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WeirFoulds^{LLP}
BARRISTERS & SOLICITORS

August 27, 2004

VIA COURIER

John Zych, Board Secretary
Ontario Energy Board
26th Floor
2300 Yonge Street
Toronto, ON M4P 1E4

Dear Sir:

Re: RP-2004-0188 2006 Electricity Distribution Rates ("2006 EDR")

We are counsel to the Consumers Council of Canada ("CCC"). This is our client's application for funding to participate in the Ontario Energy Board's process to establish electricity distribution rates for the 2006 rate year.

I The Interests of the CCC

The CCC is a non-profit organization which acts as both an advocate for the interests of consumers, and as a source of information about the attitudes and responses of consumers to the activities of the private and public sectors.

In the context of the 2006 EDR process, CCC represents the interests of the entire spectrum of residential consumers of electricity.

The President of the CCC, who is also a member of the Board of Directors, Joan Huzar, has a particular responsibility for the development of the CCC's policies and positions on energy matters. In addition, the Executive Director of the CCC, Mike Lio, has both an interest and an expertise in energy matters. They develop those policies and positions in conjunction with Dr. Peter Dyne, who acts as the CCC's Energy Chair.

Instructions on positions to take on the issues to be considered in the 2006 EDR process would be communicated from Mr. Lio and Ms Huzar, either through Dr. Dyne, or directly to the CCC's energy consultant, Julie Girvan and its counsel, Robert Warren.

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II The Process

CCC understands that the 2006 EDR process is intended to develop the framework for 2006 electricity distribution rates for 2006. It is our expectation that the framework established through this process will be the basis on which rates are set for periods well beyond 2006. Accordingly, it is imperative that the interests of residential consumers are represented in a meaningful way. The only way to do this is to allow for full participation in this process on the same terms as the distribution utilities and other stakeholders. The Board must ensure that the process is structured in way that allows for the issues to be thoroughly considered and any evidence thoroughly tested. In addition, the Board must, in our view, ensure the interests of ratepayers are considered on the same terms as other stakeholders, and, more specifically, the distribution utilities.

CCC has a number of significant concerns about the process as it is currently structured:

1. Parties are being asked by September 8 to identify those issues that can be “resolved” in working groups and those that require a Board determination through a hearing. It is, in our view, effectively impossible to identify what issues fit into these categories without a full understanding of the issues themselves or more importantly what positions parties are taking on the issues. In our view it is too early in the process to make that determination. It is also premature at this stage to determine the scope of evidence that may be required to address the issues;
2. Five working groups are being established to deal with an assigned group of issues. Parties like the CCC cannot be represented on all working groups. Therefore, it may well be unfair to consider issues “resolved” without giving other parties, not represented on the working groups, an opportunity to consider the “resolution” and provide input. A working group dominated by LDCs, for example, may come to a resolution that is not acceptable to ratepayers, or a particular category of ratepayers. It would not be fair to preclude those not participating in a particular working group from taking a position on that set of issues;
3. There is no indication as to what is the expected length of the ADR process. Therefore, it is difficult for parties to budget time accordingly. CCC has allocated 10 days for the ADR process in its budget. CCC is of the view that the process must be sufficient to allow for a full consideration of the issues and the Board should not at this stage arbitrarily assign a designated time period;
4. It is not clear what the Board’s expectations are with respect to the hearing. Will all unresolved issues be considered in the context of the hearing? What parties will

present evidence and testify? What parties will have a right to cross-examination? Will the final Rate Handbook be issued following the hearing, or is another process envisioned that will require further consultation?

CCC does not believe that the process as structured is an appropriate one. The process does not allow for a full consideration of the issues in a way that will result balanced decision-making. CCC has concerns that the structure of the process effectively undermines the end product. CCC urges the Board to convene a stakeholder meeting in which parties can provide input on the overall process in order to ensure that the process will be both effective and efficient.

III The Issues

The CCC intends to pursue all of the issues in the 2006 EDR, as they all, directly or indirectly, have an impact on the services which residential consumers receive and the rates which they pay for those services. It is very difficult, indeed perhaps impossible, for the CCC to state with any finality what its positions will be on the issues. CCC supports a framework that will result in just and reasonable rates and will pursue each issue in that context.

CCC's consultant, Julie Girvan would like to participate on the Rate Base, Operating and Maintenance Expense, and Working Capital Allowance working groups.

IV Budget

Given the fact there is a great deal of uncertainty about how this process is likely to unfold it is effectively impossible for the CCC to present a final budget at this time. As a matter of principle, if CCC is eligible for funding, it should be awarded costs at the end of the day which reflect the required time and effort to participate effectively, and on the same terms as other stakeholders including the distribution utilities. Indeed, given that the decisions resulting from the 2006 EDR process will affect rates, the costs of the CCC should be received from the electricity LDCs, pursuant to and under s.30 of the Ontario Energy Board Act. Groups like CCC should not be restricted on the basis of what budget they may file at this stage in the process especially in light of the fact the process has not been precisely defined. Having said that CCC has attempted to present a budget based on its view of the process.

CCC will be assisted in its intervention by two individuals: Julie Girvan, its consultant and case manager; and Robert Warren, its counsel. Ms Girvan will be responsible for identifying alternatives that reflect the best interests of residential consumers, developing positions, attending one of the working groups, monitoring the work of the other groups, and

representing CCC at the ADR and hearing. Based on the limited information now known about the course of the 2006 EDR process, it is anticipated that Ms Girvan will require 260 hours to properly represent the interests of the CCC.

Robert Warren will review all of the materials, as required, presented to and produced by the working groups for the purpose of advising the CCC on the implications of the various proposals for residential consumers. Mr. Warren will participate as required in the ADR process. In addition, Mr. Warren will prepare for and represent CCC at the hearing. Attached hereto as Appendix A is a detailed breakdown of the budget for Ms Girvan and Mr. Warren.

As a general proposition, the interests of residential consumers should not be dependent on experts who are called by the OEB itself, by the utilities, or by those with a commercial interest in the adoption of a particular policy. CCC is prepared to work with other stakeholders, with a similar interest, to jointly sponsor the appropriate expert. CCC does not, at this point, know who that expert might be, or what the cost of his or her services might be. Accordingly, CCC has not included an amount in its budget for an independent expert. We would ask the Board that we not be precluded from retaining an expert to the extent we identify the need to do so.

The work of Mr Warren and Ms Girvan will be supplemented by that of Dr Dyne, Mr Lio and Ms Huzar. However knowledgeable those individuals are about energy issues generally, none of them are experts in the issues to be considered in the 2006 EDR process. In addition, none of them have the time or the resources to review all of the materials that will be filed as part of the 2006 EDR process. They must rely on Ms Girvan and Mr. Warren to assume responsibility for reviewing the materials, summarizing the main points, making recommendations on the CCC's positions and drafting any written position papers. Any time they do devote to this process will be on a volunteer basis.

Given what we have assumed about the process, the CCC is asking for funding of:

1.	Julie Girvan:	260 hours @ \$210 per hour:	\$55,230.00
2.	Robert Warren	145 hours @ \$210 per hour:	\$30,450.00
	Total Request	\$85,050.00	

IV Coordination of Participation with Other Parties

CCC intends to work cooperatively with other stakeholders to the extent possible throughout this process. The CCC, in previous OEB proceedings has always made an effort to work with other


customer groups in order to avoid duplication of effort. If CCC identifies the need to retain an independent expert CCC will attempt to coordinate its efforts with other like stakeholders.

V Other Sources of Funding

The CCC is funded through its project work, its memberships and donations. All of the funds which it receives are required to maintain its infrastructure, and to provide information to its members, and advice to both the private sector, and various levels of government. The CCC does not have any resources available to support its intervention in the 2006 EDR process.

Yours very truly,

WeirFoulds LLP



Robert B. Warren

RBW/eb

cc: Joan Huzar
Mike Lio
Dr Peter Dyne
Julie Girvan

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APPENDIX A – BUDGET

1. Consideration of Issues:

Identification of issues, preliminary positions, research, reporting to client

Julie Girvan 25
Robert Warren 10

2. Working Groups (Assumes participation on one group)

Attendance

Julie Girvan 70

Monitoring other groups, preparation, reporting to client

Julie Girvan 20
Robert Warren 10

3. ADR Process (Assumes 10 days)

Attendance

Julie Girvan 50
Robert Warren 10

Preparation, follow-up, reports to client, consultation

Julie Girvan 15
Robert Warren 15

4. Hearing (Assumes 10 days)

Preparation

Julie Girvan 20
Robert Warren 40

Attendance

Julie Girvan 40
Robert Warren 40

Final Argument/Submission

Julie Girvan 20
Robert Warren 20

TOTAL REQUEST:

Julie Girvan 260 hours x \$210/hour \$54,600.00

Robert Warren 145 hours x \$210/hour \$30,450.00

TOTAL: \$85,050.00