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APPrO
ASSOCIATION OF
POWER PRODUCERS
OF ONTARIO

March 19, 2010

Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319, 2300 Yonge Street
Toronto, Ontario, Canada M4P 1E4
boardsec@oeb.gov.on.ca

Dear Ms Walli,

Re: Consultation on Alternative Bid Option Provisions under the Distribution System Code, Board File No. EB-2010-0038

By way of this letter, APPrO is seeking a determination from the Board that it is eligible for its costs in the above-noted proceeding, pursuant to section 3.01 of the Board's Practice Direction on Cost Awards.

APPrO is a non-profit organization representing electricity generators in Ontario. APPrO members produce nearly all the power generated in Ontario from facilities of many types including gas-fired, hydro-electric, nuclear and wind energy. APPrO members collectively represent a large amount of capital invested in the provincial energy system and are significant users of transmission and distribution services.

APPrO's members are directly affected by the alternative bid options under the Distribution System Code because generators, with some exceptions, are usually responsible for the costs associated with designing and building the connection facilities associated with their equipment. The alternative bid option is important to generators for maximizing the range of options and the degree of cost accountability amongst contractors and designers for necessary investments.

As an organization, APPrO has participated in numerous proceedings before the Ontario Energy Board, and has always tried to participate responsibly and in a way that is of assistance to the Board in its deliberations.

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APPrO submits that it should be eligible for costs on the following grounds:

- (a) APPrO Represents Consumers in this Proceeding: Power generators are a type of Distribution Customer with respect to distribution connections. In the case of the alternative bidding rules being considered in this proceeding, power generators are could be particularly impacted by the Board's determination. Unlike load customers, because generators do not generate significant distribution service revenues under the distribution tariffs, connection costs that generators pay to distributors are typically significant up-front costs for generation projects. In some cases, they are determinative as to whether a generation project is economically viable.
- (b) It is in the Public Interest to Facilitate Generator Participation: APPrO's members are building and planning new projects in response to OPA procurement programs (and consequent contracts) and Ministerial Directives that incorporate provincial policy objectives. The alternative bidding rules interplay directly with the OPA procurement process and Ministerial Directives. All of this is at the heart of this proceeding. Given that these issues are, by and large, "generator issues," the Board should facilitate the participation of generators in order to provide the best evidentiary basis for its determination. Many of APPrO's members are too small to participate individually in a meaningful way in this proceeding. APPrO's participation facilitates the involvement of such members, and ensures that the Board has before it a comprehensive representation in this proceeding from the power generator community.
- (c) APPrO's Participation Contributes to Hearing Efficiency: APPrO's representation of its members in such a proceeding would be a much more effective and efficient regulatory approach than having each of its members make their own interventions, with attendant duplication and extra costs. APPrO has participated in natural gas proceedings (e.g., NGEIR, storage allocation, Enbridge and Union IRM proceeding) where its participation has, we believe, proven of value to the Board, as well as in the transmission connection cost responsibility proceeding.
- (d) Proper APPrO Participation Requires Intervenor Funding: APPrO, like other trade associations such as the Association of Major Power Consumers in Ontario ("AMPCO") and the Industrial Gas Users Association ("IGUA"), does not have independent funding sufficient to support well rounded participation. In addition, partly because of the short timelines, APPrO is generally unable to cover costs for participating in Board-convened proceedings in an adequate manner from its internal resources.

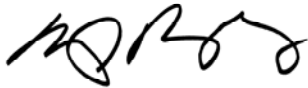
Although the Board's Practice Direction on Cost Awards states that generators are normally among the parties not eligible for costs (section 3.05(b)), APPrO requests that, for the above-noted reasons and the uniqueness of the issues in this proceeding (and their importance to generators), the Board make an exception to the general rule that electricity generators are not eligible for costs. APPrO is essentially asking for the Board to exercise its discretion in the same manner as it did in respect of many recent natural gas proceedings that had unique impacts on power generators (i.e., NGEIR, storage allocation, etc. and in the Transmission Connection Cost Responsibility Review.)

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Because the interests of the generator customers and traditional load customers diverge markedly, it is inappropriate that customer groups representing industrial, institutional, commercial, and residential end-use customers are eligible for costs, while APPrO is not. Virtually every other likely participant in this case, including HONI, the Ontario Power Authority (OPA), the Independent Electricity System Operator (IESO), and a variety of end-use customer and public interest groups are either eligible for costs, or are otherwise supported by payments made by customers. In APPrO's view, this has led to an under-representation of power generators in many of the policy and legal issues considered by the Ontario Energy Board. Given the importance of generation connections moving forward in an efficient manner in Ontario, APPrO contends that such a situation is not in the public interest.

Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'JB', is positioned above the printed name and title of the sender.

Jake Brooks
Executive Director

Cc David Butters, President