

July 14, 2004

PWU Submission on
The Ontario Energy Board's Funding for
Stakeholder Participation in Regulatory Policy Initiatives

1 INTRODUCTION

By way of notice dated June 23, 2004 the Ontario Energy Board ("OEB" or "Board") stated its preference to develop regulatory policies through a public forum and that the Board has determined that it will make funding available to facilitate stakeholder participation in major regulatory policy processes. To this end it is requesting stakeholder input on criteria it might apply in considering eligibility for funding.

The PWU approximately 15,000 members in 40 different collective agreements with as many employers, mostly in the electricity industry. This includes Hydro One, 23 local distribution companies other than Hydro One, Ontario Power Generation, Bruce Power, TransAlta in Ottawa, Northwind Power, Mississagi Power, the Electrical Safety Authority, as well as the Independent Market Operator. The PWU also represents workers at some local cable and telephone companies, the County of Brant, Kinectrics, New Horizon System Solutions, Inergi, and operators at Atomic Energy of Canada Ltd. In addition, the PWU is also a partner in Bruce Power Inc.

In looking after its members' interest the PWU takes a profound interest in the welfare of the energy industry and the provision of quality service to the public. In-line with the Board's objective (3) in the *Ontario Energy Board Act, 1998*, PWU members, in seeking to serve the public more effectively, strive to provide consumer value with respect to prices, and the adequacy, reliability and quality of electricity service. The PWU's participation in Board hearings and policy initiatives therefore assists the Board in realizing one of its mandates.

2 PWU'S PARTICIPATION IN BOARD PROCESSES

The PWU is a regular intervenor in Board hearings on electricity matters. In addition the PWU has participated on Board task forces and contributed to numerous of the Board's consultations. These include:

- Participation in the development of the Board's regulatory framework for electricity distributors' initial unbundled rates and first generation PBR.
- Submission on Board Staff's Draft Report on the Delivery of DSM and DR Activities. In this case the PWU was prepared to retain an expert consultant to participate in the discussions on its behalf, but was not selected for participation on the Board's Advisory group. The PWU had thought that its participation on the Government's Electricity Conservation and Supply Task Force might have

provided a valuable link between the OEB's Advisory group and the Government's Task Force initiatives.

- Participation on the Service Quality Regulation Working Group (PBR II).
- Submission to the Chair's Consultation on the OEB's Future Strategy.
- Submission to the Board's Consultation to Review Further Potential Efficiencies in the Electricity Distribution Sector.
- Submission to the Board's consultative on a Process for Establishing 2006 Electricity Distribution Rates.

3 PARTICIPATION IN THE ABSENCE OF COST AWARDS

For many of the Board's processes that the PWU has been involved in the PWU has retained legal counsel and expert consultants to ensure effective participation by enhancing discussions and contributing to the completeness of the review. The PWU's participation therefore is costly. With the increase in Board processes that can be expected upon the implementation of Bill 100, our continued participation will result in unprecedented and possibly unsustainable cost pressures for us. Further, the PWU is unique in its representation and has not been able to identify other stakeholders with whom it can collaborate efforts and share costs without compromising its objective for participating.

The PWU has not been awarded cost awards for its participation in any of the Board's processes. The PWU does not meet the Board's cost eligibility criteria as stated in the Board's current Practice Direction on Cost Awards. That is, the PWU is not a party that:

- (a) primarily represents the direct interests of consumers (e.g. ratepayers) in relation to regulated services; or
- (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 proceeding.

However, the PWU also does not fit the Board's criteria of parties that are not eligible for cost awards which are as follows:

- (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; and
- (d) the Independent Electricity Market Operator (IMO).

The PWU membership, as indicated earlier in this submission, very much represents a public interest relevant to the Board's mandate, in particular that of protecting the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service

The PWU's on-going participation in Board hearings and policy processes despite the absence of cost awards demonstrates our concern on the significant direct impacts of the Board's activities on the PWU membership. The PWU's objective in participating in the Board's processes is to preserve the industry's ability to effectively service the public with regard to electricity adequacy, quality, reliability, as well as safety both in the short and long term. Implicit in this objective is the protection of our members' working conditions. This includes the collective agreements and bargaining rights that preserve the fair treatment of the men and women who in-turn collectively do all that is required of them in running the Province's electricity system in a manner that provides consumer value. Further, through its training programs, the PWU ensures the on-going expertise required to provide consumer value. As such, our members are bona fide stakeholders in all matters that impact the energy industry.

4 COST AWARD ELIGIBILITY CRITERIA FOR BOARD PROCESSES

The PWU agrees with the discussion papers perspective that "it would be a mistake to import the litigation process to evaluate policy matters" and that "it is important to subject assumptions and rationales in these processes to stakeholder scrutiny". In particular, we submit that stakeholder scrutiny is essential for the Board to understand the scope of issues that need to be addressed in putting together robust and sustainable regulatory policy.

With regard to criteria that the Board may wish to consider in exercising its discretion for determining eligibility for cost awards, the PWU puts forth the following:

"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; or
- (b) primarily represents a public interest relevant to the Board's mandate; or
- (c) primarily represents the direct interests of consumer value with respect to the adequacy, quality, reliability and safety of electricity generation, transmission, distribution, and the Independent Market Operator's systems either individually or in a group; or
- (e) is a person with an interest in land that is affected by the proceeding.

The parties included in (a), (b) and (e) are those eligible to apply for cost awards for hearings under the Board's current Practice Direction on Cost Awards. While in the PWU's opinion (b) implicitly includes the PWU, the addition of (c) would explicitly include parties with interests such as those of the PWU as a party eligible to apply for cost awards. We would suggest that these criteria apply to both the Board's hearings as well as the Board's policy initiatives.

The PWU looks forward to its continued participation in Board processes and appreciates the opportunities the Board provides for the PWU and other stakeholders to do so. However, cost award eligibility undoubtedly will facilitate our participation in the

Board's processes and we hope that the Board's eligibility criteria for both hearings and policy initiatives will include distinct stakeholders such as the PWU in the future.