

Special Areas Board Composite Assessment Review Board

CITATION: ATCO Power Canada Ltd. v. Special Areas Board 2014 CARB 0142-04-2014

Assessment Roll Number: 207149  
Address/Legal: Pt 29-28-13-4  
Assessment Year: 2013  
Tax Year: 2014

BETWEEN:

ATCO Power Canada Ltd. - Complainant

and

Special Areas Board– Respondent

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Decision of  
Lynn Patrick, Presiding Officer

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**Background:**

[1] A preliminary hearing was conducted by conference call on September 4, 2014, in respect to procedural matters arising from a complaint filed by the Complainant in 2014.

[2] The complaint relates to the assessment by the Respondent of a power generating owned by the Complainant located on a Pt 29-28-13-4 and the subject of roll number 207149.

[3] The parties did not have any objection to the matter being heard by a single member CARB panel as established by council pursuant to s. 454.2(3) of the *Municipal Government Act* (Act). The jurisdiction of the CARB panel is provided by s. 36(2)(b) of the *Matters Relating to Assessment and Taxation Regulation 310/2009* (Regulation) relating to procedural matters regarding the scheduling of a hearing and the disclosure of evidence.

[4] **Legislation**

*Municipal Government Act*

454.2(3) *Despite subsections (1) and (2) but subject to the conditions prescribed by the regulations, a council may establish a composite assessment review board consisting of only a provincial member appointed by the Minister.*

*Matters Relating to Assessment and Taxation Regulation 310/2009*

36(2) *A one-member composite assessment review board may hear and decide one or more of the following matters:*

*(b) a procedural matter, including, without limitation, the scheduling of a hearing, the granting or refusal of a postponement or adjournment, an expansion of time and an issue involving the disclosure of evidence;*

## **Position of the Parties**

### **Complainant**

[5] The Complainant requested the rescheduling of the hearing set for September 4, 2014 for the purposes of setting dates for the applications raised by the Respondent. The Complainant asked for an adjournment and suggested dates during which Counsel for the Complainant and Counsel for the Respondent are available. Those dates are September 24, 25, or the morning of September 26, 2014.

[6] The Complainant stated that there were sensitivities around the allegation of late filing for which Counsel for the Complainant needed further instructions before proceeding. Counsel for the Complainant noted that the Respondent did not object to his adjournment request.

### **Respondent**

[7] The Respondent indicated that it does not object to the hearing set for September 4, 2014 to be adjourned to one of the dates in late September requested by the Complainant. The Respondent understood that the Complainant needed to obtain instructions.

[8] The Respondent had advised the CARB about the three preliminary matters which it requested be addressed by the CARB. It had suggested alternate approaches for the hearing of the matters, but left the ultimate determination to the CARB.

## **Decision**

[9] The Preliminary Hearing for scheduling dates to hear the applications requested by the Respondent<sup>1</sup> is adjourned to September 24, 2014 at 9:00 am via teleconference. Teleconference details will be distributed prior to the teleconference.

## **Reasons**

[10] The CARB notes that the Complainant has requested an adjournment of this hearing and that the Respondent has indicated that it has no objection to adjourning the scheduling hearing to dates in late September, 2014.

[11] The CARB is aware that section 15 of the Matters Relating to Assessment and Complaints Regulation, A.R. 301/2009 (MRAC) provides that assessment review boards may not grant adjournments except in exceptional circumstances.

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<sup>1</sup> For clarity, the three applications are an application to dismiss due to late filing of the complaint; an application to dismiss based upon failure to provide documents requested pursuant to section 295; and an application for production under section 465.

**Postponement or adjournment of hearing**

**15(1)** Except in exceptional circumstances as determined by an assessment review board, an assessment review board may not grant a postponement or adjournment of a hearing.

(2) A request for a postponement or an adjournment must be in writing and contain reasons for the postponement or adjournment, as the case may be.


(3) Subject to the timelines specified in section 468 of the Act, if an assessment review board grants a postponement or adjournment of a hearing, the assessment review board must schedule the date, time and location for the hearing at the time the postponement or adjournment is granted.

[12] The CARB is aware of the comments made by Mr. Justice Germain in relation to section 15 of MRAC.

[13] The CARB is of the view that the Complainant has presented evidence of an exceptional circumstance because the Complainant requires instructions in relation to the matter prior to it being set dates. For this reason, the CARB finds that the exceptional circumstances required by section 15 have been met. The CARB therefore grants the adjournment of this scheduling hearing until the date and time set out above.

[14] It is so ordered.

Dated at the City of Edmonton, in the Province of Alberta, this 11<sup>th</sup> day of September, 2014.



L. Patrick, Presiding Officer

**APPENDIX 'A' ORAL REPRESENTATIONS**

<b>PERSON APPEARING</b>	<b>CAPACITY</b>
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1.	B. Dell	Counsel for the Complainant
2.	C. Zukiwski	Counsel for the Respondent
3.	H. Schmidt	Specialty Assessment Services Inc.
4.	R. Fortin	Accurate Assessment Group
5.	G. Stewart-Palmer	CARB Counsel
6.	B. Wiebe	CARB Clerk
7.	M. Langer	Student at Law, Observer, Shores Jardine LLP

**APPENDIX 'B' DOCUMENTS PRESENTED**

<b>EXHIBIT</b>	<b>DOCUMENT</b>	<b>DATE</b>
PR1	Letter of Reynolds Mirth Richards & Farmer dated September 3, 2014	September 3, 2014
PC2	Letter of Wilson Laycraft dated September 3, 2014	September 3, 2014

For MGB Use Only

<b>Subject</b>	<b>Type</b>	<b>Sub-type</b>	<b>Issue</b>	<b>Sub-issue</b>
CARB	electric power plant	generating system	Prelim. Scheduling	468 (1) (b)