



# ***The Impact of Energy Prices on Consumers***

A Presentation to CAMPUT 2007

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# *The Issue*

- How to protect the interests of low income consumers in a period of increasing energy costs

## ***Rate-Setting Models***

- Two Models:
  - ◆ The regulatory model
    - Regulator uses its rate-making authority to devise special rates for low income consumers
  - ◆ The government model
    - The provincial government uses its public welfare authority to provide subsidies for energy rates for low income consumers

## ***The proposal for special rates for low income consumers***

- a class of low income consumers is identified
- a rate affordability level is determined
  - ◆ energy costs as a percentage of household income
- rate assistance benefits are distributed on a fixed bill credit basis
- the costs of the rate assistance and the administrative costs of the program are allocated to other rate classes

## ***Characteristics of the Program***

- rates paid by one group of ratepayers subsidized by other ratepayers
  - ◆ not because the first group's rates bear a disproportionate share of utility cost
  - ◆ but because the rates impose what is determined to be an undue burden on the group

## ***Jurisdiction***

- Two questions:
  - ◆ does the regulator have the jurisdiction to create a special rate for low income consumers?
  - ◆ if it does, should it exercise that jurisdiction
    - public policy considerations

- Two sources
  - ◆ express grants of authority by statute
  - ◆ common law doctrine of necessary implication

## ***Jurisdiction – Ontario Energy Board Act***

- s. 36 of the *Ontario Energy Board Act*
  - ◆ OEB approves rates which are “just and reasonable”
  
- to be guided by objectives in s. 2 of the OEB Act

## ***Jurisdiction – Ontario Energy Board Act (Cont'd)***

- does the word “just” in s. 36 require the OEB to take social welfare into consideration?
- common law position on utilities’ obligation:
  - ◆ set rates which are fair to utilities and ratepayers
  - ◆ treat all customers alike and not discriminate

## ***Jurisdiction – Ontario Energy Board Act***

- word “just” implies:
  - ◆ ratepayers bear relatively equal burden of cost; and
  - ◆ rates are fair to consumers and utilities
- nothing in s. 36 or the OEB Act as a whole allows OEB to reverse the common law principles

## ***Jurisdiction – by Necessary Implication***

- powers which are practically necessary for accomplishment of object intended by statutory scheme created by legislature
- nothing in objectives of the OEB Act requires power to set rates according to the income of consumers

## ***Policy Considerations***

- responsibility of the government, not a regulatory agency, to create a social welfare program
  
- opens door to setting rates based on the particular circumstances of rate classes
  - ◆ e.g. industrial consumers in a depressed economic sector
  
  - ◆ e.g. special rates for hospitals or seniors' homes

## ***Policy Considerations (Cont'd)***

- a subsidy for low income consumers is a repressive tax
  - ◆ burden falls most heavily on those least able to afford it
  
- administrative burden of operating a social welfare program falls on the regulator or the utility
  - ◆ government better equipped to do that

## ***Additional Considerations***

- *Charter Issues*
  - ◆ to be addressed by other panelists

