance on consultants charging rates above the tariff) the projected average level of recovery by AMPCO of participating in OEB proceedings was raised to approximately 80 percent.
56. The Board's recent, retroactive decision to disallow an award of costs to AMPCO, the OMA and the OFA (acting on behalf of the Alliance) effectively sets the award at 55 percent of costs: a level which I previously had made clear to the Board was financially infeasible for AMPCO.
57. In November of 2007, OEB Vice-Chair Pamela Nowina made a presentation to AMPCO directors and members at AMPCO's fall meeting. A copy of that presentation accompanies this Affidavit as Exhibit "I". In her remarks, Vice-Chair Nowina encouraged greater participation by AMPCO in OEB proceedings:

"At the end of August, the Ontario Power Authority (OPA) submitted their proposed 20-year plan for Ontario's electricity system, along with their procurement

processes. The Board is mandated to review both of these. It is our task to ensure that the IPSP complies with the legislation and government directive, and that it is economically prudent and cost effective. Our review will proceed in two phases.

In phase one, we are deciding on the issues that will be considered in the hearing. These will be based on the proposed issues list submitted by the OPA and submissions provided by interested parties. In phase two, we will explore the evidence filed by the OPA and any other parties.

*Of course, **AMPCO has to decide how to prioritize its involvement. We hope that AMPCO will be fully represented at the upcoming IPSP hearings.** It is worth remembering that the cost of implementing the plan as proposed by the OPA will be \$60 billion dollars – and all consumers will eventually pay for this. As you can imagine, there are multiple aspects of the IPSP that will impact industrial consumers.” (at page 4 – my emphasis)*

...

Today I have talked about some initiatives that will affect you. I have stressed how important it is that we get AMPCO’s input. There is no one else who comes before the OEB who represents your particular views. In fact, I would argue that your representation needs to be even broader. Currently our proceedings suffer from a shortage of representation from smaller and medium-sized industrial consumers.

I do recognize that AMPCO has concerns about the level of costs it is recovering for intervention – that it cannot afford to take part in everything of interest to its membership. Some relief will come from the Board’s current review of the tariffs which we apply to cost awards. In any case, in my opinion, you cannot afford not to participate. (at page 6)

...

In my view, all stakeholders need to be strategic about participating in OEB proceedings just as they are with other aspects of their operations. Where is the biggest bang for your buck? Where are you likely to have success or make the greatest impact? What issues are most salient?

Essentially, you have to prioritize two things: which cases to be involved in and which issues to tackle. Of course, the Board wants and expects AMPCO to use its members’ resources, and the resources of regulated parties and the Board, wisely. But, I cannot emphasize enough the importance of your representation. (at page 7)

58. The OPA encouraged AMPCO and Alliance members to participate. Several meetings were organized, at the OPA’s request, to encourage our participation.

59. AMPCO, and other Alliance members, drew support from the Board's initiative to raise its tariffs, from the Vice-Chair's comments encouraging our participation, and the intervention of the OPA to encourage our participation.
60. Efforts to organize the Alliance—to cooperate with Alliance members and other parties, to avoid duplication, to share counsel, to coordinate activities of consultants and legal counsel in support of a single, joint intervention by industrial and farm interests—were intended to produce an economical, financially prudent and responsible intervention, to be of maximum assistance to the Board in creating “a useful and focused record for the Board” while addressing issues that were “most salient” to consumers, i.e., the interests of consumers with respect to price, adequacy, reliability and the quality of electricity service.
61. As discussed above, I believe that the Board erred in its characterizations of the Alliance evidence and of the level of cooperation among Alliance members. Accordingly, I do not believe that the Board's reduction of the AMPCO/OMA/OFA cost claims was appropriate, for the reasons set out above. Additionally, though, while I acknowledge that the amounts of costs awards are ultimately within the Board's discretion, I believe that reductions such as those made by the Board in respect of the AMPCO/OMA/OFA cost claims will discourage future participation in Board proceedings by major power consumers: representatives of a significant portion of the province's electricity demand and consumption. The absence of representatives of this customer group may impair the Board's ability to meet its objectives in this and future proceedings.

62. I make this Affidavit in support of the AMPCO/OMA/OFA Motion for the review and variance of the Board's November 28, 2008 Phase 2A Costs Decision, and for no other or improper purpose.

SWORN before me at the City
of Toronto, in the Province of
Ontario, this 22nd day of December, 2008

Original Signed by James C. Sidlofsky

Commissioner for Oaths

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Original Signed by Adam White

ADAM WHITE

This is Exhibit "A" referred to in the Affidavit
of Adam White, sworn before me this 22nd
day of December, 2008.

Original Signed by James C. Sidlofsky
A Commissioner, etc.

Adam White

- An accomplished and innovative leader
- Chief executive experience in business, policy and public affairs
- A record of success in government, industry and not-for-profit sectors
- A reputation for credible and insightful analysis and commentary
- A skilled communicator and facilitator

Professional Experience and Accomplishments

AITIA Analytics Inc.

President and CEO (November 2006 to present)

AITIA Analytics Inc. combines intelligence, insight, analysis on energy and environmental risks and opportunities with strategic communications in public affairs and government relations.

- Analysis and strategic communications for a multi-national chief executive in a complex policy and regulatory environment
- Market intelligence, marketing and regulatory strategies for a start-up alternative energy technology corporation
- Analytical methodologies and models to simulate policy outcomes and assess regulatory impacts of supply changes and input variables on electricity markets, regions, consumers and economic outcomes
- Research partnerships for innovative strategies to promote improved industrial energy management
- 18 years of experience providing expert testimony to regulatory tribunals

Association of Major Power Consumers in Ontario

President (August 2005 to October 2007)

The Association of Major Power Consumers in Ontario is a not-for-profit consumer interest advocacy organization that promotes the competitiveness of Ontario industry through reliable supplies of electricity at affordable rates. AMPCO represents business consumers in the forestry, chemical, mining and minerals, steel, petroleum products, cement, automotive and manufacturing industries.

- Responsible for all aspects of the Association's operations and administration including supporting responsible governance by the board of directors and executive officers of the corporation, compliance with applicable laws, regulations and practices, human resources, information technology and finance
- Responsible for the development and execution of strategic policy, advocacy and communications plans to advance member interests on priority issues
- Responsible for monitoring the activities of and engaging with regulatory agencies and agency processes on issues of importance to members
- Responsible for communication and engagement with members, other major power consumers, trade and industry associations, stakeholders, regulatory agencies and government officials

Ontario Energy Association

Vice President, Public Affairs and External Relations

(March 2003 – December 2004; May 2005 to June 2005)

Acting President and Chief Executive Officer (December 2004 – April 2005)

The Ontario Energy Association is an energy trade organization representing firms involved in the transmission, distribution and marketing of natural gas, and the generation, transmission, distribution and marketing of electricity across Ontario.

- Appointed to Minister's Advisory Panel on Improvements to Ontario's Environmental Assessment Process (Fall 2004); led industry-government workshop on environmental assessment and subsequent member committee process to prepare detailed recommendations for input to government and stakeholders
- Facilitated OEA Task Force on Bill 100; wrote the OEA submission and represented the industry at hearings of the Standing Committee on Social Policy
- Led Task Force on DSM to make detailed submissions representing the OEA as a member of the OEB Advisory Group on

- Demand-Side Management and Demand Response consultation process
- Developed and executed Industry Leaders' Symposium on Effective Customer Communications with participation from industry, government and regulators
- Invited to join several industrial alliances to discuss environmental policy, energy policy, economic development and trade

Mirant Canada Energy Marketing

Account Executive (March – November 2002)

Mirant is an independent power company based in Atlanta, Georgia, whose business consists of power generation from an asset portfolio of 13 power plants strategically located in high-population areas and commercial operations that support the power generation plants—and customers—through logistics, risk management, marketing, and trading activities.

- Participated in the development of wholesale market rules and regulations to manage business risks and build the company's brand awareness and corporate reputation
- Developed business plan and marketing strategy for structured wholesale power and derivative products for industrial and commercial accounts
- Targeted business opportunities for mid-marketing and trading groups, contributing to profits from power sales in Ontario
- Built relationships with key customers and suppliers
- Represented the company in senior level meetings with government officials, regulators and in industry associations to advance business interests and promote effective market policy and regulation

TransAlta Energy Corporation

Manager, Commercial Operations (September 2001 to March 2002)

Manager, Regulatory Affairs (August 1999 to August 2001)

TransAlta is a power generation and energy marketing company with 50 facilities (8468 MW of capacity) in Canada, the United States, Mexico, and Australia. TransAlta operates three surface coal mines to supply its generation assets in Canada and the United States. TransAlta's Energy Marketing operation plays a strategic role in optimizing asset returns and reducing risk.

- Led team to obtain all necessary environmental and regulatory permits and approvals for \$450 million generation project on time and under budget
- Led negotiations to secure commercial agreements, design and construction contracts, and regulatory arrangements for transmission design and construction, including a First Nation Band Council Resolution, municipal resolutions and easements
- Led the Cogenerators Alliance to represent gas-fired generators at National Energy Board hearings on gas transmission tariffs, resulting in significant avoided costs for Alliance members
- Led the Clean Energy Markets Group to advocate for effective emission trading regulations
- Represented generator interests on the Ontario Energy Board Advisory Group to establish a Transmission System Code in Ontario

Ontario Ministry of Energy, Science and Technology

Executive Assistant to Assistant Deputy Minister of Energy (December 1997 – August 1999)

- Led policy development and wrote regulations to implement electricity product labeling and environmental information disclosure to consumers
- Provided administrative support and policy advice to the Assistant Deputy Minister and senior government officials

Ontario Ministry of Environment and Energy

Policy Analyst (1994), Economist (1995) and Senior Economist (1995 to 1997)

- Led policy development process and initiated successful pilot project to demonstrate emissions trading
- Represented Ontario in national consultations on emissions trading and climate change, and the National Pollutant Release Inventory
- Participated in Expert Round Table on Emission Trading at the National Round Table on Environment and the Economy
- Produced capital forecasts for water and sewage treatment infrastructure in support of \$300 million capital grant

- program for municipalities
- Developed and delivered a training course on economic analysis of environmental policy

Ontario Campaign for Action on Tobacco

Assistant to the Executive Director (1993 to 1994)

OCAT was founded by five leading agencies in 1992 to secure the passage of Ontario's Tobacco Control Act. The founding agencies include: the Canadian Cancer Society Ontario Division, the Heart and Stroke Foundation of Ontario, the Non-Smokers' Rights Association, the Ontario Lung Association and the Ontario Medical Association. The Tobacco Control Act, 1994 made tobacco sales and supply to minors illegal, eliminated the sale of tobacco in pharmacies and vending machines, and made certain public places smoke-free.

- Established, organized and administered the Campaign office
- Researched and analyzed health policy issues, legislation and regulations, to advise senior stakeholders in the public health community

Hickling Corporation (formerly VHB Research and Consulting)

Consultant (1991 to 1993)

Hickling Corporation is a Canadian owned management consulting company with headquarters in Ottawa Canada's offering professional consulting services to the public and private sectors in Canada and around the world.

- Clients included Ontario Hydro, the Ontario Ministry of Environment and Energy, the National Round Table on the Environment and the Economy, the House of Commons Standing Committee on Energy, Mines and Resources, the Ontario Federation of Anglers and Hunters and the Northern Ontario Tourist Outfitters Association and the United States National Wildlife Federation

Energy Probe Research Foundation

Forestry Researcher (1990 to 1991)

Energy Probe Research Foundation is one of Canada's leading environmental and public policy research institutes. It has four main goals: to provide the public, media, business, and government with information on resource-related issues; to promote sustainable resource use; to encourage individual responsibility and accountability; to help Canada contribute to global justice and prosperity.

- Testified at Ontario Energy Board hearings on Ontario Hydro rate proposals with respect to forecasting nuclear generation capacity and future cost impacts of predicted plant outages
- Published report on a cost-benefit analysis of logging the Carmanah Creek watershed in British Columbia, garnering national media coverage and leading to the creation of a new provincial park to protect the watershed

City of Toronto, Department of Public Works and the Environment

- Delivered course on **Environmental Economics** (2004)

Independent Power Producers' Society of Ontario

- Provided **Strategic Public Affairs** counsel to the board of directors (2003)

World Wildlife Fund Canada

- Produced report on the **Economic Value of Endangered Spaces** (1993)

Teme-Augama Anishnabai First Nation

- Facilitated development of and prepared a **Sustainable Resource Management** plan (1992)

British Columbia Ministry of Transportation and Highways

Engineering Aide (1983, 1984 to 1987)

- Worked as a surveyor and technician on highway construction projects (Highway 5 near Little Fort, Highway 97 north of Mackenzie, Coquihalla Phase 1 near Merritt and Phase 3 near Peachland), skills in survey methods and practice, drafting, estimating, project management and construction policy
- Served as Shop Steward for BC Government Employees' Union local (1986)

Education

Fellow, Leadership for Environment and Development

LEAD International (1995 to 1998)

One of 15 Canadians chosen in 1995 to participate in a two-year professional development and scholarship programme sponsored by the Rockefeller Foundation, the International Development Research Centre and the National Round Table on the Environment and Economy.

Facilitative Leadership Diploma

Faculty of Environmental Studies,
York University (1996)

Bachelor of Arts (Economics)

University of British Columbia (1990)

Volunteer experience

Canadian Environmental Defence Fund Foundation

President (2003-2005)

Environmental Defence Canada

Director, Treasurer and Chair of the Development Committee of the Board (2000-2004)

Independent Power Producers' Society of Ontario

Director (2001-2002)

LEAD Canada Alumni Association

Member of the National Steering Committee for LEAD Canada (1998) and elected President of LEAD Canada Alumni Association (1998 to 2000)

Ontario Lung Association

Member of Community Advisory Committee, Metro Toronto and York Region (1996-1998)

This is Exhibit "B" referred to in the Affidavit
of Adam White, sworn before me this 22nd
day of December, 2008.

*Original Signed by James C. Sidlofsky*_____

A Commissioner, etc.



October 16, 2007

Mr. John LeMay
Chair
AMPCO
372 Bay Street, Suite 1702
Toronto, Ontario M5H2W9

Dear Mr. LeMay:

I am writing to tender my resignation as AMPCO President effective October 31, 2007. I have enjoyed serving as AMPCO's President these past two years and look forward to a continued successful relationship into the future.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Adam S. White". The signature is fluid and cursive, with a large initial "A" and "S".

Adam S. White
President

Association of Major Power Consumers in Ontario

www.ampco.org

372 Bay Street, Suite 1702
Toronto, Ontario M5H 2W9

P. 416-260-0280
F. 416-260-0442

This is Exhibit "C" referred to in the Affidavit
of Adam White, sworn before me this 22nd
day of December, 2008.

*Original Signed by James C. Sidlofsky*_____

A Commissioner, etc.

SCHEDULE "A"

SERVICES

1.1 The services provided shall include:

- (a) Development of strategy and tactics to deal with issues regarding energy matters of consequence to AMPCO and its members and present recommendations to the Board of Directors of AMPCO for ratification;
- (b) Identify the need for, select, retain and manage other consultants where there is a need for specialized information or services;
- (c) Maintain, develop and extend AMPCO's network of contacts in such organizations as electricity generators, transmitters and distributors, appropriate government ministries, regulatory commissions, industry association, media, consulting firms, and others;
- (d) Advise on upgrading and developing new methods, techniques and approaches to improve the effectiveness of AMPCO's public communications and industry influence;
- (e) Advise on developing an effective membership recruiting program with clearly identified objectives, targets and definition of the approach required;
- (f) Provide administrative functions as directed by AMPCO from time to time including without limitation, membership communications, member company billings and collection, financial record-keeping, money management, planning and arrangements for annual and special member meetings and AMPCO Board meetings, and maintenance of an information center for the membership; and
- (g) Consulting services to AMPCO and to individual members of AMPCO as may be directed by AMPCO from time to time, acting reasonably.

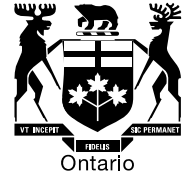
This is Exhibit “D” referred to in the Affidavit
of Adam White, sworn before me this 22nd
day of December, 2008.

*Original Signed by James C. Sidlofsky*_____

A Commissioner, etc.

**Ontario Energy
Board**
P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto ON M4P 1E4
Telephone: 416- 481-1967
Facsimile: 416- 440-7656
Toll free: 1-888-632-6273

**Commission de l'énergie
de l'Ontario**
C.P. 2319
27e étage
2300, rue Yonge
Toronto ON M4P 1E4
Téléphone; 416- 481-1967
Télécopieur: 416- 440-7656
Numéro sans frais: 1-888-632-6273



BY E-MAIL ONLY

April 17, 2008

To: Parties eligible for costs who have not filed phase 1 cost claims

Dear Parties:

**Re: Ontario Power Authority
Integrated Power System Plan & Procurement Processes
Submission for Review and Approval
Board File Number: EB-2007-0707**

In the Board's Decision on Cost Eligibility and Direction to Parties you were found to be eligible for costs in the IPSP proceeding. The Board invited cost claims at the completion of phase 1 of the proceeding. To date the Board has not received any claims for costs that you may have incurred in phase 1. You should be aware that the Board will not consider any phase 1 cost claims in the next phase of the proceeding. Therefore, if you wish to recover any costs for phase 1, please file your claim for consideration by the Board no later than Wednesday, April 23, 2008. Please note that cost claims should be filed in accordance with the Board's Practice Direction on Cost Awards and the Board's Cost Awards Tariff, both available on our website.

Yours truly,

Original Signed By

Kirsten Walli
Board Secretary

c: Miriam Heinz, Ontario Power Authority
George Vegh, McCarthy Tetrault LLP
James Harbell, Stikeman Elliott LLP
Glenn Zacher, Stikeman Elliott LLP

This is Exhibit "E" referred to in the Affidavit
of Adam White, sworn before me this 22nd
day of December, 2008.

*Original Signed by James C. Sidlofsky*_____

A Commissioner, etc.



EB-2007-0707

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

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

Decision on Cost Eligibility and Direction to Parties

The Ontario Power Authority (the “OPA”) filed an application with the Ontario Energy Board dated August 29, 2007 under the *Electricity Act, 1998*, S.O. 1998, c. 15, Sched.

A. The applicant is seeking an order of the Board approving the Integrated Power System Plan (the “IPSP”) and certain procurement processes. The Board assigned file number EB-2007-0707 to this application.

Section 30 of the *Ontario Energy Board Act, 1998*, S.O. 1998 C. 15 Schedule B gives the Board the power to order a person to pay all or part of a person’s costs of participating in a proceeding before the Board. In this case, the OPA, as the applicant, will be the entity paying the costs of the participation of eligible intervenors, to the extent required by the Board in its cost order.

Under the Board’s *Rules of Practice and Procedure*, parties seeking intervention in a proceeding are required to indicate, in their letter requesting intervenor status, whether the party will be seeking an award of costs. The letter must be copied to the applicant, and the applicant has fourteen days to object to the request for cost eligibility. In this proceeding, 35 intervenors asked to be found eligible for an award of costs. The OPA did not object to any of the requests for cost eligibility.

The Board's *Practice Direction on Cost Awards* sets out the following policy regarding cost eligibility:

- 3.03 A party in a Board process is eligible to apply for a cost award where the party:
- (a) primarily represents the direct interests of consumers (e.g. ratepayers) in relation to regulated services;
 - (b) primarily represents a public interest relevant to the Board's mandate; or
 - (c) is a person with an interest in land that is affected by the process.
- 3.05 Parties not eligible for a cost award include:
- (a) applicants before the Board;
 - (b) transmitters, wholesalers, generators, distributors, and retailers of electricity, either individually or in a group;
 - (c) transmitters, distributors, and marketers of natural gas, and gas storage companies, either individually or in a group;
 - (d) the IESO; and
 - (e) the Ontario Power Authority.

In addition, the Practice Direction articulates the discretion the Board exercises in the application of the policy:

- 3.04 In making a determination whether a party is eligible or ineligible, the Board may also consider any other factor the Board considers to be relevant to the public interest.
- 3.06 Notwithstanding section 3.05, the Board may, in special circumstances, find that a party which falls into one of the categories listed in section 3.05 is eligible for a cost award in a particular process.

The following parties are eligible for costs pursuant to section 3.03 of the Board's Practice Direction. They either primarily represent the direct interests of consumers in relation to regulated services, or primarily represent a public interest relevant to the Board's mandate in this proceeding:

- Association of Major Power Consumers of Ontario
- Building Owners and Managers Association
- Canadian Chemical Producers Association
- Canadian Manufacturers and Exporters

-3-

- City of Thunder Bay
- City of Toronto
- Consumers Council of Canada
- Council of Canadians
- Energy Probe Research Foundation
- First Nations Energy Alliance
- Green Energy Coalition
- Industrial Gas Users Association
- Lake Ontario Waterkeeper
- Metis Nation of Ontario
- National Chief's Office on behalf of the Assembly of First Nations
- Nishnawbe Aski Nation
- Northwatch
- Northwestern Ontario Municipal Association
- Ontario Mining Association
- Ontario Sustainable Energy Association
- Pembina Institute
- Pollution Probe
- Provincial Council of Women of Ontario
- Saugeen Ojibway Nations
- School Energy Coalition
- Township of Atikokan
- Vulnerable Energy Consumers Coalition

The following parties would not usually be eligible for an award of costs, due to their inclusion in the list of ineligible parties in section 3.05 of the Practice Direction.

- Association of Power Producers of Ontario
- Canadian Wind Energy Association
- Electricity Distributors Association

- Ontario Waterpower Association

However, the Board has found that special circumstances exist in this proceeding that would allow these parties to be eligible. In addition to the parties normally eligible pursuant to the Board's Practice Direction, the Board finds intervenors that are not-for-profit, that have established an identifiable constituency and that represent a combined, significant expertise in the matters relevant to this application to be eligible for costs. The participation of these parties will assist the Board in developing a better understanding of the important issues of broad impact that are before it for review and determination in this proceeding.

The following parties have been found to be ineligible for an award of costs, as they do not represent an identifiable public, as opposed to private, interest:

- CVRD Inco
- Kilowatt Corporation
- Xstrata Canada Corporation

Purely private entities, intervening on their own behalf, may provide insight, but do not represent a broad enough interest or perspective to merit ratepayer funding. While there could be direct economic benefits under certain IPSP outcomes for any intervenor or their constituents, these intervenors do not provide the breadth and balance of interests and expertise that merits public funding for participation.

The Electricity Market Investment Group also sought cost eligibility, but this intervenor did not submit sufficient information for the Board to find it was eligible for costs. The Board therefore denies costs to the Electricity Market Investment Group. This intervenor may submit further information to the Board if it chooses to do so, and the Board may reconsider its denial of costs.

Intervenors are reminded that a cost award may not necessarily cover all an eligible intervenor's costs of participation in the proceeding. Recovery of one hundred percent of costs should not be relied upon. Section 5 of the Practice Direction sets out some of the factors the Board may consider in determining the amount of costs awarded to a party:

- 5.01 In determining the amount of a cost award to a party, the Board may consider, amongst other things, whether the party:
- (a) participated responsibly in the process;
 - (b) asked questions on cross examination which were unduly repetitive of questions already asked by other parties;
 - (c) made reasonable efforts to ensure that its evidence was not unduly repetitive of evidence presented by other parties;
 - (d) made reasonable efforts to co-operate with other parties in order to reduce the duplication of evidence and questions on cross-examination;
 - (e) made reasonable efforts to combine its intervention with that of similarly interested parties;
 - (f) contributed to a better understanding by the Board of one or more of the issues addressed by the party;
 - (g) complied with directions of the Board including directions related to the pre-filing of written evidence;
 - (h) addressed issues in its written or oral evidence or in its questions on cross-examination or in its argument which were not relevant to the issues determined by the Board in the process;
 - (i) engaged in any other conduct that tended to lengthen unnecessarily the duration of the process; or
 - (j) engaged in any other conduct which the Board found was inappropriate or irresponsible.

As it has done in the past, the Board will require co-operation among parties with similar interest, and will consider any lack of co-operation when determining the amount of a cost award. The Board notes the following examples:

- The Green Energy Coalition, the Ontario Sustainable Energy Association and the Pembina Institute have co-operated to hire one counsel and make one submission to the Board. The Board expects other intervenors with an interest in environmental and sustainable energy issues to co-operate with this group and each other to eliminate duplication in their presentations to the Board.
- Representatives of large electricity customers, such as the Association of Major Power Consumers of Ontario, the Building Owners and Managers Association, the Canadian Chemical Producers Association, the Ontario Mining Association and the Canadian Manufacturers and Exporters should be able to co-operate to put forward a joint presentation on some issues.

- The Northwestern Ontario Municipal Association, the City of Thunder Bay and the Township of Atikokan appear to have almost identical interests in the proceeding, and the Board will expect them to co-operate.

The Board expects all intervenors, whether specifically mentioned in this decision or not, to co-operate to create a useful and focused record for the Board.

The Board recognizes that many cost eligible intervenors will not have sufficient resources to finance their intervention through the entire proceeding. Accordingly, the Board will invite the submission of cost claims at the conclusion of various stages of the proceeding. In Procedural Order number 1, the Board provided for oral submissions on the issues list. The Board invites eligible cost claimants to file an initial cost claim at the conclusion of that oral proceeding (whether the claimant attends the oral portion of the proceeding or not). Claimants must submit cost claims in accordance with the Board's Practice Direction on Cost Awards and ensure their claims are consistent with the Board's required forms and recently revised Cost Awards Tariff.

DATED at Toronto, December 14, 2007.

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

This is Exhibit "F" referred to in the Affidavit
of Adam White, sworn before me this 22nd
day of December, 2008.

*Original Signed by James C. Sidlofsky*_____

A Commissioner, etc.

ALLIANCE of ENERGY CONSUMERS
SUMMARY OF CONSULTATIONS

October 19, 2007

AMPCO meeting with OPA re: IPSP

November 12, 2008

AMPCO conducted telephone meetings with potential Alliance members

November 14, 2007

AMPCO hosted strategic planning session with OPA Counsel and potential members to develop a customer strategy for the IPSP. Invitation attached

December 19, 2007

AMPCO meeting with OMA to discuss working together

December 20, 2007

AMPCO email to OMA, IGUA, CCPA, OFA, Xstrata Nickel, Vale Inco on rough draft of project work plan for IPSP and RFP for expert assistance.

- although draft included provisions to invite other partners into effort, AMPCO seeking first comments from core group already committed to the project

January 8, 2008

AMPCO call with CCPA regarding working together

January 10, 2008

AMPCO email to OFIA, CPPI, OMA, CME, CFIB, CCPA, IGUA, OFA, Cement Association

- briefing on OEB procedures day Jan 8 including link to materials
- seeking feedback on possible approach to issues hearing to occur following week
- indicating AMPCO will be monitoring daily proceedings and sharing directions on how to listen live on-line
- commits to keeping everyone informed and involved on a regular basis

January 14, 24 & 29, 2008

AMPCO / OMA planning meetings or calls to discuss working together

January 18, 2008

AMPCO meeting with OMA to discuss Terms of Reference for the Alliance

January 25, 2008

AMPCO call with Consumers Council regarding working together

January 28, 2008

OMA / IGUA conference call to discuss working together

January 29, 2008

AMPCO/OMA Technical Team meeting on evidence

January 30, 2008

ALLIANCE of ENERGY CONSUMERS
SUMMARY OF CONSULTATIONS

Natural Gas subcommittee conference call

Note: Members include OMA, AMPCO, IGUA, CCPA, Xstrata, Vale Inco

February 4, 2008

Email from OMA to follow up on meetings AMPCO had with CCPA, OFA, BOMA, CME, OSSGA, OFIA, Foundry Association in late 2007 regarding the formation of an Energy Consumers Coalition. February 11, 2008 meeting was announced

February 11, 2008 – Alliance Team Meeting

AMPCO convenes first meeting of possible members of Energy Consumers Alliance at BLG offices

Invited: BOMA, CCPA, CFIB, CFA, CME, CPPI, Cement, Consumers Council, IGUA, OFA, OMA, OSSGA, SEC, VECC

Attended: AMPCO, CCPA, OSSGA, Cement, OFA, OFIA, OMA

- Presentation developed
- draft work plan and draft terms of reference for a coalition discussed
- Agenda attached

February 11, 2008

AMPCO/OMA Technical Team meeting on evidence

February 14, 2008

Natural Gas subcommittee conference call

February 19, 2008

Email from OMA to all stakeholders in the Energy Consumers Alliance summarizing the Alliance meeting on February 11, 2008. Invitation extended to join the Alliance so common concerns around price and reliability can be managed by an Alliance and skills and resources from members can be leveraged. Briefing note on the Energy Consumers Alliance was attached to the email as well as a draft Terms of Reference for the conduct of the group.

March 4, 2008

AMPCO call with BLG regarding OFA issues

March 25, 2008

AMPCO / OMA Planning meeting

March 20, 2008 & April 1, 2008

Emails from OFA to the OEB confirming OFA's association with AMPCO

April 8, 2008

AMPCO/OMA Planning meeting

ALLIANCE of ENERGY CONSUMERS

SUMMARY OF CONSULTATIONS

April 10, 2008

OMA email to BOMA, CCPA, CFIB, CFA, CME, CPPI, Cement, Consumers Council, OFA, OFIA, OSSGA, SEC, VECC

- provides OEB issues list and schedule for the IPSP
- suggests we meet to discuss how we can work together
- invitation to attend meeting with AMPCO & their counsel April 16

April 10, 2008

AMPCO/OMA Planning meeting

April 10, 2008

- Julie Girvan from Consumers Council advises via email that they are not in a position to join in with the group given their interests may well differ
- Jay Shepherd at SEC advises via email that they do not intend to join a coalition but will consult with other groups over the course of the proceedings

April 11, 2008

OMA attempts to follow up with BOMA, finds out from BOMA switchboard that Mike McGee is proper contact, leaves voicemail and sends April 10 email to Mike

April 14, 2008

AMPCO / OMA meeting on Alliance issues

April 15, 2008

AMPCO meeting to develop case outline

April 16, 2008 – Alliance Team Meeting

Energy Consumers Alliance meeting at AMPCO offices

Attending: AMPCO, CCPA, OMA, Cement, OFA, OSSGA,

- Agenda (attached)
 - o Case Outline including discussion on argument, evidence and possible outcomes
 - o OEB key dates
 - o Alliance goals, MOU and funding
 - o Next steps

April 24, 2008

AMPCO meeting - Alliance planning

April 24, 2008

AMPCO Technical Team meeting on evidence

May 9, 2008

AMPCO / OMA conference call on Alliance issues

ALLIANCE of ENERGY CONSUMERS

SUMMARY OF CONSULTATIONS

May 14, 2008

AMPCO letter to CME & BOMA

- seeking to explore areas of common interest and cooperate on intervention
- notes OEB has directed AMPCO, BOMA, CME, OMA and CCPA to work together
- indicates deadline for interrogatories is approaching and would like to coordinate to avoid duplication

May 15, 2008

i) AMPCO / OMA meeting on draft IRs

ii) OMA email to CME & BOMA regarding AMPCO letter and asking to arrange phone call to find out about i) the focus of their interrogatories, ii) their desire to coordinate those interrogatories with Alliance and iii) their interest in general in participating in Alliance

Week of May 15, 2008 – discussion with Alliance regarding seeking possible extension to IR deadline

May 2008

AMPCO coordinates meetings/calls regarding OPA IPSP model runs

May 20, 2008

Email from Chuck Stradling at BOMA indicating they have advised the OEB that they will be working independently

May 21, 2008

i) Conference Call

ii) CME indicates they are not commissioning research and therefore no issue on duplication of evidence; won't formally join Alliance but happy to work together.

June 11, 2008

AMPCO/OMA Technical Team meeting on evidence

July 4, 2008

Letters from AMPCO to OFA, Cement Association, Canadian Chemical producers Association, Ontario Stone, Sand & Gravel association regarding the expectations of working together as part of the Energy Consumers Alliance and the evidence that is being developed by AMPCO, OMA, OFA and OFA

July 11, 2008

AMPCO / OMA meeting on Gas Study

July 18, 2008 – Alliance Team Meeting

Canadian Energy Research Institute briefing of Alliance on natural gas report
Attending: AMPCO, OMA, CCPA, IGUA, Xstrata, Agenda attached

End of July

Finalization and circulation of draft evidence to Alliance

ALLIANCE of ENERGY CONSUMERS
SUMMARY OF CONSULTATIONS

August 8, 2008

Email from OMA to CME, CPPA, Cement, IGUA, OFA, OFIA, OSSGA seeking input to interrogatory preparation and asking if the Alliance will submit one package or if other associations intend to submit independent interrogatories.

August 14, 2008

Circulation of draft Alliance draft interrogatories to Alliance members seeking comments and feedback

August 15, 2008

Circulation of final Alliance interrogatories to Alliance members

August 27, 2008

AMPCO/OFA meeting regarding hearing; responses to interrogatories

September 2008

Email from OMA to OFIA, CCPA, IGUA, OSSGA, OFA, Cement

- reminder that hearing begins following week and instructions for attending, listening via web, reviewing transcripts
- commitment to circulate weekly summary to Alliance members
- anticipated schedule for Alliance evidence
- Cost claim procedures

This is Exhibit "G" referred to in the Affidavit
of Adam White, sworn before me this 22nd
day of December, 2008.

*Original Signed by James C. Sidlofsky*_____

A Commissioner, etc.



Agenda
Energy Consumers Coalition
February 11, 2008
12:00 p.m. to 2:00 p.m.

INVITED:

Building Owners and Managers Association
Canadian Chemical Producers Association
Canadian Federation of Independent
Business
Canadian Foundry Association
Canadian Manufacturers and Exporters
Canadian Petroleum Products Institute
Cement Association
Consumers Council of Canada
Industrial Gas Users Association
Ontario Federation of Agriculture
Ontario Forest Industry Association
Ontario Mining Association
Ontario Stone, Sand and Gravel Association
Schools Energy Coalition
Vulnerable Energy Consumers Coalition

AGENDA:

12:00 p.m. – 1:00 p.m.	Introductions & Review of IPSP Workplan Adam White
1:00 p.m. – 2:00 p.m.	Review of Draft Terms of Reference All



Agenda

IPSP Alliance Meeting, EB-2007-0707

April 16, 2008

2:30 pm to 3:30 pm

AMPCO, 372 Bay Street, 17th Floor, Suite #1702

INVITED:

Building Owners and Managers

Association

Canadian Chemical Producers

Association

Canadian Federation of Independent

Business

Canadian Foundry Association

Canadian Manufacturers and Exporters

Canadian Petroleum Products Institute

Cement Association

Consumers Council of Canada

Industrial Gas Users Association

Ontario Federation of Agriculture

Ontario Forest Industry Association

Ontario Mining Association

Ontario Stone, Sand and Gravel

Association

Schools Energy Coalition

Vulnerable Energy Consumers Coalition

1. IPSP Case Outline

- Proposed Argument, Evidence, Relief Requested of Board
- OEB Schedule – key dates

2. Alliance Goals

- Review MOU
- Funding

3. Next Steps



Energy Consumers Alliance Meeting

CERI Gas Study Meeting

July 18, 2008

AMPCO, 372 Bay Street, Suite #1702

Attendees:

Adam White	Christine Dade	Mike Kuriychuk	Mike Elliot (conf call)
Cheryl Brownlee	Shelley Grice	Sam Mei	Norm Huebel (conf call)
John Butler	Peter Howard (CERI)	Mark Rodger	David Podruzny (conf call)
Mark Passi	Murray Newton		

1. Presentation by CERI on Gas study
2. Discussion

Key IPSP Dates:

- **August 15, 2008** - IRs on Evidence due
- **September 2, 2008** – Responses to IRs on AMPCO evidence due (AMPCO responses to be completed by Tuesday August 26, 2008)
- **September 8, 2008** – Hearing begins

This is Exhibit "H" referred to in the Affidavit
of Adam White, sworn before me this 22nd
day of December, 2008.

*Original Signed by James C. Sidlofsky*_____

A Commissioner, etc.



May 23, 2007

Howard I. Wetston, Q.C.
Chair
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 26th Floor
Toronto ON M4P 1E4

Dear Mr. Wetston:

I am writing to apprise you of recent discussions among AMPCO members and decisions by the AMPCO Board of Directors.

You and I have previously discussed concerns related to the Board's Practice Direction on Cost Awards and in particular the inadequacy of the Board's tariff for approved costs. You must be aware that the maximum hourly rates set out in the tariff bear little relation to current fair market rates for qualified and experienced legal counsel. We have calculated based on our recent experience participating in OEB processes that the current tariff results in AMPCO recovering on average less than half of its costs for legal advice and representation in those processes. Our experience suggests that the Board's tariffs are less divergent from fair market rates for consultant services, but even there the tariffs result in AMPCO recovering on average perhaps only two-thirds of its costs for expert consultant and analytical support.

This situation requires that we be increasingly selective in terms of the matters in which we choose to intervene. Where we choose to intervene or participate in consultations, we must be increasingly selective in terms of the issues we investigate and for which we prepare and provide evidence and testimony for the Board's consideration.

As you will appreciate, 2007 is an exceptionally busy year, even by Ontario standards of the past decade, in terms of the number, scope and scale of ongoing and anticipated regulatory proceedings. Last year was busy. We expect that 2008 also will be busy.

In light of our other commitments and priorities, the financial realities of our organization and the OEB's current tariff for cost awards, we have decided to play only a very limited role in the anticipated review later this year of the application by the Ontario Power Authority for the Board's approval of the Integrated Power System Plan and Procurement Process. We simply feel that we cannot put forward a meaningful intervention in this proceeding, while also preparing for the Board's review, also anticipated later this year, of an application by Ontario Power Generation for payment amounts for prescribed assets.

Association of Major Power Consumers in Ontario
www.ampco.org

372 Bay Street, Suite 1702
Toronto, Ontario M5H 2W9

P. 416-260-0280
F. 416-260-0442

Page 1 of 2

You will be aware that over the past few months we participated in OEB proceedings related to the Board's review of natural gas and electricity integration issues, IESO fees, transmission connection procedures, LDC cost allocation, a framework for setting payment amounts for OPG prescribed assets and OEB filing guidelines for the IPSP. We brought a significant application to the Board this year relating to a rule amendment by the IESO. And we are an active participant in the Board's ongoing proceeding to establish transmission revenues and rates for Hydro One Networks Inc.

When we intervene, groups such as ours are expected of course to respond to and defend our interests against any and all legal and policy matters raised by applicants, other intervenors and Board staff. The expenses associated with such interventions are borne entirely at our risk subject to potential cost recovery of only a fraction of those costs at some uncertain point in the future. So the financial risks we assume when we intervene are increased by the generally adversarial nature of OEB processes and exacerbated by the uncertainty of the cost award process, both in relation to the substance of cost claims and the timing of cost awards.

On the other hand, we observe that electricity and natural gas companies regulated by the Board – comprising virtually all applicants to the OEB – are able to muster vastly more resources than are we and also are virtually assured of recovering all of their costs from customers through rates that the Board approves, notwithstanding the mean tariffs set out in the Board's guidelines. In practice, the Board's tariffs provide no limit on regulatory costs incurred by regulated parties in rate-setting and other processes, but limit and increasingly serve to prohibit consumer interests from participating meaningfully in the same processes.

I know you will give this matter careful consideration. In light of the serious implications of the situation, we would appreciate your guidance in terms of possible avenues and specific steps we might take to address and resolve this issue.

I would be more than happy to meet with you or Board staff to discuss the matter further.

Respectfully yours,



Adam S. White
President

Copies to:

Ms Angela Ferrante, Chief Operating Officer, OEB
Mr. John LeMay, Chair, AMPCO
Mr. Mark Rodger, Counsel to AMPCO

This is Exhibit "I" referred to in the Affidavit
of Adam White, sworn before me this 22nd
day of December, 2008.

*Original Signed by James C. Sidlofsky*_____

A Commissioner, etc.

Pamela Nowina
Vice-Chair
Ontario Energy Board

SPEECH

AMPCO 2007 Fall Members' Meeting
November 8, 2007

Check Against Delivery

Good morning ladies and gentlemen. It is a pleasure to be here again. I am glad to see that the focus of your fall meeting is looking ahead because there is a lot coming down the road in electricity that is going to hit your board rooms.

This morning, my purpose is to help you plan for the road ahead by giving you an idea of some Ontario Energy Board (OEB) proceedings where you should be involved.

Your involvement is something I want to underscore. At the OEB, we recognize the Association of Major Power Consumers in Ontario's (AMPCO) research and voice as constructive inputs to our decisions. We want AMPCO's participation. It is important for AMPCO's membership. It is important for us. And it is important for the energy sector as a whole.

Our responsibilities as regulator of the electricity sector are guided by two objectives in legislation. The first is to protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service. The other is to promote economic efficiency and cost effectiveness in the electricity industry and to facilitate the sector's financial viability.

Our decisions must make compromises among the elements of these objectives. Speaking from my experience adjudicating major cases, I can tell you that we cannot make the right compromises unless we have all of the affected parties represented in our proceedings. And that includes you.

You are the large industrial community. Among you are some of the biggest power consumers in Ontario and, no doubt, Canada. We need – and have much to learn from – the particular expertise and perspectives that you have to offer. There is really no one else at the table with this unique frame of reference. Your involvement guarantees that your ideas are being captured.

Now let me highlight some OEB initiatives that I think are relevant to your business.

Next year, the OEB will start setting payments with respect to Ontario Power Generation's (OPG) prescribed assets. These assets include nuclear stations and baseload hydro facilities and account for just over 40 per cent of Ontario's generation capacity and roughly 45 per cent of total supply. This is a huge component of the province's energy equation. Even a relatively small change in OPG payment amounts can make a big difference to customer bills.

There is a price cap set by the government on these assets, which has been in place for three years now. As of April 2008, the Board will have the authority to review the existing payments established by the government. The Board will set

new payment amounts through a transparent review process, similar to the way we determine rates for distribution and transmission. This is a very different context than before.

Through the lens of our mandate of protecting consumers and facilitating a financially viable electricity industry, we are going to look closely at OPG's situation. Are they covering their costs? Are they making an adequate return? How will consumers be affected by OPG's payments?

Last week as you all know, OPG announced that it is seeking a 14 per cent increase on revenue from these assets. The story made the headlines this past weekend, with the major newspapers reporting on the higher electricity prices to come. I am well aware that AMPCO members are very concerned about the prospect of bill increases.

During the OEB's hearing process we will develop a clearer picture of the true costs of running these generation assets. OPG will argue their case. Other stakeholders will want to make their arguments as well. And we expect to hear from AMPCO given your stake in the outcome.

OPG is now consulting with stakeholders on its proposed filing. This is an opportunity for AMPCO to have input before the application comes to us. OPG said it will file with us at the end of November, so we expect hearings to occur in the first half of 2008. Although the law allows us to start setting the payments by April 1st of next year, it will be a challenge to actually have payments in place by then.

The next two initiatives I am going to address will be of particular interest to those of you who are distribution customers.

The first is our cost allocation review of distribution rates. It is the first comprehensive review in over 20 years of how distributors allocate their costs to customers. There has been a lot of complex information and issues to sort through, so it has taken us time to work thoroughly through them.

We asked distributors to file a cost allocation study, applying their data to a model that was developed over the past couple of years. Board staff published the results in a discussion paper this past summer.

One of the findings was that the large customer class appears to be paying more than its cost in general. Or to put it technically, the revenue-to-cost ratios for large industrial customers were well above one.

Staff proposed a phased approach to address this issue. Now, you are probably wondering why this cannot be fixed immediately since you may be overpaying. In a simple world that would be right – but of course, electricity in Ontario is anything but simple. Staff proposed moving to within revenue-to-cost ranges. They did this for a number of reasons.

First – cost allocation, though it sounds like a science, is as much art as science. In assigning common costs to different classes of customers, distributors have to make some judgments. Second – it was clear from the filings that work still needs to be done on the accounting of costs. The results can only be as good as the inputs. Finally, the use of ranges will mitigate sudden changes for some customer classes, including the residential class, but allow us to correct inequities over time.

The Board has spent considerable time thinking about this. Next week we will be releasing our final Board report on how distributors must allocate their costs to customers in future cost-of-service rate cases. The Board has adopted staff's proposal to take a phased approach of using ranges. However, for some classes, large industrial users among them, we have departed from the broader ranges originally suggested by staff.

After having listened to AMPCO's comments, and the comments of other parties, we have decided on a narrower set of ranges to ensure that rates better reflect the cost of serving industrial customers as soon as possible. To summarize, we are acting on this issue and you will soon see the benefits.

The design of distribution rates is the other topic of interest to those of you who are distribution customers. As some of you may know, the OEB is in the midst of a major review of the design of electricity distribution rates. We are looking at these rates in light of the many industry changes we have seen over the past few years.

I am pleased that AMPCO participated in our recent consultations on this matter. Stakeholder opinions broadly support this initiative and the need for better rate design is not in question. How we achieve it is.

Fundamentally, our job is to set just and reasonable rates. Good rates have three characteristics. First, good rates encourage the efficient use of the system by customers and the utility. Second, customers pay their fair portion of distribution costs. And third, the utilities' revenue requirements are recovered in a way that is clear, stable and practical. These are well-established principles that have stood the test of time.

In respect to distribution rates, the drive for fairness will remain a primary objective as we look at rate classes and rate design within those classes. An example is a rate designed to enable a coincident peak charge. In this scenario, if you run a third shift and your maximum demand comes at midnight on Saturday, you would not be paying the same as if your peak was at 3:00 p.m. on Thursday. Another example is interruptible rates. Under this rate those who have signed up to shed load, when and where distribution capacity is limited, will realize a cost savings.

The rate design process will involve an in-depth analysis of the issues that will require some time. In fact, we will not be setting rates under a new design until 2010. Between now and then you will have several opportunities to influence the outcome.

Some of you may be interested to know that in the shorter term, we are dealing with rates and connections for distributed generation. We expect the results of this separate initiative to be implemented well ahead of any changes coming from the rate design initiative.

Moving on to an initiative with far-reaching influence, one that will shape the future of the province's energy supply over the next two decades and touch all Ontarians: the Integrated Power System Plan (IPSP).

At the end of August, the Ontario Power Authority (OPA) submitted their proposed 20-year plan for Ontario's electricity system, along with their procurement processes. The Board is mandated to review both of these. It is our task to ensure that the IPSP complies with the legislation and government directive, and that it is economically prudent and cost effective. Our review will proceed in two phases.

In phase one, we are deciding on the issues that will be considered in the hearing. These will be based on the proposed issues list submitted by the OPA and submissions provided by interested parties. In phase two, we will explore the evidence filed by the OPA and any other parties.

Of course, AMPCO has to decide how to prioritize its involvement. We hope that AMPCO will be fully represented at the upcoming IPSP hearings. It is worth remembering that the cost of implementing the plan as proposed by the OPA will be \$60 billion dollars – and all consumers will eventually pay for this. As you can imagine, there are multiple aspects of the IPSP that will impact industrial consumers. Let me highlight some of them.

As you know, older sources of generation are being replaced by newer sources. A number of larger new generation projects are scheduled to come on line over

the next three years, between 2008 and 2011, under OPA-managed contracts.

Most of these contracts have two revenue streams: one, prices for energy and two, capacity payments from the OPA, which are recovered through uplift charges to load, including directly-connected AMPCO members. In general, the average level of compensation per kilowatt-hour in these contracts is greater than current market prices. It is greater than the current payments for OPG's prescribed asset output and greater than the current price ceiling for other OPG generation.

New gas-fired facilities will be put in place and will be targeted at peak reduction, local reliability concerns or high efficiency applications. Hydro-electric and wind are the "heavy lifters" in the renewable mix. Much of the new hydro-electric potential is in the North. This may appeal to northern industrial customers since building transmission to accommodate this generation will reinforce the north-south tie (Barrie to James Bay), as well as the northern east-west tie (Ottawa River, Sault St. Marie and points west).

The IPSP has a target of 5010 megawatts of conservation and demand management (CDM) reduction between 2008 and 2025. The OPA has estimated that 33 per cent of this target will be from the industrial sector. Many of the industrial programs that the OPA envisions are demand response related – both voluntary and contractual – and others are geared toward equipment and process efficiency improvements.

Conservation opportunities, which may help lower your costs, will be of specific interest to you. Examples include procurement of demand reductions, "behind the meter" generation, fuel-switching opportunities for combined heat and power, and using heat captured in industrial processes to generate electricity.

In addition to approving generation plans, the transmission plans that support them, and CDM plans, we will also be approving the OPA's process for the procurement of supply and demand reduction. The OPA's proposed approach is to contract only when a market solution is not available. When they do see the need for OPA contracts they will seek the widest selection of bidders. AMPCO members may have an interest in the procurement process, on the one hand, in terms of the impact on their costs and, on the other, in terms of opportunities for them.

Just before wrapping up, I would like to quickly touch on one final area – transmission.

Last month, stemming from the Hydro One transmission rates case, we announced new – and lower – uniform transmission rates. These costs will be

reduced by roughly 12 per cent over the next 14 months. This is partially the result, of the OEB decision, to hold the return on equity and the capital structure equal to those that prevail at the distribution utility level.

The new rates are in effect until December 31, 2008, after which they will be re-set. Customers that are directly connected at the transmission level will see an immediate reduction in their electricity bills. Also of note, although the Board approved operating and maintenance expenses and the capital budgets for Hydro One transmission, we mandated improved reporting on asset condition and compensation costs to ensure better information for examination in future rates cases.

Also on the topic of transmission, a recent OEB decision regarding connection procedures for transmission customers confirmed that in most cases, the customer should be paying capital cost contributions for connection facilities. Hydro One has asked us to review this decision. I am heading up the review panel. So I cannot say much about it at this point but I do want to confirm that we will be hearing a number of preliminary issues on this application to review, tomorrow.

Today I have talked about some initiatives that will affect you. I have stressed how important it is that we get AMPCO's input. There is no one else who comes before the OEB who represents your particular views. In fact, I would argue that your representation needs to be even broader. Currently our proceedings suffer from a shortage of representation from smaller and medium-sized industrial consumers.

I do recognize that AMPCO has concerns about the level of costs it is recovering for intervention – that it cannot afford to take part in everything of interest to its membership. Some relief will come from the Board's current review of the tariffs which we apply to cost awards. In any case, in my opinion, you cannot afford not to participate.

In a normal OEB case, there is a wide range of intervenors who come to present their opinions. I would like to use the example of the recent Hydro One transmission case to help you understand the voices we hear from.

Representing smaller consumers, there was the Vulnerable Energy Consumers Coalition and the Consumers Council of Canada. Labour unions were represented by the Power Workers' Union and the Society of Energy Professionals. They largely supported the applicant. On the government side, there was the OPA and the Independent Electricity System Operator. Generators had OPG and the Association of Power Producers of Ontario to speak for them.

Hydro Ottawa, Enersource Mississauga, Toronto Hydro and the Electricity Distributors Association represented distribution utilities. Ontario schools were represented by the School Energy Coalition. And while not active in this particular case, usually there are environmental groups that intervene as well, such as Green Energy Coalition, Pollution Probe and the Clean Air Alliance.

The only representative of the general interests of large industrial customers – indeed the sole representative of any large or medium sized business consumer – was AMPCO. This makeup of intervenors is typical of all of our large electricity cases. Sometimes AMPCO is there, sometimes not.

My point is this: the OEB wants to make well-informed and balanced decisions. And it relies on all affected parties to help make this happen. Many of the decisions we make have a long lasting effect on your businesses.

In my view, all stakeholders need to be strategic about participating in OEB proceedings just as they are with other aspects of their operations. Where is the biggest bang for your buck? Where are you likely to have success or make the greatest impact? What issues are most salient?

Essentially, you have to prioritize two things: which cases to be involved in and which issues to tackle. Of course, the Board wants and expects AMPCO to use its members' resources, and the resources of regulated parties and the Board, wisely. But, I cannot emphasize enough the importance of your representation.

Thank you for your attention. I hope to hear your thoughts and I am happy to take your questions.

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 a Motion by the Association of Major Power Consumers in Ontario, the Ontario Mining Association and the Ontario Federation of Agriculture for an Order varying the Ontario Energy Board's November 28, 2008 IPSP Phase 2A Costs Decision.

AFFIDAVIT OF CHERYL BROWNLEE

I, CHERYL BROWNLEE, OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO, HEREBY MAKE OATH AND SAY AS FOLLOWS:

1. I am the Manager of Stakeholder Relations at the Ontario Mining Association (the "OMA"), and as such have knowledge of the matters hereinafter deposed to.
2. The OMA is a member of the Alliance of Energy Consumers (the "Alliance"), a group of consumers of similar interest in the above-captioned proceeding. The Board, in its November 28, 2008 Decision and Order on Cost Awards for the Interrogatory Process of the Integrated Power System Plan ("IPSP") proceeding (referred to as the "Phase 2A Costs Decision"), reduced the OMA's cost claim, initially in the amount of \$236,300.67, by 25%, or \$58,355.45. The reduced amount allowed by the OEB for recovery by the OMA was \$177,945.22. This was part of an overall 25% reduction of the claims of those Alliance members that made cost claims (the Association of Major Power Consumers in Ontario, referred to her as "AMPCO", the OMA, and the Ontario Federation of Agriculture, referred to in this motion as the "OFA").
3. As discussed in the Notice of Motion in respect of which this affidavit is made, the grounds for the reduction (from pages 8-9 of the Phase 2A Costs Decision) can be summarized as follows:

- (a) “There appears to be some overlap in subject matter and lack of co-ordination amongst the members of the Alliance to co-operate and create a useful and focused record for the proceeding.”
 - (b) The Issues Decision stated that the Board is not able “to review the price and rate impacts of the Plan in any level of detail.”
 - (c) The GEC-Pembina-OSEA claim of (\$893,506.18) and the Alliance claim (\$758,506.49) were the two largest claims. “The interrogatories and evidence filed by the Alliance referred to many parts of the OPA’s pre-filed evidence and many of the issues, however, its principal foci were the natural gas issues (A15 to A19 of the Issues Decision) and the consumer pricing issue which is included in issue B3 of the Issues Decision. GEC, on behalf of itself, Pembina and OSEA, filed 9 reports that combined covered almost all of the issues identified in the Issues Decision. GEC’s interrogatories also covered many issues, including conservation, renewable supply, nuclear for baseload, natural gas and sustainability.”
 - (d) “As noted previously, none of the evidence filed by the eligible parties has been tested to determine its value to the Board in this proceeding. However, the Board finds that the cost claim for the Alliance is excessive relative to breadth of issues addressed in the evidence, and with respect to lack of co-ordination amongst its members.”
4. In this affidavit, I wish to address the Board’s findings as they relate to the OMA’s role in the Alliance. It is important to note that AMPCO and the OMA divided tasks related to the preparation of evidence in this proceeding, in order to ensure that evidence would be coordinated and not duplicative.
5. It appears from the Phase 2A Costs Decision that the Board views evidence submitted by the Alliance and the OFA as duplicative in terms of impact of the IPSP on the price of electricity. I believe that the affidavits of Mr. White and Mr. Cowan will address that

finding, but with respect to the OMA's participation, the OMA did not prepare or submit evidence with regard to electricity price impacts. I therefore believe that this finding, even if substantiated, should not affect the OMA cost claim. The Alliance evidence for which the OMA was responsible (the Peter Howard/CERI evidence) addressed IPSP assumptions, analysis and conclusions by developing a model of the continental gas market.

6. Throughout the consultation and development phase of the IPSP, OMA submissions primarily focused on a concern that natural gas supply and demand data relied on by the Ontario Power Authority (the "OPA") was deficient and would result in faulty conclusions. In fact, in the year leading up to the filing of the IPSP, the OMA and the OPA had developed terms of reference for a natural gas study to fill this gap. Unfortunately the study was not undertaken, and upon reviewing the final IPSP document filed with the OEB, the OMA continued to view this as a fundamental gap in the IPSP. In the absence of the evidence commissioned by the OMA, this fundamental gap would have continued throughout this proceeding.
7. The Board noted that it was not able to review the price and rate impacts of the Plan in any level of detail. However, a fundamental difficulty with the OPA's pre-filed evidence was that the data relied on, and the scenarios modeled in the IPSP, did not represent the market conditions seen by industrial gas users. The OMA evidence was intended to provide an independent analysis of demand and supply of natural gas since gas fired generation is a major component of Ontario's new supply mix. The Alliance development of electricity price analysis was a secondary use of the CERI evidence.
8. In the June 12, 2008 AMPCO/OMA motion for extension of the deadline for submission of intervenor evidence (page 3 of 8), it was noted that further data was needed for the natural gas study. The OPA agreed to provide this data and the OEB granted the motion. The affidavit from Peter Howard in support of the June 12th motion explained how this data was to be used in conjunction with the OPA's pre-filed evidence. Paragraphs 6-10 of the June 12th Notice of Motion elaborate on this point.

9. The Board suggests that the evidence submitted by the Alliance is less comprehensive than that of other intervenors, and that the interrogatories (“IRs”) submitted by the Alliance and presumably the OMA (the OMA filed IRs on its own behalf) too heavily focused on natural gas. Accompanying this affidavit as Exhibit “A” is a copy of the OMA’s November 20, 2007 letter requesting intervenor status. The OMA had intended from the beginning of its intervention to focus on natural gas. Therefore, the OMA prepared and submitted evidence and IRs related only to natural gas. As members of the Alliance, and to avoid duplication, the OMA channelled concerns regarding aspects beyond natural gas through the Alliance. The Alliance responded to IRs from many intervenors on a range of issues. Those involving natural gas were responded to through the OMA and its consultants.
10. The Board suggests a lack of coordination on the part of the Alliance. However, neither the Alliance nor the OFA or any other members of the Alliance commissioned research on the continental gas market. The OMA fully supports the goal of minimizing costs of interventions by working together, and as such, the OMA joined with other intervenors in the IPSP to develop terms and an RFP for the necessary analysis of the continental gas market. This group included AMPCO, CCPA, IGUA, Vale Inco and Xstrata Nickel. CERI was retained to complete this independent analysis.
11. In addition, the OMA joined the Alliance of Energy Consumers to allow for sharing of the natural gas research. This prevented the Alliance from having to commission a gas study. It also allowed the OMA to benefit from the electricity and econometric analysis the Alliance was able to complete. All of this was done in the spirit of direction from the Board regarding coordination and avoidance of duplication. In addition, the expert consultants retained by the OMA provided the necessary natural gas-related case management, hearing preparation and cross-examination development. The OMA had planned a joint involvement with the Alliance at the hearing in this proceeding, including common counsel, consolidated cross examination and co-operation on Alliance witness panel(s).

12. I believe that the OMA's participation in the portions of this proceeding that are the subject of the Phase 2A Costs Decision has not been duplicative with the work of other members of the Alliance; and that the OMA's work and participation have been coordinated with that of the other members of the Alliance.
13. I further believe that the OMA participated responsibly in this proceeding; it did not produce evidence that was unduly repetitive of evidence prepared by other parties; it made reasonable efforts to co-operate with other parties in order to reduce duplication of evidence throughout this proceeding to date; it made reasonable efforts to combine its intervention with that of similarly interested parties; it contributed to a better understanding by the Board of issues addressed by the OMA and Alliance; it complied with directions of the Board; it did not address irrelevant issues; and it did not engage in inappropriate or irresponsible conduct or conduct that would tend to lengthen this proceeding. In short, I believe that the OMA has satisfied all applicable principles in awarding costs set out in the Board's Practice Direction on Cost Awards and that the Board erred in reducing the OMA's Phase 2A cost claim by 25%.
14. I make this Affidavit in support of the AMPCO/OMA/OFA Motion for the review and variance of the Board's November 28, 2008 Phase 2A Costs Decision, and for no other or improper purpose.

SWORN before me at the City
of Toronto, in the Province of
Ontario, this 18th day of December, 2008

Original Signed by James C. Sidlofsky

Commissioner for Oaths

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Original Signed by Cheryl Brownlee

CHERYL BROWNLEE

This is Exhibit "A" referred to in the Affidavit of Cheryl Brownlee, sworn before me this 18th day of December, 2008.

*Original Signed by James C. Sidlofsky*_____

A Commissioner, etc.



November 20, 2007

Kirsten Wali
Board Secretary
Ontario Energy Board
27-2300 Yonge St.
Toronto, ON M4P 1E4

Dear Ms. Wali:

Re: Ontario Power Authority (OPA) Application for Approval of the Integrated Power System Plan and Procurement Processes (IPSP) OEB File No EB-2007-0707

The Ontario Mining Association (OMA) is one of the longest standing trade associations in Canada and has been representing the industry since 1920. Currently we have over 50 members engaged in Ontario's safe, high tech and environmentally responsible mining industry. The mining industry spends upwards of \$500 million annually on energy and has seen the delivered cost of energy rising steadily. Energy can represent 10-40% of operating costs and as such plays an important role in determining Ontario's ability to be a competitive mining jurisdiction.

Throughout the development of the IPSP, the OMA has been actively engaged with the OPA. Our Energy Committee has had an opportunity to meet with the OPA during its consultation, and indeed our Board of Directors and Mine Managers committee have been updated as well. We are also currently developing terms for a study of impacts from the IPSP on natural gas supply, storage, distribution, price and electricity price. We would anticipate findings from this study to form part of our submission to the OEB.

As such, we would request the OEB consider granting the OMA intervenor status as we seek to continue our involvement in this important policy. The OMA anticipates collaborating with other large industrial users in our involvement as an intervenor. We would also request the OEB determines our eligibility to receive an award of costs in the proceedings.

Copies of all documents filed with the OEB should be sent to:

Ontario Mining Association
Cheryl Brownlee
520-5775 Yonge St.
Toronto, ON
M2M 4J1
cbrownlee@oma.on.ca

Thank you for your consideration of this matter.

Sincerely,

Cheryl Brownlee

cc: boardsec@oeb.gov.on.ca , EB-2007-0707@powerauthority.on.ca

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 a Motion by the Association of Major Power Consumers in Ontario, the Ontario Mining Association and the Ontario Federation of Agriculture for an Order varying the Ontario Energy Board's November 28, 2008 IPSP Phase 2A Costs Decision.

AFFIDAVIT OF TED COWAN

I, TED COWAN, OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO, HEREBY MAKE OATH AND SAY AS FOLLOWS:

1. I am a consultant to the Ontario Federation of Agriculture (the "OFA"), one of the parties to the above-captioned proceeding, and I prepared the two reports filed by the OFA as its evidence in this proceeding, and as such have knowledge of the matters hereinafter deposed to.
2. The OFA is a member of the Alliance of Energy Consumers (the "Alliance"), a group of intervenors of similar interest in the above-captioned proceeding. The Alliance includes, among other intervenors, the Association of Major Power Consumers in Ontario ("AMPCO") and the Ontario Mining Association (the "OMA"). The Board, in its November 28, 2008 Decision and Order on Cost Awards for the Interrogatory Process of the Integrated Power System Plan ("IPSP") proceeding (referred to as the "Phase 2A Costs Decision"), reduced the OFA's cost claim, initially in the amount of \$51,237.38, by 25%, or \$12,731.25. The reduced amount allowed by the OEB for recovery by the OFA was \$38,506.13. This was part of an overall 25% reduction of the claims of those Alliance members that made cost claims (AMPCO, the OMA and the OFA). In AMPCO's case, the 25% reduction was to be made following an initial reduction of \$47,906.25 related to time claimed by Mr. Adam White. I believe that Mr. White will be addressing that reduction in his affidavit.

3. As discussed at paragraph 16 of the Notice of Motion in respect of which this affidavit is made, the grounds for the reduction can be summarized as follows:
 - (a) “There appears to be some overlap in subject matter and lack of co-ordination amongst the members of the Alliance to co-operate and create a useful and focused record for the proceeding.” (page 8)
 - (b) The Issues Decision stated that the Board is not able “to review the price and rate impacts of the Plan in any level of detail.”
 - (c) The GEC-Pembina-OSEA claim (\$893,506.18) behalf of GEC, Pembina and OSEA) and the Alliance claim (\$758,506.49) were the two largest claims. “The interrogatories and evidence filed by the Alliance referred to many parts of the OPA’s pre-filed evidence and many of the issues, however, its principal foci were the natural gas issues (A15 to A19 of the Issues Decision) and the consumer pricing issue which is included in issue B3 of the Issues Decision. GEC, on behalf of itself, Pembina and OSEA, filed 9 reports that combined covered almost all of the issues identified in the Issues Decision. GEC’s interrogatories also covered many issues, including conservation, renewable supply, nuclear for baseload, natural gas and sustainability.”
 - (d) “As noted previously, none of the evidence filed by the eligible parties has been tested to determine its value to the Board in this proceeding. However, the Board finds that the cost claim for the Alliance is excessive relative to breadth of issues addressed in the evidence, and with respect to lack of co-ordination amongst its members.”
4. In this affidavit, I will address the Board’s findings as they relate to the alleged overlap in subject matter among members of the Alliance and, to a lesser degree, the Board’s allegations with respect to a lack of co-ordination. I believe that the affidavits of Adam White and Cheryl Brownlee will be addressing all of the Board’s findings with respect to the Alliance cost claims.

5. As will be evident from my comments in the remainder of this affidavit, I do not believe that there is any material overlap between the materials filed by the OFA and those filed by the Alliance. In this affidavit, I have provided an outline of each of the six papers submitted on behalf of the Alliance - two by the OFA and four by other witnesses, totalling approximately 200 pages. I believe that a reading of each outline makes it clear that each paper is substantively different with no material overlap except in the introduction of material that must be common to each report, almost always in the first few pages of each document; and, regrettably, in a similarity of two pairs of the titles (but not the contents, reasoning or conclusions) to each other. Accordingly, I believe that there is no reasonable basis for the finding that there is overlap among any of the six Alliance and OFA reports. I also believe that there is no reasonable basis for a finding of a lack of co-ordination among the members of the Alliance.

I The OFA's Two Reports

6. The OFA's evidence was in the form of two reports. The first is entitled "Efficiency and Prudence Considerations in Assessing the IPSP" and the second is called "Cost Allocation and Prices Implicit in the IPSP: Are They Efficient, Prudent, Equitable?"
7. In January of 2008, toward the close of the issues sessions for the IPSP, the OFA pointed out that efficiency and prudence, two of the key tests of the IPSP, had been left undefined. The OFA read into the record a widely accepted definition of efficiency, stressing the roles of productive and allocative efficiency and the need to have both in order to have either. The OFA also entered into the record a view with respect to the nature of prudence and at that time committed to provide evidence in greater detail as to what efficiency and prudence are and how can be used to assess the IPSP.¹ OFA provided the two pieces of written evidence promised.
8. These two items, though they share the words 'efficiency and prudence' in their titles, have little overlap.

¹ See Transcript Vol. Issues Proceeding 2, January 15, 2008, pages 143 to 161. Specifically, the OFA spoke to efficiency and prudence definition concerns at pages 148 to 151; regional cross subsidy concerns at page 157; and the need for review and control for prudence at pages 154 and 155.

I-A The OFA's First Paper

9. The first paper, "Efficiency and Prudence Considerations in Assessing the IPSP" is structured as follows:
- (a) Efficiency (productive and allocative) is defined;
 - (b) Prudence is defined as a pattern of behaviour respecting risk;
 - (c) Risks are categorized;
 - (d) A disciplined process for making capital purchases is described and it is made clear that the plan is about the market for capital goods (which is what is being bought) not the market for power;
 - (e) An example from business is examined (identify options, buy lower cost options first, raise prices offered for lower cost options to attract more supply, then consider the next highest cost options);
 - (f) The approach apparently followed by the OPA is outlined (identify some but not all options, buy some options based on a menu of preferences not clearly related to price, buy other options);
 - (g) An example (mini-IPSP) is worked through identifying a broad range of 22 options and choices made based on price;
 - (h) The example illustrated:
 - (i) that key conditions such as conservation, renewables etc. could be met and less gas and nuclear power used than in the IPSP using the economic purchase model for capital goods,
 - (ii) that changing prices will change supply and that supply volumes and types are more a function of price than physical constraints; and
 - (iii) that average prices mask prices that must be paid at the margin;
 - (i) Methods of examining allocative and productive efficiency are outlined so the efficiency (cost effectiveness) tests can be applied; and
 - (j) Suggestions are made with respect to:

- (i) Additional possible efficiencies from timing or orchestrating investments;
- (ii) How future IPSP's might be improved; and
- (iii) Decisions the OEB should make in the present hearing (based on the original proposals from the OPA).

10. This first paper by the OFA provided definitions of the key tests (efficiency and prudence) and a development and application of an economically rational model for purchasing capital goods that allows for strong preferences of the kind stipulated in the ministerial directives.

I-B The OFA's Second Paper

11. The OFA's second paper, "Cost Allocation and Prices Implicit in the IPSP: Are They Efficient, Prudent, Equitable?" examines data from the IPSP with a view to developing estimates of power costs and an understanding of how those power costs might be felt in different parts of Ontario and whether or not these results are or might be efficient, prudent and equitable. The paper is structured as follows:

- (a) The capacity and demand forecasts by region for the IPSP are examined with a view to finding those regions that are likely going to have to pay substantially more or less for capacity than they use;
- (b) Sensitivity of costs to changes in utilization rates are considered;
- (c) Base to shoulder to peak price ratios are estimated based on two cost structures;
- (d) These estimates reveal an unplanned cost subsidy that grows to approx. \$2 billion per year in the higher cost version;
- (e) The persistence of a cross subsidy is demonstrated under various rate assumptions;
- (f) It is suggested that the IPSP should have aspects in it which deal with rate design in order to address the cross subsidy issue;
- (g) It is suggested that the unintended cross subsidy of the size found will contribute to inefficiencies that the plan should avoid;

- (h) It is suggested that cash movements in excess of a billion a year occurring without being noticed may indicate a want of prudence;
- (i) Methods for addressing the concerns are suggested; and
- (j) Two requests are made of the OEB in respect of the concerns.

I-C The OFA's Interrogatory

- 12. The OFA posed one interrogatory and that was to ask how or whether the IPSP addressed the question of 'black start' power – that is the power needed to restart nuclear plants when they have to be closed down in a general outage. The question was asked as the IPSP does not mention black start power and it is an essential. Presently Ontario imports much of its black start power following an outage and is consistently the last jurisdiction to return to full power. Five week-long outages over a twenty year planning period could have economic losses greater than the \$60 billion cost of capital. It is preventable. The single question, unasked by any others and unaddressed anywhere in the plan and largely dismissed in the OPA's response, can have massive value for Ontario by preventing construction of a system that depends too heavily on others in the event of a disaster.
- 13. I prepared the OFA evidence and interrogatory. My CV has been filed with the Board. I work on a contract basis. The OFA provided direction in meetings with its Board, its Executive Committee, the Vice President who handles energy concerns and the General Manager.
- 14. I also met with various representatives of and/or consultants to AMPCO, including Mr. White; Ms. Shelley Grice, an engineer and case manager with AMPCO; Mr. Tom Adams formerly of Energy Probe now an independent consultant then engaged by AMPCO; Mr. Mark Passi of Xstrata, a Board Member of AMPCO; Mr. Wayne Clark, an engineer and consultant engaged by the Alliance; and others, at which meetings the approach and sharing of work were discussed and generally agreed upon.

II Evidence of Alliance Witnesses

15. The other partners in the Alliance provided four pieces of evidence, each prepared by independent consultants. I have prepared outlines describing the structures of these pieces of work, and those outlines are set out below. Although I am not the author of these pieces of evidence, I believe that my qualifications in resource economics enable me to competently prepare these outlines.

II-A I Summation Report – The Interests of Consumers

16. The first piece of Alliance evidence (Exhibit L, Tab 2, Sched. 1) is titled “The Interests of Consumers”. It is developed according to the following pattern:
- (a) The first three sections are an introduction and ‘preamble’ setting out the importance of price as an issue, revisiting the tests and issues list and re-capping a recent history in electricity consumption to illustrate a shift in power use shares from business to residential and from heavy industry and agriculture to commercial/institutional users with different peak to base profiles and different geographical distributions. These premises are widely shared starting points for many examinations of the IPSP;
 - (b) In section four, the OPA’s approach to cost estimation is examined and actual costs of power supplies provided and documented and these are compared with OPA estimates;
 - (c) The sensitivity of OPA estimates are examined particularly with respect to the reliance on uncontracted imports, gas and nuclear fuel and construction particularly with respect to the assumptions in the IPSP being outdated (S. 4.2.1), arbitrary (S. 4.2.2), unduly optimistic (S. 4.2.3), biased (S. 4.2.4);
 - (d) The concerns raised are then examined in some detail using a review of natural gas price forecasts more current than those of the IPSP and reviews of electricity prices which examine the price components rather than simply the aggregated prices. HOEP and all regulatory components and global adjustment are examined;

- (e) Power cost estimates are used to estimate the total cost of the plan;
 - (f) The costs of the plan are then allocated across society by industrial sector to illustrate the impacts that may be expected; and
 - (g) The report gives voice to the consequences of these implications for consumers and Ontario as a whole.
17. The first Alliance report is a summary and compilation of the other three. It is not on its own original research but a synthesis of the other work that brings the implications of the other reports together. It should be understood much as we view the conjunction of the peaks or valleys of different waves on the water. They are either cumulative or they may cancel each other out. It is necessary to understand each wave and then bring their affects together. This first report does that and should be understood as that and not viewed as separate stand alone research.

II-B Alliance Contributing Reports

18. The component studies are outlined below.

II-B1 Assessment of IPSP's Treatment of Natural Gas Related Issues – CERI

19. The study by Canadian Energy Research Institute (CERI), "Assessment of the IPSP's Treatment of Natural Gas Related Issues" provides its own outline on its page six and a summary of major findings pages three to five. The outline is as follows where each section describes:
- (a) Components of gas supply in Canada;
 - (b) US components to Canadian supply;
 - (c) The pipeline system supplying Ontario (each of the above with current and proposed considerations);
 - (d) Contributing factors to the gas prices;
 - (e) Two natural gas supply scenarios;
 - (f) Two natural gas demand scenarios; and

(g) CERI's conclusions based on the foregoing.

20. CERI's key conclusions include:

- (a) Lower exports from Alberta will increase unit gas transport costs;
- (b) Gas for oil sands curbs exports and creates need for LNG in the US;
- (c) US LNG imports are below forecast levels leading to increased prices for natural gas and a conclusion that US/CDN prices must move towards EU levels to attract more LNG;
- (d) US supply shortfalls largely made up by LNG and Alberta with a sense that by 2012 through to the end of the forecast prices will be higher;
- (e) A MacKenzie Valley pipeline faces higher construction costs and conditions are not favourable for its construction further eroding supply to Ontario in the forecast period;
- (f) Conditions for the proposed Kitimat LNG terminal are not thought to be favourable with the same affect for Ontario;
- (g) Supply to the TCPL Northern Ontario line after 2020 depends on completion of the Pathfinder pipeline;
- (h) Price volatility at Dawn is measured (+/- \$ 2 during or following rising prices, +/- \$ 1 during or following falling prices); and
- (i) The OPA relies on regulatory documents to conclude that there will be sufficient gas for its needs rather an examination of underlying real circumstances.

21. The report provides evidence from market and infrastructure data for each of its findings.

II-B2 Estimating the Determinants of Wholesale Electricity Price in Ontario: An Economic Analysis – Dr. Sen, University of Waterloo

22. The third Alliance report was prepared by Dr. Sen of the University of Waterloo and is called "Estimating the Determinants of Wholesale Electricity Price in Ontario: An Economic Analysis". It is organized as follows:

- (a) Dr. Sen provides a brief introduction setting out his summary of findings and qualifications;
- (b) The method is described. In particular Dr. Sen outlines how he tests for the influences of concentrated shares in the market and how he further tests to ensure that the inverted assumptions with respect to the role of price in these models does not distort the findings by further testing the results to ensure that temperature continues to function normally as a demand determinant in the model;
- (c) Dr. Sen identifies key variables in the determination of HOEP and tests their significance. In particular he identifies changes in form of supply (coal vs. gas) as important price determinants;
- (d) Dr. Sen explains the negative and positive relationships that exist with respect to price for nuclear supply, coal, gas, imports and hydro. He confirms that his results coincide with 'economic intuition';
- (e) His findings in this regard are significant at the 1% level;
- (f) Dr. Sen re-estimates his findings using the difference between minimum and maximum values and this second method confirms his initial results; and
- (g) Dr. Sen provides a series of price elasticities for hydro from different sources linked with different gas prices from the CERI report. These elasticities can be used to estimate prices at different demand levels, but Dr. Sen was not engaged to carry out that step.

II-B3 The Economic Impacts on the Ontario Economy of Different Price Scenarios For Natural Gas and Electricity – C4SE

23. The fourth and final report prepared for the Alliance was done by the Centre for Spatial Economics (C4SE) and is titled "The Economic Impacts on the Ontario Economy of Different Price Scenarios For Natural Gas and Electricity". This report is structured to:
- (a) Model the effects of estimated electricity prices using four sets of assumptions – the OPA median natural gas and electricity prices which are stable for gas over the projection period and the others which have different degrees of rising gas

prices for the projection period. All assumptions used lead to rising prices after 2020, the non-OPA assumptions show increase prior to then as well.

- (b) It is noted that the OPA assumptions in the OPA forecast model led to the stable price forecast by the OPA. When the OPA assumptions are used in the model used by C4SE, rising prices are forecast. (The C4SE model is mathematical, the OPA scenario conjectural.) Further notes indicate that prices do not influence taxes or interest rates.
- (c) The report outlines expected impacts of higher power costs including production costs for items that use 'large' amounts of power, effects of price increases on demand for such products, the effects on demand for power and gas, wage and employment pressures and tax revenues.
- (d) These general impacts are searched for quantitatively in the whole economy and by sector. Findings include:
 - (i) Real GDP falls in 2025 with higher prices;
 - (ii) Higher forecast prices are adverse for GDP and key components;
 - (iii) There is a reduction in employment of up to 52,000 persons attributable to higher energy costs;
 - (iv) There is reduction in population attributable to lower employment;
 - (v) Non-residential investment (i.e. business investment) falls;
 - (vi) Both imports and exports fall, though exports fall by more leading to a declining trade balance for Ontario; and
 - (vii) The Ontario and Federal governments are both forecast to have a decline in revenues based on the power price forecasts.
- (e) The impacts by sector are forecast for 16 sectors and 8 sub-sets of the manufacturing sector. No positive outcomes were noted for any sector or sub-sector.

III Conclusions

24. A review of these six outlines makes it clear that each of the reports is different. Each covers different material though each dwells heavily on the role of price for inputs and for final product, each brings out unique aspects and contributes to a more rounded and complete view. The first report of the Alliance draws heavily on the other three, but it could not have been prepared except as a wholly conjectural document without the other three. They provide necessary foundations. The four reports provide a consistent and organized entity.
25. It is unfortunate that several reports have similar titles. Two use the words efficiency and prudence in their titles and 'price scenarios' and 'wholesale electricity prices' figure in two more. It is my view that this overlap is limited to the titles and in a modest but essential way to parts of the introductions to each of the papers. The two reports from the OFA in a sense precede the other four Alliance reports as they set out the economic sense of the efficiency/cost effectiveness tests and a sense of prudence that can be subdivided and actions or proposals tested using it. In that regard they might be viewed as reviews of the tests and so if they are useful might be applied with discretion to any evidence that might bear on efficiency or prudence. The second OFA report provides further context for understanding how price can influence efficiency, and equitable treatment with more or less prudent actions including large cross subsidies and why price should be a more dominant consideration in the IPSP than it is in the OPA's initial approach.
26. I cannot speak to coordination or collaboration between the Alliance witnesses. However it is clear that the three contributing reports are effectively brought together in the summation report, "The Interests of Consumers". Each of the four reports prepared by Alliance witnesses is part of a whole. The first summation report draws from each of the other three and provides a summary and expansion of the findings and arguments made in the other three. It should not be viewed as repetition as it is in fact a useful synthesis of the other three and provides a more balanced and complete understanding of the implications of the forecast prices.

27. With respect to coordination all the parties to the Alliance met frequently between December of 2007 and early June of 2008. At that time I had to attend to farm and other duties and was compelled to do my writing at locations without internet connection. It was understood what sections and questions I would address, but further coordination and joint filing of the evidence was not possible as I had to drive 150 kms to access the internet for filing the OFA's evidence. As a result of physical distance the finer touches of joint filing and a shared summary argument were not possible. This is regrettable, but I believe that the OFA's activities have, on the whole, been coordinated with those of the rest of the Alliance.
28. The six reports address a plan to supply power with a capital cost of \$60 billion and operating costs with net present value of \$275 billion more. Low margin consumers are concerned about the impacts of the prices. The OFA and the Alliance greatly question the OPA price estimates and find it cavalier that price impacts are not queried by them or that fundamentals of rational capital purchase procedures are not mentioned or followed. Price consciousness, efficiency and prudence are concerns and the Alliance evidence addresses those concerns from several different perspectives, but without repetition. The Alliance evidence points out changes to the IPSP which if implemented can save Ontario money, jobs and population over the plan period. The concerns and savings are real and consequential. The Alliance members strove to offer their input efficiently with a view to helping the IPSP move towards greater efficiency and concern for price.
29. The views taken and the paramount focus on price, efficiency and economic prudence in the Alliance evidence (from all parties) may to a great extent reflect a difference in perspective between regulators and those who live in markets. The OPA is a regulated entity attempting to plan supply to meet a need with price very much as a secondary concern. The Alliance members are all businesses where price is always viewed as being mediated by demand and where price not planners leads to supply. The Alliance evidence can in large part be viewed as a consistent effort to bring a clear understanding of the role of price and the need for efficiency and prudence and what these concepts are to the IPSP hearing. The six documents each contribute to this overarching purpose and

they do it with only such overlap and repetition as is needed to set out their introductions and initial premises.

30. I make this Affidavit in support of the AMPCO/OMA/OFA Motion for the review and variance of the Board's November 28, 2008 Phase 2A Costs Decision, and for no other or improper purpose.

SWORN before me at the City
of Toronto, in the Province of
Ontario, this 19th day of December, 2008

Original Signed by James C. Sidlofsky

Commissioner for Oaths

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Original Signed by Ted Cowan

TED COWAN



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June 12, 2008

DELIVERED BY E-MAIL & COURIER

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

Dear Ms. Walli:

**Re: Ontario Power Authority (“OPA”) Application for Approval of the Integrated
Power System Plan and Procurement Processes (“IPSP”)
OEB File No. EB-2007-0707**

We are counsel to the Association of Major Power Consumers in Ontario (“AMPCO”) and the Ontario Mining Association (the “OMA”) in respect of the above captioned matter. Accompanying this letter, please find two hard copies of the AMPCO/OMA Motion Record in respect of their motion to the Board for an extension of the deadline for the filing of intervenor evidence in this proceeding, and for the extension of other deadlines set out in Procedural Order No. 3. The Motion Record includes the AMPCO/OMA Notice of Motion and the Affidavit of Peter Howard in support thereof. An original version of Mr. Howard’s Affidavit will be filed shortly.

Should you have any questions or require any further information, please do not hesitate to contact me.

Yours very truly,

BORDEN LADNER GERVAIS LLP

Original Signed by Diana Pereira on behalf of J. Mark Rodger

J. Mark Rodger
JMR/dp

Copies to: Adam White, AMPCO
Cheryl Brownlee, OMA
Intervenors of Record

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Montréal
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Calgary

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.

MOTION RECORD

AMPCO and Ontario Mining Association Motion to Extend the Deadline for
Filing Intervenor Evidence and to change other IPSP proceeding dates

June 12, 2008

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1.	The Notice of Motion to Extend the Deadline for Filing Intervenor Evidence.
2.	Affidavit of Peter Howard.
3.	Ontario Energy Board Procedural Order No. 3 in respect of an application by the Ontario Power Authority for review and approval of the Integrated Power System Plan and proposed procurement processes (EB-2007-0707) dated April 8, 2008.
4.	Exerpt from the Board's March 26, 2008 Decision with Reasons on Integrated Power System Plan Issues

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.

NOTICE OF MOTION

The Association of Major Power Consumers in Ontario (“AMPCO”) and the Ontario Mining Association (the “OMA”), collectively referred to as the “Moving Parties”, will bring a motion to the Ontario Energy Board (the “Board”) at a time and place to be determined by the Board.

THE MOTION IS FOR:

1. Amendments to the Board’s Procedural Order No. 3 in respect of an application by the Ontario Power Authority for review and approval of the Integrated Power System Plan and proposed procurement processes (EB-2007-0707) dated April 8, 2008 (the “Procedural Order”), and more particularly to certain deadlines contained therein, and an order that:
 - (a) The July 9, 2008 deadline for the filing and delivery of evidence relevant to the proceeding by intervenors as set out in section 3 of the Procedural Order be extended to the later of August 1, 2008 or five and one half weeks following the date for receipt of all interrogatory responses from OPA
 - (b) The July 23, 2008 deadline for the filing and delivery by any party of written interrogatories on the evidence filed by intervenors as set out in section 4 of the Procedural Order be extended to the later of August 15, 2008 or two weeks following the date for filing of intervenor evidence
 - (c) The August 6, 2008 deadline for the filing and delivery of all responses to the interrogatories as set out in section 5 of the Procedural Order be extended to the

later of September 2, 2008 or two weeks following the date for the filing of interrogatories to intervenors;

- (d) The August 11, 2008 date for start of the evidentiary phase of the oral hearing as set out in section 6 of the Procedural Order be extended to the later of September 8, 2008 or three days following the date for the filing of intervenor interrogatory responses, at a time and place to be determined by the Board; and
- (e) Such further and other order that the Moving Parties may request and the Board consider appropriate.

THE GROUNDS FOR THE MOTION ARE:

1. On August 28, 2007 the Ontario Power Authority (the “OPA”) filed an application with the Board under the *Electricity Act*, 1998, S.O. 1998, c. 15, Sched. A seeking an order of the Board approving the Integrated Power System Plan (the “IPSP”) and certain procurement processes. On April 8, 2008 the Board issued the Procedural Order dealing with various procedural matters in Phase 2 of the IPSP proceeding. Section 2 of the Procedural Order provides that the OPA shall file complete responses to the interrogatories with the Board and deliver all the responses to all the intervenors on or before June 18, 2008.
2. The OPA has agreed with intervenors in this proceeding that in addition to delivering its interrogatory responses, the OPA will deliver the results of a number of model runs that the intervenors require in order to prepare their evidence. AMPCO and the OMA intend to file evidence in respect of probable directional impacts of the IPSP on prices and rates using the OPA’s assumptions and using alternate assumptions.
3. The Board has recognized the importance of understanding the probable impact of the IPSP on electricity prices and rates. At pages 8-9 of its March 26, 2008 Decision with Reasons with respect to IPSP Issues, the Board found:

“In this proceeding, the Board will review in detail the OPA evidence relating to the costs of the various initiatives in the Plan, as part of its review of economic prudence and cost

effectiveness. However, the Board will not require the OPA to provide detailed evidence on the potential effect of IPSP initiatives on electricity prices and rates. Prices and rates are set in many different ways, such as Board rate hearings for distribution and transmission, the Global Adjustment Charge, the Regulated Price Plan, and the retail and wholesale commodity electricity market. The Board does not believe that the OPA is able to assess, nor the Board to review, the price and rate impacts of the Plan in any level of detail. However, it is important to understand the probable directional impact of the Plan on prices and rates. In this way the Board's review of the economic prudence and cost effectiveness of the IPSP will be informed by the objective of protecting consumers with respect to prices in a manner that is appropriate to the test set out in section 25.30(4) of the Electricity Act."

4. The IPSP positions gas-fired generation as the principal incremental, schedulable generation resource over at least the mid term. The OEB must consider whether the IPSP is a robust and economically prudent plan not only if events unfold according to forecast, but also if the future turns out somewhat different than expected. Among other matters, AMPCO and the OMA are concerned with the potential consequences of a scenario in which Ontario requires more natural gas resources than those contemplated in the IPSP. In that regard, AMPCO has requested, and the OPA has agreed to provide, modelling information (referred to below and in the Affidavit of Peter Howard in support of this Motion as the "Additional OPA Modelling Information") that would take into account high load growth and/or growth consistent with the IPSP, but a reduced ability to rely on alternatives to natural gas (whether through the increased availability of other fuel sources such as nuclear, or due to lower than anticipated success of conservation and demand management measures). That request was placed on the record of this proceeding through AMPCO Interrogatory No. 80, which provides:

"AMPCO Interrogatory # 80

Issues A33 & A34:

Do the forecasts relied upon by the OPA in developing the IPSP, and the uncertainties attributed to them, present a reasonable range of future outcomes for planning purposes? Does the IPSP meet its obligation to provide adequate electricity system reliability in all regions of Ontario?

Ref: OPA-Sponsored Model Scenario Runs for Intervenors

This interrogatory is to place on the record AMPCO's specific request to the OPA on May 15, 2008 for scenarios to be run of the IPSP planning model. Since it depends on a

run of several of the IPSP planning modules, it cannot be readily referenced to a single section of the plan.

Model runs requested:

For a scenario in which there is either higher load growth than expected (high growth scenario) or a significant shortfall in CDM accomplishment (only half of planned accomplishments are realized), combined with outcomes of gas prices different from forecast, what would be the impact on customer cost, gas generation and gas consumption?

This scenario could be run using the OPA scenario 2B (high load growth, no Pickering refurbishment), which should produce the equivalent change in the supply/demand balance.

Specifically, what would be the (unmitigated) impact of this scenario by year (or in the alternate, by milestone year) on:

- a) Customer cost
- b) Provincial Gas Consumption (increase by month)
- c) Duty cycle of Gas Peaking Plants (annual)
- d) Amount of time GFG will be on the margin in the Ontario Market

Please provide these outputs for gas prices at the OEB average forecast price, as well as \$12/MMBTU and \$20/MMBTU.”

5. AMPCO and the OMA believe an understanding of these potential consequences will make an important contribution to evaluating the prudence and cost effectiveness of the IPSP, and the AMPCO/OMA evidence will assist the Board and the parties in understanding the probable directional impact of the IPSP on prices and rates. This evidence will be relevant to, among others the following issues on the Board-approved Issues List in this proceeding:

- 17. How can gas be used for peaking, high value and high efficiency purposes?
- 19. Is the IPSP’s plan for additional gas resources for peaking, high value and high efficiency purposes and for contributing to transmission capacity constraints economically prudent and cost effective?

23. Will the IPSP's combination of gas and transmission resources meet these remaining requirements in the earliest practical timeframe and in a manner that is economically prudent and cost effective?
6. The preparation of that evidence is an iterative process. It will begin with an analysis of the OPA interrogatory responses and the Additional OPA Modelling Information from a natural gas perspective by Mr. Peter Howard, Vice President, Research, for the Canadian Energy Research Institute ("CERI"), an expert in that area retained by the OMA. Mr. Howard's natural gas-related findings will be analyzed, relied upon and incorporated into an electricity pricing report prepared by Dr. Anindya Sen, Associate Professor of Economics at the University of Waterloo, AMPCO's expert consultant. Finally, an overall report reviewing the findings of those experts and commenting on the probable directional impact of the IPSP on prices and rates and impacts of such directional pricing on the Ontario economy, will be prepared by a third expert, Mr. Ernie Stokes, of The Centre for Spatial Economics.
7. In order to be able to participate effectively in Phase 2 of the IPSP proceeding, intervenors and their experts must be given adequate time to consider the complete body of evidence including the OPA's responses to interrogatories and, particularly in the context of the preparation of the AMPCO and OMA evidence, the results of the OPA modelling. The ability to complete the iterative process of preparing the AMPCO and OMA evidence depends upon the receipt of the OPA information. Additionally, as will be discussed below, AMPCO and OMA are working cooperatively with several other intervenors in this area of evidence, and their input will be solicited on drafts of these reports prior to their finalization. Intervenors will also require a reasonable period of time to effect this cooperation.
8. Giving intervenors and their experts sufficient time to properly consider, evaluate and respond to the evidence of the OPA will (i) allow intervenors to prepare and file higher quality evidence in the proceeding, (ii) allow parties to engage in a better discourse during the public hearing, and (iii) allow the Board to make a better informed decision on the IPSP.

9. The Moving Parties submit that the time provided in the Procedural Order for intervenors to consider the OPA's interrogatory responses and modelling results (to be filed on June 18, 2008) and to prepare and file their own evidence (to be filed July 9, 2008) allows insufficient time to evaluate the OPA information; incorporate it into and address it in Mr. Howard's first report; have that draft report reviewed by the alliance of energy consumer intervenor groups (the "Alliance") with which AMPCO and the OMA are working; finalize that first report; and undertake a similar process for each of the other two expert reports.
10. The Moving Parties submit that adequate time should be given to allow for coordination between intervenors to allow for the creation of a useful and focused record for the Board. In the Board's May 26, 2008 Decision on Phase 2 cost Eligibility, the Board stated that it "expects all intervenors, whether specifically mentioned in this decision or not, to co-operate to create a useful and focused record for the Board." The Moving Parties are cooperating with other intervenors with similar interests, and intend to continue working together with other intervenors with similar interests by jointly engaging experts to assess the evidence prepared by the OPA and by preparing constructive and non-duplicative evidence for the hearing. The Alliance with which the Moving Parties are working currently includes the Canadian Chemical Producers Association, the Cement Association of Canada (Ontario), the Stone, Sand and Gravel Association of Ontario, the Ontario Forest Industries Association, the Industrial Gas Users Association, and the Ontario Federation of Agriculture, as well as several individual companies who are members of one or more of these Associations. This collaboration is consistent with and follows from the Board's direction to intervenors in the current proceeding; will assist the Board in creating a useful and focused record in this proceeding; and will likely save time at later stages of the proceeding, but it requires time in the earlier stages when intervenor evidence is being prepared. The members of the Alliance will have an opportunity to review the reports being prepared by the Moving Parties' consultants and attempting to develop a coordinated position in these matters. Effective collaboration requires time to coordinate lines of inquiry, modes of analysis and submissions among different intervenors.

11. Many of the intervenors and experts participating in these IPSP proceedings are also involved in a number of other important Board proceedings scheduled throughout the Summer of 2008. The time and resources of intervenors and the relatively small pool of consultants, counsel and other experts are already stretched in an attempt to provide thoughtful and valuable submissions in this IPSP proceeding, the ongoing Ontario Power Generation application for the determination of payment amounts in respect of certain of its generating facilities (EB-2007-0905); the pending Hydro One Networks Inc. Cost of Service distribution rate proceeding (EB-2007-0681) scheduled to commence on July 7, 2008; and various local electricity distribution companies' distribution rate applications. The Moving Parties submit that the extension requested in this Motion would alleviate some of this burden, allowing intervenors and their experts to properly complete and prepare better quality submissions for each of these respective proceedings.
12. Finally, the Moving Parties submit that allowing the requested extensions is consistent with the principles of natural justice, in that intervenors require adequate time to prepare their evidence in order that they may truly be heard in this proceeding. The Moving Parties submit that the Board should grant the extension requested in this Motion in accordance with the principle that proceedings should be conducted so they are fair to all the parties, including intervenors.
13. This Motion is made pursuant to Rules 4.03 (amendment of procedural orders) and 7.01 (extension or abridgement of time) of the Board's *Rules of Practice and Procedure*.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used as the hearing of the motion:

1. The Affidavit of Peter Howard, sworn June 12, 2008.

Dated June 12, 2008

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Board Secretary
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416-440-7656 fax

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

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.

AFFIDAVIT OF PETER HOWARD

I, PETER HOWARD, OF THE CITY OF CALGARY, IN THE PROVINCE OF ALBERTA, HEREBY MAKE OATH AND SAY AS FOLLOWS:

1. I am the Vice President, Research, at the Canadian Energy Research Institute ("CERI") and have been engaged by the Ontario Mining Association (the "OMA") to provide evidence in respect of an application by the Ontario Power Authority ("OPA") for review and approval of the Integrated Power System Plan ("IPSP") and proposed procurement processes (EB-2007-0707). My evidence will form one part in a series of three exhibits to be filed jointly by AMPCO and the OMA.
2. I have 30 years of experience specializing in engineering and technical applications in the oil and gas industry. I have a B.Sc. in Mechanical Engineering from the University of Alberta in Edmonton and I am a registered Professional Engineer in the Province of Alberta. I joined CERI in November 2004 as Senior Energy Analyst. Prior to joining CERI, I was a senior associate with J.R. Lacey International Ltd. and president of Arundel Information Systems Ltd.
3. I am the co-author of two computer programs - the Gas Energy Management Model, as well as the LOGIS data retrieval system, and the computer program, "QTrack" liquid recovery simulator. I have acted in a consulting role for numerous companies with regard to computer modeling, data modeling and computer application development.
4. CERI and the OMA are in the process of developing a model of the continental gas market in the context of the IPSP proceeding that will include the gas reserves, production, LNG, transmission, and storage resources. By incorporating this information

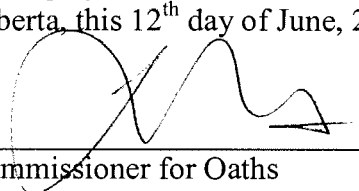
into sophisticated computer models, CERI and the OMA are in the process of performing the following assessments:

- (a) Estimating the change in natural gas flow patterns as a result of declining and increasing supplies from the various continental basins;
 - (b) Estimating the change in supply availability to transmission pipelines as a result of increasing demand in other regions (Oil Sands demand);
 - (c) Estimating the change in natural gas availability if major projects are or are not developed (Alaska Gas);
 - (d) Estimating the potential pipeline bottlenecks that may materialize in the future as a result of changing supply patterns;
 - (e) Estimating the need for LNG in North America and the impact on supply patterns as a result of the delivery location (Quebec or the Gulf of Mexico);
 - (f) Estimating the potential impact on gas prices at Dawn;
 - (g) Estimating the potential impact on gas prices at AECO;
 - (h) Estimating the additional impact on price volatility at Dawn as a result of the increased call upon natural gas by the GFG operators; and
 - (i) Estimating the potential impact on gas prices at Dawn as a result of varying the delivery location of LNG (Quebec or The Gulf of Mexico).
5. This exercise is intended to respond to OPA Exhibit D-8-1 page 25 lines 9-16 which indicates that one of the conditions necessary to achieve the IPSP's gas-fired generation capacity and associated timelines is "Sufficient gas infrastructure and commodity availability".
6. In its interrogatories, filed on May 21, 2008, the OMA has requested specific details that the OPA used in its studies with respect to natural gas supply, demand, transportation,

and pricing. I am advised by Wayne Clark, a consultant to AMPCO, and believe that AMPCO has requested, and that the OPA has agreed to provide the Additional OPA Modelling Information, that would take into account high load growth and/or growth consistent with the IPSP, but a reduced ability to rely on alternatives to natural gas (whether through the increased availability of other fuel sources such as nuclear, or due to lower than anticipated success of conservation and demand management measures) by June 18, 2008. I am further advised and believe that the AMPCO request was placed on the record of this proceeding through AMPCO Interrogatory No. 80. Upon receiving the responses to the interrogatories and the Additional OPA Modelling Information, my intention is to evaluate the information and rerun the models using the OPA data if it is complete. The receipt of the OPA information is essential to my work in this proceeding. I also understand and believe that my natural gas-related analysis will be provided to Dr. Sen and other expert consultants retained by AMPCO and/or other intervenors, who will use my work in considering and reporting on the probable direction of the IPSP on electricity prices and rates, and on the impacts of such directional pricing on the Ontario economy. I do not believe that the Board's current timeline for the filing of intervenor evidence will allow me adequate time to conduct my analysis and to facilitate the input of the members of the coalition with which AMPCO and the OMA are working.

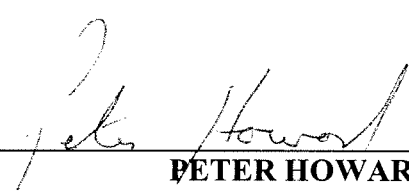
7. I make this Affidavit in support of the AMPCO/OMA Motion to Extend the Deadline for Filing Intervenor Evidence and to change other IPSP proceeding dates, and for no other or improper purpose.

SWORN before me at the City
of Calgary, in the Province of
Alberta, this 12th day of June, 2008



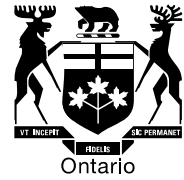
Commissioner for Oaths

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PETER HOWARD

Sharon Borgland
Barrister & Solicitor



EB-2007-0707

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.

PROCEDURAL ORDER NO. 3

The Ontario Power Authority (the “OPA”) filed an application with the Ontario Energy Board dated August 29, 2007 under the *Electricity Act, 1998*, S.O. 1998, c. 15, Sched.

A. The applicant is seeking an order of the Board approving the Integrated Power System Plan (the “IPSP”) and certain procurement processes. The Board has assigned file number EB-2007-0707 to this application.

Phase 1 of this proceeding was completed with the issuance by the Board on March 26, 2008, of an Issues Decision establishing an issues list for the proceeding.

On March 26, 2008 the Board directed the OPA to post and publish a Notice of Application with respect to Phase 2 of this proceeding. This procedural order deals with the procedural steps in phase 2 of this proceeding: the review of the IPSP and the procurement processes. All materials filed in accordance with this procedural order will be posted on the Board’s website in the IPSP section. In response to several requests, the Board will invite applications for costs at the conclusion of the interrogatory process.

Please be aware that further procedural orders may be issued from time to time.

THE BOARD ORDERS THAT:

1. Intervenor who wish information and material from the OPA that is in addition to the evidence filed with the Board, and that is relevant to the proceeding, shall request it by written interrogatories filed with the Board and delivered to the OPA on or before **May 21, 2008**. All interrogatories must identify the issue to which the question is relevant by reference to the issue number or preamble in the Board's approved issues list (attached as Appendix A to this procedural order).
2. The OPA shall file complete responses to the interrogatories with the Board and deliver all the responses to all the intervenors on or before **June 18, 2008**.
3. Intervenor who wish to present evidence which is relevant to the proceeding, shall file that evidence with the Board and deliver it to the OPA and the other intervenors on or before **July 9, 2008**.
4. Any party (intervenor, Board staff or the OPA) who requires additional information related to an intervenor's filed evidence, which is relevant to the proceeding, shall request it by written interrogatories filed with the Board and delivered to the intervenor that filed the evidence on or before **July 23, 2008**.
5. Responses to the interrogatories shall be filed with the Board and delivered to the OPA and all the other intervenors on or before **August 6, 2008**.
6. The evidentiary phase of the oral hearing will commence at 9:30 a.m. on **August 11, 2008 at the Board's hearing room at 2300 Yonge St., 25th floor, Toronto**.

All filings to the Board must quote file number EB-2007-0707, and consist of an electronic copy in searchable / unrestricted PDF format filed through the Board's web portal at www.errr.oeb.gov.on.ca, and three paper copies sent to the address below. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.oeb.gov.on.ca. If the web portal is not available you may email your document to BoardSec@oeb.gov.on.ca. Those who do not have internet access are required to submit all filings on a CD or diskette in PDF format, along

with three paper copies. Those who do not have computer access are required to file 7 paper copies.

DATED at Toronto, April 8, 2008.

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

Section 1 reads:

1(1) The Board, in carrying out its responsibilities under this or any other Act in relation to electricity, shall be guided by the following objectives:

1. To protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service.
2. To promote economic efficiency and cost effectiveness in the generation, transmission, distribution, sale and demand management of electricity and to facilitate the maintenance of a financially viable electricity industry.

Several of the parties, including AMPCO and Brookfield, who argued for the relevance of Section 1, maintained that the section provides an overriding jurisdiction beyond that granted under sections 25.30(4) and 25.31(4) of the Electricity Act. In contrast, CCC argued that the specific power granted in section 25.30(4) of the Electricity Act overrides the general authority set out in section 1 of the OEB Act.

The Board finds that its mandate in relation to the review of the IPSP and procurement processes is found in sections 25.30(4) and 25.31(4) of the Electricity Act. The Board agrees that section 1 of the OEB Act informs the Board in the exercise of that mandate. However, section 1 is not, in the Board's view, a source of independent or incremental responsibility that can override the direction that has been provided by the legislature in relation to the Board's mandate as set out in sections 25.30(4) and 25.31(4) of the Electricity Act. This is confirmed by the wording of section 1 itself, which refers to the objectives as guiding the Board "in carrying out its responsibilities under" the OEB Act or any other Act. This indicates that the responsibilities of the Board are to be found outside section 1, and not within that section itself.

The Board's Report

On December 27th, 2006 the Board issued its "Report of the Board on the Review of, and Filing Guidelines Applicable to, the Ontario Power Authority's Integrated Power System Plan and Procurement Processes". The purpose of this Report, as stated in the document, is to "provide guidance in relation to the approach being used by the Board in reviewing the IPSP and the OPA's procurement processes, as well as in relation to the Board's expectations regarding the OPA's filings."

Part One of the document has two major sections: 1) Principles Guiding Review and Implementation of the IPSP and 2) IPSP Filing Guidelines. Part Two of the document has one major section: Principles Guiding Review of Procurement Processes. The principles stated in the Board's Report remain important guidance in the review of this application. However, the Board views the examples that are included in the Principles sections not as principles themselves, but rather possible examples that a panel might consider. The Board views the Filing Guidelines as direction to the OPA to assist in the filing of its application. In the end, it is the responsibility of the OPA to present its application in a manner that, in its view, best supports its case.

The Board wishes to provide clarification on several aspects of the principles contained in Part 1 of the Board's Report.

First, the Board's Report states that:

"Economic prudence requires that the IPSP be sufficiently resilient to ensure that the plan's goals, ...can be achieved in the face of circumstances that turn out differently than assumed in the plan. An economically prudent plan will be able to adapt to different contingencies without causing major changes in overall costs."

This principle has been important to the panel in making our decisions on the issues. Several times within this Decision the panel has concluded that a subject matter is a matter for consideration in this proceeding only to the extent that it pertains to the flexibility (and therefore, prudence) of the Plan, and therefore is included under the general assessment of the economic prudence and cost-effectiveness of the Plan.

Second, the Board's Report reflects a consideration of the objectives set out in section 1 of the OEB Act in relation to the application of the test set out in section 25.30(4) of the Electricity Act. The Report, at pages 8 and 9 discusses the review of economic prudence and cost effectiveness of the IPSP. On page 9, the Board stated:

"In making these assessments, the Board will require an understanding of the economic and financial cost implications of the IPSP, including the short- and long-term financial impact of IPSP initiatives on electricity system costs and how these might affect provincial electricity prices and rates."

In this proceeding, the Board will review in detail the OPA evidence relating to the costs of the various initiatives in the Plan, as part of its review of economic prudence and cost effectiveness. However, the Board will not require the OPA to provide detailed evidence on the potential effect of IPSP initiatives on electricity prices and rates. Prices

and rates are set in many different ways, such as Board rate hearings for distribution and transmission, the Global Adjustment Charge, the Regulated Price Plan, and the retail and wholesale commodity electricity market. The Board does not believe that the OPA is able to assess, nor the Board to review, the price and rate impacts of the Plan in any level of detail. However, it is important to understand the probable directional impact of the Plan on prices and rates. In this way the Board's review of the economic prudence and cost effectiveness of the IPSP will be informed by the objective of protecting consumers with respect to prices in a manner that is appropriate to the test set out in section 25.30(4) of the Electricity Act.

Third, on page 12 of the Report, the Board discusses regulatory streamlining. The Board's principle states that the Board will seek streamlining opportunities. The Report states:

“...issues that are adequately addressed in the context of the IPSP will not be subject to re-examination by the Board at a later date.”

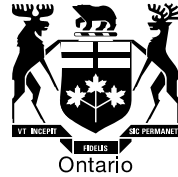
The Board continues to be committed to streamlining regulatory review whenever possible. This panel interprets the principle above to mean that a future Board panel, for example in a rates case or a leave to construct hearing, will consider the extent of examination of a matter in the IPSP and, if satisfied with that examination, will adjust its examination of the matter in that panel's case, thus leading to a more efficient future proceeding.

**Ontario Energy
Board**

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Facsimile: 416- 440-7656
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**Commission de l'Énergie
de l'Ontario**

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BY EMAIL

June 25, 2008

Miriam Heinz
Regulatory Coordinator
Ontario Power Authority
120 Adelaide St W., Suite 1600
Toronto ON M5H 1T1

Dear Ms Heinz:

**Re: OPA – Integrated Power System Plan Application
Decision on Motion
Board File Number EB-2007-0707**

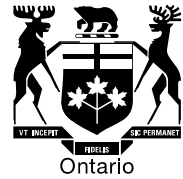
The Board has today issued its Decision and Order on Motion in the above matter.

Yours truly,

Original signed by

Kirsten Walli
Board Secretary

cc: All intervenors



EB-2007-0707

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 Notices of Motion brought by the Green Energy Coalition, the Pembina Institute, and the Ontario Sustainable Energy Association; and by the Association of Major Power Consumers in Ontario and the Ontario Mining Association.

BEFORE: Pamela Nowina
Presiding Member and Vice-Chair

Ken Quesnelle
Member

David Balsillie
Member

DECISION AND ORDER ON MOTION

The Ontario Power Authority (the “OPA”) filed an application with the Ontario Energy Board dated August 29, 2007 under the *Electricity Act, 1998*, S.O. 1998, c. 15, Sched. A. The applicant is seeking an order of the Board approving the Integrated Power System Plan and certain procurement processes. The Board assigned file number EB-2007-0707 to this application.

On April 8, 2008, the Board issued Procedural Order No. 3, setting out procedural steps for its review of the Integrated Power System Plan and the procurement processes. Those steps included the opportunity for intervenors to file evidence on July 9, 2008. On June 11, 2008, the Green Energy Coalition, the Pembina Institute and the Ontario Sustainable Energy Association, (collectively “GEC-Pembina-OSEA”), filed a Notice of

Motion with Board. The motion was for amendments to Procedural Order No. 3, particularly to the deadline for filing intervenor evidence and other deadlines contained therein.

On June 12, 2008, the Association of Major Power Consumers in Ontario and the Ontario Mining Association, (collectively “AMPCO-OMA”) filed a Notice of Motion with the Board seeking similar amendments to Procedural Order No. 3.

Description of the Motions

GEC-Pembina-OSEA submitted that the time provided in Procedural Order No. 3 to consider the OPA's interrogatory responses and to file their own evidence was insufficient. GEC-Pembina-OSEA stated that their preparation of evidence requires an analysis of the OPA's interrogatory responses and the modeling results in order to analyze the costs and the performance of alternative degrees of reliance on conservation, renewable generation and high efficiency gas generation as well as analysis of the alternatives, and consultation with their coalition consisting of seven intervenors. GEC-Pembina-OSEA provided an affidavit from their consultant in support of their motion.

AMPCO-OMA stated that Procedural Order No. 3 provided insufficient time for consideration of the OPA's interrogatory responses, preparation of an expert report and review of the report by several intervenors to develop a coordinated position. AMPCO-OMA stated that their preparation of evidence includes an analysis of the OPA's interrogatory responses and modeling results from a natural gas perspective by the Canadian Energy Research Institute, preparation of an electricity pricing report and preparation of an overall report. AMPCO-OMA provided an affidavit in support of their motion.

Both motions sought the following amendments to Procedural Order No. 3:

- The July 9, 2008 deadline for the filing and delivery of evidence by intervenors be extended to the later of August 1, 2008 or five and one half weeks following the date for receipt of all interrogatory responses from the OPA;
- The July 23, 2008 deadline for the filing and delivery of written interrogatories on the evidence filed by the intervenors be extended to later of August 15, 2008 or two weeks following the date for filing of intervenor evidence;

- The August 6, 2008 deadline for the filing and delivery of all responses to the interrogatories be extended to the later of September 2, 2008 or two weeks following the date for filing of interrogatories to intervenors; and
- The August 11, 2008 date for the start of the evidentiary phase of the oral hearing be extended to the later of September 8, 2008 or three days following the filing of intervenor interrogatory responses.

Submissions on the Motions

The Board decided to hear the two motions in writing. Procedural Order No. 5 provided parties with the opportunity to respond to the motions by way of written submission no later than June 20, 2008. The Board received seventeen submissions on the motions.

The motions received almost universal support from the intervenors who responded. No intervenor objected to the motion although several intervenors recommended that the Board set fixed dates, rather than make the actual dates contingent on various filings occurring. Among the reasons cited in support of the motion were the need to allow sufficient time to create a complete and focused record on the application, and the need to co-ordinate effort with other intervenors to avoid duplication of evidence.

On June 20, 2008, the OPA filed its response to the motions. The OPA did not oppose the request for an extension of time to file intervenor evidence, and agreed that the co-ordination of evidence preparation would be a valuable investment of time that may lead to an overall more efficient and effective hearing. The OPA did oppose open ended extensions, and urged the Board to set firm dates if it chose to grant the motions.

GEC-Pembina-OSEA filed a reply submission on June 23, 2008, noting the submissions of other intervenors and asking the Board to grant the requested relief. AMPCO-OMA filed a reply submission on June 24, 2008, noting the submissions in support of extensions and fixed dates.

Board Findings

Procedural Order No. 3 set out a timeline for procedural steps that was challenging, but provided for a timely review of the IPSP in the public interest. The Board is encouraged that, to date, parties have generally met the timelines.

The Board has considered the motions filed by GEC-Pembina-OSEA and AMPCO-OMA, as well as the submissions filed by other intervenors. These parties have stated that they require additional time to review the OPA's interrogatory responses and to prepare their evidence. Further, the parties have stated that they require time to coordinate the preparation of evidence with other intervenors. As noted in previous decisions and orders, the Board expects all intervenors to co-operate to create a useful and focused record.

The OPA did not object to the motions requesting extensions to the filing deadlines for intervenor evidence and the consequent amendments to the schedule, provided the dates were fixed.

The Board will grant the relief requested in the motions to the extent of accepting the new dates proposed for the procedural steps in this proceeding. The Board does not accept the proposal that the dates be extended to the later of a fixed date or a date to be set once a procedural step is accomplished. The Board agrees with the OPA and other intervenors who recommend fixed dates for the proceeding. The fixed dates create certainty and facilitate planning of the proceeding. Any party seeking further delays will bear the burden of demonstrating the necessity of that delay by way of a further motion.

In granting the extensions of time sought, the Board has relied on the statements of intervenors that the additional time will be used to create relevant and focused evidence, and presumes that the results of the co-operation among intervenors will be evident during the course of the proceeding. Duplication, overlap and other inefficiencies will not be accepted by the Board. There is a significant public interest in reviewing the application in a timely manner.

The Board notes the submissions of the OPA in that section of its response dealing with "floating dates". In making its decision on the motions, the Board expresses no opinion on the validity of interrogatory questions, interrogatory answers or the lack thereof, or proposed intervenor evidence.

Xylene Power Ltd.'s response to the motions included a request that the Board deal with the OPA's refusal to respond to certain interrogatories posed by Xylene Power Ltd. In general, a separate motion seeking better answers would be required for the Board to consider this request. However, the Board will accept the request from Xylene Power

as a motion. Xylene Power should file any other material it wishes the Board to consider no later than July 4, 2008.

Parties are advised that the Board will be hearing the motion brought by Xylene Power, and any similar motions on July 15, 2008, continuing on July 16, 2008 if necessary. The attached procedural order provides details of this motions day.

IT IS THEREFORE ORDERED THAT:

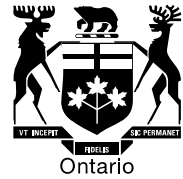
1. Procedural Order No. 3 is varied in part. Procedural Order No. 6, attached to this Decision, sets out the revised schedule for the review of the Integrated Power System Plan and the procurement processes.

DATED at Toronto June 25, 2008

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary



EB-2007-0707

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.

BEFORE: Pamela Nowina
Presiding Member and Vice Chair

Ken Quesnelle
Member

David Balsillie
Member

**DECISION AND ORDER ON COST AWARDS FOR THE
INTERROGATORY PROCESS OF THE IPSP PROCEEDING**

Background

The Ontario Power Authority (the "OPA") filed an application with the Ontario Energy Board (the "Board") dated August 29, 2007 under the *Electricity Act, 1998*, S.O. 1998, c. 15, Sched. A. The OPA is seeking an order of the Board approving the Integrated Power System Plan and certain procurement processes (altogether, the "IPSP"). The Board assigned file number EB-2007-0707 to this application.

The Board has proceeded with its review of the IPSP in two phases. Phase 1 involved the determination of an Issues List for the proceeding. The Board has ruled on the cost claims for Phase 1 work. The Board noted in Procedural Order No. 3 that, in response to several requests, it would invite applications for costs at the conclusion of the interrogatory process. The interrogatory process, which consisted of interrogatories on

the OPA pre-filed evidence, evidence filed by 22 intervenors and interrogatories on the intervenor evidence, concluded in large part on September 2, 2008.

Cost Eligibility Decisions and the Cost Awards Process

On December 14, 2007, the Board issued its Decision on Cost Eligibility and Direction to Parties. There was also an Addendum to the Cost Eligibility Decision on January 7, 2008 as well as a Correction to the Addendum on January 10, 2008. Intervenors who had been found eligible for costs in Phase 1 of the proceeding were considered to continue to be eligible for costs in Phase 2. Several additional parties applied to be eligible for costs in Phase 2. On May 26, 2008, the Board issued its Decision on Phase 2 Cost Eligibility. Subsequent to that decision, Seine River First Nation applied for cost eligibility and was found to be eligible. Overall, 44 parties have been determined by the Board to be eligible to apply for cost awards in Phase 2 of this proceeding. The 44 parties are:

1. Alliston & District Environment Watch ("Alliston");
2. Association of Major Power Consumers of Ontario ("AMPCO");
3. Association of Power Producers of Ontario ("APPRO");
4. Building Owners and Managers Association;
5. Canadian Chemical Producers Association;
6. Canadian Manufacturers & Exporters ("CME");
7. Canadian Solar Industries Association ("CanSIA");
8. Canadian Wind Energy Association ("CanWEA");
9. City of Thunder Bay ("Thunder Bay");
10. City of Toronto;
11. Consumers Council of Canada ("CCC");
12. Council of Canadians ("COC");
13. Electricity Distributors Association;
14. Energy Probe Research Foundation ("Energy Probe");
15. First Nations Energy Alliance ("FNEA");
16. Green Energy Coalition ("GEC");
17. Industrial Gas Users Association;
18. Lake Huron Region Chiefs;
19. Lake Ontario Waterkeeper ("Waterkeeper");
20. Métis Nation of Ontario ("Métis Nation");
21. Municipality of Port Hope ("Port Hope");
22. National Chief's Office on behalf of the Assembly of First Nations ("National Chief's Office");
23. New Tecumseth Environment Watch;
24. Nipissing First Nation ("Nipissing");
25. Nishnawbe Aski Nation ("NAN");
26. Northwatch;
27. Northwestern Ontario Municipal Association ("NOMA");

28. Ontario Energy Association;
29. Ontario Federation of Agriculture ("OFA");
30. Ontario Mining Association ("OMA");
31. Ontario Sustainable Energy Association ("OSEA");
32. Ontario Waterpower Association ("OWA");
33. Pembina Institute ("Pembina");
34. Pollution Probe Foundation;
35. Power Workers' Union ("PWU");
36. Provincial Council of Women of Ontario ("PCWO");
37. Saugeen Ojibway Nations ("SON");
38. School Energy Coalition ("SEC");
39. Seine River First Nation ("Seine River");
40. Serpent River First Nation (Serpent River");
41. Society of Energy Professionals;
42. Toronto Board of Trade;
43. Township of Atikokan ("Atikokan"); and
44. Vulnerable Energy Consumers Coalition ("VECC").

Altogether, these parties will be referred to as the "eligible parties".

In the Cost Eligibility Decisions, the Board stated that eligibility for cost awards did not guarantee 100% recovery of all of a party's costs. The Board also required the eligible parties to cooperate if they had similar interests to create a useful and focused record. Further, the Board stated that duplication would be considered when determining the amount of a cost award. While the Board expected all eligible parties to co-operate to the extent possible, the Board specifically mentioned that GEC, Pembina and OSEA had co-operated to hire one counsel and make one submission to the Board. The Board stated its expectation that other intervenors with an interest in environmental and sustainable energy issues would co-operate with this group and each other to eliminate duplication in their presentations to the Board.

Cost Claims

On September 4, 2008, the Board issued Procedural Order No. 8 which provided intervenors eligible for cost awards with the opportunity to submit their cost claims for costs incurred in relation to Phase 2 of the proceeding for the period ending September 2, 2008 ("Phase 2A"). The period after September 2, 2008, including the hearing days up to October 2, 2008 and the interrogatory process for NOMA and Seine River evidence will be designated as Phase 2B. This Decision and Order deals solely with the cost awards for Phase 2A of the IPSP proceeding.

Eligible parties were to submit their cost claims for Phase 2A of the IPSP Proceeding by September 18, 2008 in accordance with section 10 of the Board's Practice Direction on Cost Awards. The OPA had until October 2, 2008 to object to any aspect of the costs claimed. The party whose cost claim was objected to had until October 16, 2008 to make a reply submission as to why their cost claim should be allowed.

On or about September 18, 2008, the Board received cost claims from 28 eligible parties: Alliston; AMPCO; APPrO; CME; CanSIA; CanWEA; Thunder Bay; City of Toronto; CCC; COC; EDA; Energy Probe; FNEA; Waterkeeper; Métis Nation; National Chief's Office; Nipissing; NAN; Northwatch; OMA; OWA; Pollution Probe; PWU; PCWO; SON; SEC; and VECC. The Board also received a joint cost claim filed by GEC on behalf of GEC, OSEA and Pembina.

The OPA filed correspondence with the Board on October 2, 2008 noting that it "has no position on the reasonableness of the quantum of costs claimed by eligible parties".

On October 8, 2008, the Board sent a letter to those parties that were found eligible for cost awards but had not filed any claims for costs incurred in the interrogatory process of the IPSP Proceeding. In the letter, the Board stated that any parties that had cost claims related to the interrogatory process must file the cost claims by October 14, 2008. The following eligible parties submitted a cost claim: Port Hope; NOMA; OFA; Seine River; and Serpent River.

Board Findings

Testing of Evidence

Section 5 of the Board's Practice Direction on Cost Awards sets out the principles the Board considers in determining the amount of a cost award to a party. Many of those principles relate to the conduct of a party during a proceeding, and an assessment of the value that the party's participation and evidence has brought to the proceeding. The IPSP oral hearing commenced on September 8, 2008 and it was expected that evidence of the applicant and intervenors would have been completed within a reasonable time. This would have allowed the Board to better assess the value of intervenor evidence and interrogatories in its determination of cost awards.

The oral hearing was adjourned on October 2, 2008 before most of the evidence was heard. However, the Board has invited and will determine cost claims for the preparation of intervenor evidence and interrogatories. The adjournment was

unforeseen and the eligible parties have incurred costs to prepare interrogatories, prepare evidence and respond to interrogatories.

Parties must recognize that the findings on cost claims in this decision are not a final indication that the intervenor evidence that has been filed is relevant to the issues in this proceeding or of value to the Board. When the hearing resumes, the eligible parties will have an opportunity to present their evidence and to be cross examined. If the evidence is found to be irrelevant, unfocused, duplicative, not coordinated with other parties, or not helpful to the Board, parties are at risk for claims related to costs incurred during the proceeding. As always, the conduct of parties, whether they have filed evidence or not, will be considered in awarding costs for participation in the hearing.

Tariff

The Board's Practice Direction on Cost Awards lists the tariffs that are applicable. The cost claims of a number of eligible parties did not properly reflect the applicable tariffs for work done and therefore had to be adjusted (e.g., counsel was put in the 6 to 10 year category when they should have properly been placed in the 0 to 5 year category). The Board has therefore adjusted the cost claims of the following parties to appropriately reflect the correct tariff for the counsel or consultant: COC, FNEA, Port Hope and Seine River.

SON provided invoices that served as time dockets for its cost claim. While the correct tariffs were applied, the cost claim exceeded the invoiced amount. The Board has therefore adjusted SON's cost claim to appropriately reflect the fees charged through the invoices.

CanSIA and COC cost claims included work done by summer law students. Although the Board's tariff does not explicitly provide for payments for this category, the Board will allow award of these costs. The Board encourages intervenors to use lower cost resources, such as summer students, where practical.

Statement of Hours

As noted in the Practice Direction, each lawyer or consultant must file a Summary Statement of Hours ("Form 1") together with supporting time dockets. Consultants must also file a curriculum vitae. The Form 1 summaries filed by two eligible parties overstated the hours documented in the time dockets filed in support of the claim. The Board has therefore adjusted the cost claims of the following parties to reflect the time

dockets: Thunder Bay and GEC. NAN's Form 1 summary understated the hours documented in the time dockets. The Board has adjusted the claim accordingly.

In the Decision on Phase 1 cost awards, the Board stated that it would not consider any further cost claims for Phase 1 of the IPSP proceeding. Two parties have filed claims that include hours that reflect work on Phase 1 of the proceeding. SON's time dockets for the period January 3 to 30, 2008 are clearly related to the issues phase of the hearing. Further, SON filed the same time docket on February 8, 2008 and has already received cost awards for the period January 3 to 30, 2008. The Board has adjusted SON's cost claim to account for the legal fees and disbursements associated with Phase 1.

AMPCO would have had its cost claim adjusted for Phase 1 work, but for the reasons set out below, this portion of the cost claim was disallowed so no actual adjustment was necessary.

Disbursements

The disbursements of certain eligible parties were reduced to exclude ineligible expenses from meal expenses, to reduce mileage rates to the appropriate level as per the Practice Direction, and to reduce claimed expenses so that they matched the receipts provided. The parties whose disbursements were adjusted are: AMPCO, Thunder Bay, COC, Port Hope, NAN, OMA and PCWO.

Waterkeeper submitted travel expenses for a public meeting in Moosonee, which was facilitated by Waterkeeper. As this meeting is not directly related to the IPSP proceeding and not specifically related to Waterkeeper's "mandate" as stated in its application for intervenor status filed November 14, 2007, the expenses will not be considered. The claim will be adjusted accordingly.

Alliston & District Environment Watch

Alliston filed a cost claim for 225 hours of case management totaling \$38,456.50. Alliston stated that it did not take part in Phase 1 of the proceeding and that gleaning information needed from seven binders of prefiled evidence consumed a tremendous amount of time. Three other eligible parties who did not take part in Phase 1, Nipissing, Seine River and Serpent River, also filed cost claims for Phase 2A. However, the cost claims for these parties ranged from \$2,856.76 to \$7,990.00. Further, while Alliston filed 3 interrogatories of a general process nature and filed no evidence, Nipissing,

Seine River and Serpent River all filed more than 3 interrogatories and filed evidence as well. The Board notes that VECC's cost claim for Phase 2A is less than Alliston's cost claim, and that VECC's interrogatories were referred to by several parties during the oral hearing, while there was no reference to Alliston's interrogatories.

The Board finds that the cost claimed by Alliston is excessive in relation to the amounts claimed by other eligible parties and the value brought to the proceeding. OWA and CanWEA jointly filed a small number of interrogatories and as such are considered to be a reasonable comparator to Alliston. OWA's cost claim is \$3,355.00. The Board is therefore reducing the cost claim of Alliston for case management fees to \$3,000.00.

Association of Major Power Consumers of Ontario

The Board received a cost claim from AMPCO, including 18 Form 1 summaries. One of the Form 1 summaries was filed by Mr. Adam White. The Form 1 summary noted that Mr. White is a consultant to AMPCO and that he is employed by AITIA Analytics Inc. ("AITIA"). The Form 1 summary is supported by a time docket and a curriculum vitae. According to the curriculum vitae, Mr. White is President and CEO of AITIA as well as President of AMPCO. The Board has reviewed Mr. White's time docket and notes the following:

- The time docket includes hours worked in 2007. None of the other time dockets filed with the AMPCO cost claim, nor any time docket filed by any other eligible parties included hours worked in 2007.
- Mr. White's time docket includes hours worked in January 2008 that are clearly related to Phase 1 and the issues proceeding, and no longer eligible for cost award.

Section 6.05 of the Practice Direction states that, "A party will not be compensated for time spent by its employees or officers in preparing for or attending at Board processes." The Board has reviewed Mr. White's time docket for the period January 25, 2008 to September 2, 2008. The description provided for many of tasks are clearly within the scope of Mr. White's role as President of AMPCO, e.g. "Review Alliance strategy", "plan for leading evidence", "review of OEB Issues Decision with Reason". The Board concludes that Mr. White's cost claim as a consultant to AMPCO is not supported by the record provided. The Board is therefore reducing the cost claim of AMPCO by \$47,906.25 for the reasons above. The next section of the decision also refers to AMPCO's cost claim.

Alliance of Energy Consumers

An Alliance of Energy Consumers (“Alliance”) including AMPCO, CCPA, Cement Association of Canada (Ontario), IGUA, OFA, Ontario Forest Industry Association, OMA and Stone, Sand and Gravel Association filed evidence on August 1, 2008. The Alliance did not file a cost claim. However, three members of the Alliance (AMPCO, OFA and OMA) filed Phase 2A cost claims which totaled \$758,506.49.

The Alliance’s evidence was comprised of four reports:

- The Interests of Consumers;
- Assessment of the IPSP’s Treatment of Natural Gas Related Issues;
- Estimating the Determinants of Wholesale Electricity Price Scenarios for Natural Gas and Electricity; and
- Estimating the Determinants of Wholesale Electricity Prices in Ontario: An Economic Analysis.

OFA filed two additional pieces of evidence:

- Efficiency and Prudence: Considerations in Assessing the IPSP (filed July 21, 2008); and
- Cost Allocation & Prices Implicit in the IPSP: Are they Efficient, Prudent, Equitable? (filed July 28, 2008).

On page 6 of “The Interests of Consumers”, the Alliance states that the “submission provides analysis and advice to the Board regarding the ‘probable directional impact of the Plan on prices and rates’ with particular emphasis on natural gas commodity prices, electricity commodity process and the combined impact of these prices on the Global Adjustment and other elements of customer bills.” In its report filed on July 28, 2008, OFA stated that the evidence “examines data provided in the IPSP with a view to developing possible costs of power, the manner in which those costs may be allocated regionally and/or between users with different peak to base profiles and to assess whether prices and implicit allocations are likely to be efficient, prudent and equitable.” There appears to be some overlap in subject matter and lack of co-ordination amongst the members of the Alliance to co-operate and create a useful and focused record for the proceeding. Further, the Issues Decision stated that the Board is not able “to review the price and rate impacts of the Plan in any level of detail.”

The two largest cost claims for Phase 2A were filed by GEC (\$893,506.18, filed on behalf of GEC, Pembina and OSEA) and by the members of Alliance (\$758,506.49, filed by AMPCO, OFA and OMA). The interrogatories and evidence filed by the Alliance

referred to many parts of the OPA's pre-filed evidence and many of the issues, however, its principal foci were the natural gas issues (A15 to A19 of the Issues Decision) and the consumer pricing issue which is included in issue B3 of the Issues Decision. GEC, on behalf of itself, Pembina and OSEA, filed 9 reports that combined covered almost all of the issues identified in the Issues Decision. GEC's interrogatories also covered many issues, including conservation, renewable supply, nuclear for baseload, natural gas and sustainability.

As noted previously, none of the evidence filed by the eligible parties has been tested to determine its value to the Board in this proceeding. However, the Board finds that the cost claim for the Alliance is excessive relative to breadth of issues addressed in the evidence, and with respect to lack of co-ordination amongst its members.

Members of the Alliance will receive 100% of eligible disbursements, but fees for counsel and fees for consultants will be reduced by 25%. In AMPCO's case, the fees will be reduced by \$47,906.25 (Mr. White's claim) and then reduced by 25%. Accordingly, the Alliance's claim has been reduced to \$534,882.19.

City of Thunder Bay and NOMA

The Board received cost claims from the City of Thunder Bay and NOMA (collectively "NOMA") totaling \$186,659.74. During the oral hearing, the OPA described the evidence filed by NOMA as a book of materials. The OPA informed the Board that the other 21 parties who had filed evidence had done so in accordance with the Board's requirements and also informed the Board of its efforts to request clarity from NOMA so that the OPA could file interrogatories on the evidence. The OPA asked the Board to direct NOMA to file its evidence in accordance with the requirements.

Section 5.01(g) of the Practice Direction states that, "In determining the amount of a cost award to a party, the Board may consider, amongst other things, whether the party: ... (g) complied with directions of the Board including directions related to the pre-filing of written evidence." There is a need for parties to adhere to proper process and procedure in a large case with many intervenors. The Board finds that NOMA did not comply with directions for the filing of evidence. NOMA will receive 100% of eligible disbursements, but fees for counsel and fees for consultants will be reduced by 10%.

Other

The claims of several other eligible parties had errors associated with GST calculations and data transfer errors between forms. The Board has adjusted the following claims to correct for these errors: AMPCO, APPrO, CCC and SEC.

Conclusion

Apart from the reductions listed above, the eligible parties are awarded 100% of their cost claims.

The Board reminds parties that cost claims must be filed in accordance with the Practice Direction. Very few Phase 2A cost claims were compliant and this has resulted in delays in processing. A procedural order relating to cost claims for Phase 2B, i.e. the period starting September 3, 2008, including the hearing days up to October 2, 2008 and the interrogatory process for NOMA and Seine River evidence, will be issued shortly. Cost claims must be filed by the dates noted in the procedural order. Eligible parties must provide time dockets, curriculum vitae for consultants, receipts for eligible disbursements, correctly completed Form 1, correctly completed Form 2 and signed affidavits.

Lastly, all costs for Phase 2A of the IPSP Proceeding that were filed in accordance with the Board's directions have now been dealt with. The Board will not consider any further cost claims for Phase 2A of the IPSP Proceeding.

THE BOARD THEREFORE ORDERS THAT:

1. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, the OPA shall immediately pay the costs of the eligible intervenors as indicted in Appendix A attached to this Decision and Order.
2. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, the OPA shall pay the Board's costs of and incidental to, Phase 2A of the IPSP Proceeding immediately upon receipt of the Board's invoice.

DATED at Toronto November 28, 2008

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

APPENDIX A
(EB-2007-0707 Phase 2A Cost Awards)

	Claimed	Adjustment	Approved
Alliston & District Environment Watch	\$38,456.50	-\$35,456.50	\$3,000.00
Association of Major Power Consumers of Ontario	\$470,968.44	-\$152,537.60	\$318,430.84
Association of Power Producers of Ontario	\$15,769.74	-\$743.82	\$15,025.92
Canadian Manufacturers & Exporters	\$50,333.82		\$50,333.82
Canadian Solar Industries Association	\$89,776.93		\$89,776.93
Canadian Wind Energy Association	\$8,884.05		\$8,884.05
City of Thunder Bay	\$182,347.07	-\$20,144.11	\$162,202.96
City of Toronto	\$85,544.55		\$85,544.55
Consumers Council of Canada	\$88,828.56	-\$11.33	\$88,817.23
Council of Canadians	\$291,324.47	-\$318.65	\$291,005.82
Electricity Distributors Association	\$55,298.65		\$55,298.65
Energy Probe Research Foundation	\$42,462.53		\$42,462.53
First Nations Energy Alliance	\$87,634.20	-\$6,332.53	\$81,301.67
Green Energy Coalition (including Pembina Foundation and Ontario Sustainable Energy Association)	\$893,506.18	-\$6,971.81	\$886,534.37
Lake Ontario Waterkeeper	\$29,321.27	-\$6,884.02	\$22,437.25
Métis Nation of Ontario	\$33,903.10		\$33,903.10
Municipality of Port Hope	\$5,631.00	-\$947.15	\$4,683.85
National Chief's Office/Assembly of First Nations	\$65,582.34		\$65,582.34
Nipissing First Nation	\$7,990.00		\$7,990.00
Nishnawbe Aski Nation	\$105,017.01	\$4352.50	\$109,369.51
Northwatch	\$95,618.94		\$95,618.94
Northwestern Ontario Municipal Association	\$4,312.67	-\$365.51	\$3,947.16
Ontario Federation of Agriculture	\$51,237.38	-\$12,731.25	\$38,506.13
Ontario Mining Association	\$236,300.67	-\$58,355.45	\$177,945.22
Ontario Waterpower Association	\$3,355.03		\$3,355.03
Pollution Probe Foundation	\$92,857.76		\$92,857.76
Power Workers' Union	\$217,979.29		\$217,979.29
Provincial Council of Women of Ontario	\$82,380.32	-\$4.18	\$82,376.14
Saugeen Ojibway Nations	\$197,918.62	-\$32,063.89	\$165,854.73
School Energy Coalition	\$55,253.63	-\$20.00	\$55,233.63
Seine River First Nation	\$2,856.76	-\$63.00	\$2,793.76
Serpent River First Nation	\$6,696.00		\$6,696.00
Vulnerable Energy Consumers Coalition	\$31,634.06		\$31,634.06
TOTAL	\$3,726,981.54	-\$329,598.30	\$3,397,383.24