



REPORTS FROM THE REGULATORY FRONTLINES

Affordable Energy Rates Sisyphus Revisited

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**The 2010 Low-Income Energy Network (LIEN)
Conference**

May 26, 2010

LIEN at the OEB

- **Who was Sisyphus?**
- **What has a character from Greek mythology got to do with low-income energy rates in Ontario?**

The Ontario Energy Board (OEB)

- **“Economic” regulator of Ontario’s natural gas and electricity industries**
- **Responsible for fixing or approving “just and reasonable” rates**
- **Objectives include: protecting the interests of consumers with respect to prices and the reliability and quality of electricity and gas service**
- **Mandate – to act in the public interest**

The road to the OEB

- **LIEN gains recognition as intervenor, eligible for cost awards at OEB**
- **LIEN participates in hearings on:**
 - Regulated Price Plan
 - Conservation and demand management plans
 - Gas and electricity rates – introduce low-income rate affordability program at gas rate hearings
- **...and continues to engage with Ministry of Energy and Infrastructure, Ontario Power Authority, Premier's office**

A permanent low-income energy rate assistance program

- **LIEN's proposal for an Ontario Home Energy Affordability Program has five major components:**
 - Rate affordability
 - Arrears management
 - Crisis intervention
 - Conservation and demand management
 - Consumer protections.
- **It advocates that**
 - Uniform rates impose a disproportionate burden on Ontario's low-income consumers
 - Low-income consumers should not pay more than 6% of total household income on energy.

OEB & low-income rate assistance

- **OEB refuses to include affordable rates as an issue in Union Gas 2007 rates hearing**
 - Affordable rates acknowledged as an important issue
 - Board Staff instructed to determine a suitable forum
- **LIEN seeks to argue for affordable rates in Enbridge Gas 2007 rates hearing**
 - In absence of action by Board Staff to determine forum
 - Other parties challenge Board's jurisdiction
 - Board brings its own motion to consider jurisdiction
- **April 26, 2007 OEB decides by majority that it has no jurisdiction to set affordable rates for low-income consumers**
 - Board is economic regulator – no jurisdiction to differentiate rates on income determinant
 - Strong dissent decision by OEB Vice-Chair:
 - LIEN appeals decision to Divisional Court

OEB & low-income rate assistance

- **LIEN argues before Divisional Court:**
 - “Just and reasonable rates” not constrained by artificial economic or historic definitions
 - Board’s statutory jurisdiction to set rates is very wide
 - Rates that deprive the poor of an essential commodity are unjust and unreasonable
- **Opponents argue affordable rates: “a tax”, “social engineering”, “the responsibility of Government”**
- **May 16, 2008 – Divisional Court issues decision in favour of LIEN**
 - Agrees that OEB has jurisdiction but not mandate to establish a rate affordability assistance program
 - Provided overall rates cover utilities’ cost of service
- **Board does not appeal decision**
 - LIEN presses for a generic hearing at the OEB

OEB & consultation on low-income energy consumer issues

- **July 2, 2008 – OEB announces consultation on low income energy**
- **Sept. 22-25, 2008 – LIEN in OEB stakeholder conference**
 - Presents on all issues including rate assistance, arrears management, disconnection protocols, service charges, energy retailing, smart sub-metering
- **March 10, 2009 – OEB issues LEAP report**
 - Omits rate affordability program, but recognizes energy poverty as a significant problem needing a comprehensive and province-wide approach

OEB's LEAP

- **Low-Income Energy Assistance Program – to be in place by November 2009**
 - Temporary financial assistance for consumers in need
 - Access to more flexible customer service rules on matters such as bill payment and disconnection notice periods
 - Targeted conservation and demand management programs

OEB's LEAP

- **LEAP Financial Assistance Working Group and Conservation Working Group**
 - LIEN chosen to participate in both working groups;
 - Several meetings and final reports
- **September 8, 2009 – Energy Minister requests OEB to halt LEAP**
 - Province to take over low-income energy file
- **OEB disallows LIEN's additional costs for unwinding low-income issues from proceedings in which it is involved**
- **No Government action to date**
 - Government may hand file back to OEB



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