

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street
27th Floor
Toronto, ON M4P 1E4
Telephone: (416) 481-1967
Facsimile: (416) 440-7665

Commission de l'énergie de l'Ontario
CP. 2319
2300, rue Yonge
27e étage
Toronto (ON) M4P 1E4
Téléphone: (416) 481-1967
Télécopieur: (416) 440-7665



Howard I. Wetston, Q.C.
Chair

Président

October 2, 2006

To Our Stakeholders:

In its 2006-2009 Business Plan, and as part of its on-going efficiency agenda, the Ontario Energy Board has made a commitment to improve its regulatory processes to ensure that they are effective, fair and transparent.

After a series of consultations earlier this year led by George Vegh, then OEB General Counsel, with respect to the Board's adjudicative decision-making processes, a report was prepared, which has today been posted on the Board's web site at www.oeb.gov.on.ca. I encourage you to read *A Report with Respect to Decision-Making Processes at the OEB* as it sets the direction in which we intend to go in relation to hearings.

The *Report* considers adjudicative hearing and pre-hearing processes generally, as well as the role of staff and the role of parties in those processes. After considering the report, the Board has come to the following conclusions:

- With respect to **adjudicative hearings**, the *Report* describes the various means that the Board has at its disposal to perform its responsibilities and suggests that adjudicative hearings, while critical to certain aspects of the Board's work, are perhaps not best suited to other aspects and, in particular, to the development of regulatory policy. The *Report* recommends that adjudicative hearings are most useful where fact finding is required to support an order. Where possible, regulatory policy matters should be addressed in codes, rules or guidelines. The *Report* also recommends that hearings should be made more efficient and effective by detailed and clear issues development prior to the commencement of discovery processes, such as technical conferences and written interrogatories.

- With respect to **pre-hearing processes**, the *Report* advocates in favour of the greater use of pre-hearing processes such as technical conferences as an alternative to written interrogatories. It also makes several recommendations regarding settlement that are intended to make the Board's expectations for settlement clearer and to provide incentives to encourage settlement. These include the option of having Board Members participate in settlement conferences and requiring parties to file their final offer on issues that the Board identifies should be settled.
- With respect to the **role of staff**, the *Report* notes that the Board has substantive institutional expertise that is currently not available to panels of the Board as a result of the limited role that staff play in most adjudicative hearings. It also notes that a more active role for staff is in keeping with the Board's responsibility to conduct fair and transparent hearings. The *Report* recommends that Board staff be more proactive in hearings, and in particular that Board staff should participate in hearings with the objectives of identifying and evaluating options for the panel's consideration by reference to the public interest.
- With respect to the **role of parties**, the *Report* acknowledges the important role that stakeholders have played in ensuring that the Board's decisions are well-informed. However, the *Report* also invites the Board to be more rigorous in relation to standing and cost awards in appropriate cases, and to be more engaged in supervising the questions and submissions of parties during a hearing.

We are now moving towards implementation of the *Report*.

Changes as to the role of staff in hearings will take effect immediately. As such, staff will be responsible for addressing public interest issues arising in proceedings and for ensuring that those issues are fully canvassed before the panel. Further details of this "public interest advocacy model" are set out in a separate letter issued by the Board today. The Board is also working to ensure that staff have the instruction and guidance they need to effectively meet the challenges of the more proactive function that they are being asked to perform.

Implementation of some of the remaining matters may require changes to the Board's *Rules of Practice and Procedure*. A Rules Committee, comprised of Board Members, Board staff and counsel from outside the Board, is being created with a mandate to propose amendments to the *Rules* as required to give effect to the recommendations. It is my hope that proposed amendments to the *Rules* will be ready for submission to the Board's Management Committee by the end of this year.

Continuously improving our processes is a key part of our role as an effective regulator.

Full and effective implementation of the process reforms described in this letter will require the dedication, cooperation and support of Board Members, Board staff and our stakeholders. I look forward to working with you as we move ahead with this important initiative for the benefit of the energy sector and the public.

Sincerely,

A handwritten signature in black ink, appearing to read "HW", followed by a long horizontal line that tapers to a point on the right.

Howard I. Wetston, Q.C.