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BY EMAIL AND WEB POSTING

April 19, 2007

To: All parties to proceeding EB-2006-0232
All other interested persons

Re: Notice of Intention to State a Case to Divisional Court

On April 12, 2007 the Hearing Panel assigned to this application issued Procedural Order No.1. That Procedural Order identified the following as a threshold question to be addressed in this proceeding: whether amendments to a Code can be made by the Board pursuant to an application to amend a licence under section 74 of the Act, or whether amendments to a Code are to be made pursuant to the notice and comment process set out in sections 70.1 to 70.3 of the Act. The Panel determined that this threshold question should be determined as a preliminary matter before proceeding further with the application, and Procedural Order No. 1 provided for certain procedural matters in support of a hearing of this threshold question.

Determination of this threshold question may have significant implications for the manner in which the Board amends codes. As such, the Board is of the view that it is in the interests of all participants in proceedings before the Board to have certainty on this issue as soon as practical. Since the issue is a question of law, such certainty is most effectively provided in this instance by the court. To that end, the Board intends to state a case on the question to the Ontario Divisional Court, pursuant to section 32 of the *Ontario Energy Board Act, 1998*.

As a number of parties are aware, Board staff has, separate from any activities related to this proceeding, been engaged in research regarding the Ontario Affiliate Relationships Code (ARC) for Electricity Distributors and Transmitters, and ARCs from other jurisdictions. The Board anticipates that staff's research will be completed and made available to the public shortly.

Yours truly,

Original signed by

Peter O'Dell
Assistant Board Secretary