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March 30, 2011

**VIA EMAIL**

TO: All Participants

**Re: Renewable Energy Community Feed-In Tariffs – BRD-E-R-10 / Matter No. M03632**

As you are all aware, the COMFIT hearing will be held next week, commencing on Monday at 9:00 a.m. The intention is to conclude the hearing by the close of business on Friday. In order to accomplish this, it is critical that the allotted hearing time be spent dealing with issues which are within the Board's power to decide.

There are over 30 formal intervenors in this proceeding, many of whom have had limited or no exposure to Board proceedings. Consequently, for their benefit and as a reminder to all participants, I wish to make the following observations:

- (1) The Board's authority (usually referred to as "jurisdiction") is purely statutory in nature. In other words, the Board can only decide matters which are assigned to it by the Legislature either through statute or regulation. Unlike courts, the Board does not have "inherent jurisdiction" to deal with matters outside its express statutory mandate.
- (2) The Board's authority to set feed-in tariffs is derived from Section 4A of the *Electricity Act* and the Regulations made pursuant thereto. The *Act* and Regulations specify the technologies for which the Board may set tariffs and the Board has no authority to set a tariff for other technologies. Further, the *Act* and Regulations do not contemplate multiple tariffs for individual technologies, other than wind power with a capacity greater than 50kW and wind power with a capacity of 50kW or less.
- (3) Issues outside the authority conferred on the Board pursuant to the *Electricity Act* and Regulations will not be adjudicated on in this proceeding. Any such matters or concerns must be directed to the appropriate government agency or department. For example, this would include setting feed-in tariffs for solar power or establishing a separate tariff or rider for Band Councils.

I hope the foregoing will assist participants in focusing their efforts at next week's hearing. If any participant wishes further clarification or has any questions, please do not hesitate to contact me.

Yours truly,



S. Bruce Outhouse, Q.C.  
Board Counsel