

CANADIAN ADMINISTRATIVE LAW – SAMPLE QUESTION AND ANSWER

Session: Challenging Administrative Decisions

Topic: Private Interest Standing

Recommended time: 60 Minutes

Score: 100 Marks

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Facts

Let There Be Light is a not-for-profit society registered under the Societies Act whose main purpose is to ensure that its members have access to sufficient but affordable power and natural gas in Ajax, Ontario. Juliette is a member of this Society, having joined in December last year. She owns two homes – one in Ajax and the other in Hamilton.

Two months ago, Oasis 178990 Ltd, the private electricity retailing company serving Ajax adjusted the prices of electricity upwards, in line with the contracts signed with its customers.

Let There Be Light was aggrieved with this price hike and on behalf of Juliette, its member, filed an application before Ontario Energy Board (OEB) challenging the contract between Oasis and Juliette as unconscionable. Let There Be Light then requested OEB to review these contracts and revoke them, pursuant to its statutory authority. OEB declined to entertain the matter and Let There Be Light filed an application for judicial review of OEB's decision.

Counsel to Oasis challenged the standing of Let There Be Light to seek judicial review on the ground that the organization is not itself a customer to Oasis. While acknowledging that some members of the organization may have private interest standing by virtue of being directly affected by the price hike, nevertheless, the personal interest of the members cannot be equated with the interests and standing of the organization. He contends that Let There Be Light has no direct or personal interest in the contract at issue and is not a person aggrieved or affected by the

decision of a person with a sufficient interest to bring the application for judicial review. But Let There Be Light responded that it has the requisite private interest standing to bring the application since its member is burdened with the hike in electricity prices which may indirectly affect the member's financial obligations to the organization .

The law setting up the OEB is silent on standing. So also, Section 5 of Ontario's Statutory Powers Procedure Act only provides as follows:

Parties

5. The parties to a proceeding shall be the persons specified as parties by or under the statute under which the proceeding arises or, if not so specified, persons entitled by law to be parties to the proceeding.

What is your legal opinion about the private interest standing of Let There Be Light to bring the application for judicial review?