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**VIA COURIER AND EMAIL**

Ms. Kirsten Walli  
Board Secretary  
P.O. Box 2319  
2300 Yonge St.  
Toronto, ON  
M4P 1E4

Dear Ms. Walli,

**Re: Vulnerable Energy Consumers Coalition (VECC)**  
**EB-2008-0272 Hydro One Networks Inc. – Electricity Transmission**  
**Revenue Requirement Change – Supplemental Evidence**

Please find enclosed the submissions of VECC in the above noted proceeding.

Yours truly,

Michael Buonaguro  
Counsel for VECC  
Encl.

**Hydro One Networks Inc. – Transmission  
2009 and 2010 Revenue Requirement & Rate Application  
September 2009 Supplemental Evidence  
Board File No. EB-2008-0272**

**FINAL SUBMISSIONS OF THE VULNERABLE ENERGY CONSUMERS  
COALITION**

**1. INTRODUCTION**

This is the Final Argument of the Vulnerable Energy Consumers Coalition (“VECC”) in the matter of Hydro One Networks Inc’s Supplemental Evidence regarding its Application for 2009 and 2010 transmission rates, EB-2008-0272.

**2. BACKGROUND**

In its initial Application for 2009 and 2010 transmission rates Hydro One Networks put forward a number of what were characterized as “Category 2” capital projects. These were projects that do not require an approval under section 92 or any other Board proceeding (other than a rate proceeding) and are forecast to be completed in the test period. As a result, Hydro One Networks sought Board approval for these projects to be included in rate base when they go in-service.

Two of the projects (D3 and D4) were directly related to the Bruce to Milton Transmission project, which had already received section 92 approval, and the Board approved them as being justified on the basis of their relationship to the Bruce to Milton facility<sup>1</sup>. For project D5 (Unbundling of the 500 kV circuits between Claireville and Cherrywood) Hydro One Networks presented an economic analysis of the benefits of the project and the Board approved the project on the basis that the estimated range of benefits exceeded the costs<sup>2</sup>.

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<sup>1</sup> EB-2008-0272, page 46

<sup>2</sup> EB-2008-0272, page 47

Project D6 (SVC Replacement at Lakehead TS) was also approved on the basis that it was non-discretionary<sup>3</sup>. Finally, a number of Connection projects were approved on the basis that there were executed customer cost recovery agreements for each<sup>4</sup>.

However, the Board did not approve four projects (D7, D8, D9 and D10). In its Decision the Board noted that the projects were intended to increase transmission capacity and reduce congestion and declined to approve the projects as Hydro One Networks had not provided sufficient evidence that they were prudent projects to achieve the cited congestion relief and pointed to the lack of economic analysis similar to that used to support project D5<sup>5</sup>. In setting out its requirements the Board clearly noted that:

“the Board does not consider that a written recommendation from the OPA alone fulfills the requirement to substantiate the necessity or economic prudence of any given project”<sup>6</sup>

The Board specifically noted that what it required was the type of analysis described in the Filing Requirements for Transmission and Distribution Applications. Chapter 5 of this document sets out the requirements which include addressing issues such as need, alternatives considered and cost-benefit analyses.

While not approving these projects, the Board did decide to keep this part of the proceeding open and provided Hydro One Networks with the opportunity to provide additional evidence on the projects for purposes of setting 2010 rates. Hydro One Networks was directed to file this evidence no later than November 30, 2009.

On September 4, 2009 Hydro One Networks filed supplemental evidence with the Board to support the inclusion of projects D7 and D8 in its 2010 Transmission

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<sup>3</sup> EB-2008-0272, page 47

<sup>4</sup> EB-2008-0272, page 49

<sup>5</sup> EB-2008-0272, pages 45-46

<sup>6</sup> EB-2008-0272, page 44

Revenue Requirement<sup>7</sup>. In the same materials, Hydro One Networks noted that the timing for projects D9 and D10 had been shifted by one year and that it was no longer seeking the inclusion of these projects in its 2010 rate base<sup>8</sup>.

### **3. PROJECTS D7 AND D8**

#### *Hydro One Networks' Position*

In its September 2009 filing Hydro One Networks stated that the two projects (D7 and D8) were required to meet the following needs<sup>9</sup>:

- Allow the OPA to successfully procure approximately 500 MW of hydroelectric generation north of Porcupine TS from four specific projects that were directed by the Minister of Energy.
- Promote the use and generation of electricity from renewable energy resources in a manner consistent with the policies of the Government of Ontario by providing for the timely reinforcement of the transmission system necessary to accommodate the connection of up to about 350 MW in additional generation to be procured in Northern Ontario.
- Provide dynamic reactive power support to maintain supply reliability to electricity consumers north of New Liskeard.

The evidence stated that the flows southbound are currently constrained to 1,300 MW without the use of post contingency generation rejection<sup>10</sup> which would increase the current limit to 1,400 MW<sup>11</sup> and that there are months during the year where the flows reach these levels<sup>12</sup>. The completion of projects D7 and D8 would increase the transfer capability by 500 MW to 1,800 MW<sup>13</sup> without the use of post contingency generation rejection and by 750 MW to 2,150 MW with the

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<sup>7</sup> Exhibit A/Tab 2/Schedule 1, page 2

<sup>8</sup> Exhibit A/Tab 2/Schedule 2, page 2

<sup>9</sup> Exhibit B/Tab 1/Schedule 1, page 1

<sup>10</sup> Exhibit B/Tab 1/Schedule 1, page 2

<sup>11</sup> Exhibit I/Tab 6S/Schedule 77

<sup>12</sup> Exhibit I/Tab 6S/Schedule 70

<sup>13</sup> Exhibit B/Tab 1/Schedule 1, page 2

rejection scheme<sup>14</sup>. The evidence also stated that along with the 500 MW of generation specifically procured through government directive the updated outlook included 387 MW of committed Northern Ontario resources and a further 375 MW of Other Resources.

In response to interrogatories posed by Board Staff<sup>15</sup>, Hydro One Networks has expressed the view that the two capital projects are Non-Discretionary and both are required in order to expeditiously facilitate the growth of renewable energy connections in Northern Ontario. As a result, it is Hydro One Networks' position that since the projects are not primarily driven by the need to eliminate or reduce energy congestion an economic evaluation is not required<sup>16</sup>. Similarly, it is Hydro One Networks' position that an economic evaluation is not needed based on the loss of load probability for customers north of New Liskeard<sup>17</sup>.

To support its view that the projects are Non-Discretionary Hydro One Networks has provided an updated letter of recommendation from the OPA<sup>18</sup> and the 2007 IESO System Impact Assessment<sup>19</sup>.

### VECC's Submissions

#### *Timing of Future Northern Generation*

Hydro One Networks' evidence gives the impression that the two projects are needed in 2010 in order to facilitate the delivery of more than 1,260 MW of Northern Ontario generation developments. However, it is clear from the evidence that the entire 500 MW (750 MW with post generation contingency rejection) increase is not needed in 2010. The following table summarizes the information provided in a number of Interrogatories regarding the expected in-service dates for northern Ontario generation developments.

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<sup>14</sup> Exhibit I/Tab 1S/Schedule 95

<sup>15</sup> Exhibit I/Tab 1S, Schedule 92

<sup>16</sup> Schedule 92, page 4

<sup>17</sup> Schedule 92, page 5

<sup>18</sup> Exhibit C/Tab 1/Schedule 3

<sup>19</sup> Exhibit C/Tab 1/Schedule 4

<b>New In-Service Northern Ontario Generation</b>					
Date	Minister's Directive <sup>1</sup>	Committed Resources <sup>2</sup>	Other Resources <sup>3</sup>	Total	Increase over Current <sup>4</sup>
Already In Service	12 MW	103 MW	0 MW	115 MW	
2010	34 MW	288 MW	15 MW	337 MW	222 MW
2011	34 MW	387 MW	15 MW	436 MW	321 MW
2013	34 MW	387 MW	375 MW	796 MW	681 MW
2014	484 MW	387 MW	375 MW	1246 MW	1131 MW

- Notes:
- 1) Exhibit I/Tab 10S/Schedule 12
  - 2) Exhibit I/Tab 6S/Schedules 70 and 73, part a)
  - 3) Exhibit I/Tab 6S/Schedule 73, part b)
  - 4) Total less 115 MW already in-service

What is clear from this table is that the incremental impact of new northern generation development over current flow levels is only 222 MW in 2010 and 321 MW in 2011. This point is important as Hydro One Networks has noted that project D8 alone will increase the interface capability by 340 MW<sup>20</sup> while project D7 adds another 160 MW of capability, resulting in the 500 MW increase referenced earlier. As a result, VECC submits that the need for an in-service date of 2010 for project D7 is not related to the need to incorporate new northern generation. If this was the only driver the project's in-service date could be delayed until roughly 2013.;, the only rationale for proceeding with project D7 at this time appears to be the concerns about the reliability of supply to those customers north of New Liskeard. This is will be discussed further below.

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<sup>20</sup> Exhibit I/Tab 6S/Schedule 74

### *Discretionary vs. Non-Discretionary*

Hydro One Networks has not supported either project with the type of economic or cost-benefit analysis that the Board described in its EB-2008-0272 Report and in its Filing Requirements as being required for Discretionary projects such as those associated with reducing congestion. Rather Hydro One Networks takes the position<sup>21</sup> that these two projects are Non-Discretionary as they are needed to:

- a) accommodate new generation in the north by reinforcing the grid,
- b) relieve loading on system elements, and
- c) to achieve Government objectives that are prescribed in government directives or regulations -

all of which are non-discretionary triggers (items (b), (c), and (e)) in the Board's Filing Requirements<sup>22</sup>.

VECC does not agree with Hydro One Networks' characterization. First, with respect to "accommodating generation", VECC notes that the Filing Requirements clearly note<sup>23</sup> that it is the "connection" of generation that is to be considered as Non-Discretionary. Hydro One Networks takes the position<sup>24</sup> that the need to accommodate new generation goes beyond simply providing connection to the network and also involves delivering to the load centres in the Province. VECC submits that such a perspective would lead to the conclusion that all projects aimed at eliminating congestion which restricts the access of generation to load must be viewed as being Non-Discretionary. However, such a conclusion is inconsistent with the Board's direction that projects to reduce congestion are to be considered Non-Discretionary. Furthermore, VECC notes that as well as not providing evidence to support the economics of eliminating congestion on the North-South interface, Hydro One Networks has not provided any evidence to demonstrate that incorporation of this new northern generation is

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<sup>21</sup> Exhibit I/Tab 1S/Schedule 92, page 2

<sup>22</sup> Filing Requirements for Transmission and Distribution Application, November 14, 2006, pages 33-34.

<sup>23</sup> Page 33

<sup>24</sup> Exhibit I/Tab 1S/Schedule 92, page 3

required by 2010 in order to maintain the supply/demand balance (and therefore the reliability) of the overall system. Indeed, given the recent economic turndown it is unlikely that deliverability of this generation to southern Ontario is required in order to meet reliability requirements<sup>25</sup>.

With respect to relieving loading on system elements, VECC notes that congestion already exists on the North-South interface and is managed by the IESO through constrained dispatch<sup>26</sup>. VECC submits that proceeding with these projects is therefore not the only way to address the loading concerns and that the cost of congestion arising from such constrained dispatch is a relevant matter in this regard. However, Hydro One Networks has not provided any evidence that undertaking these projects is a more cost-effective way to relieve stress than continuing to do so through constrained dispatch.

Finally, Hydro One Networks argues that two projects are required to achieve Government objectives as set out in various directives to the OPA and, on this basis, both should be considered Non-Discretionary. However, as noted earlier both projects are not needed in 2010 for the increased flow capability on the North-South interface to match the increase in northern renewable generation. If the Board accepts that ensuring deliverability of new northern renewable generation to southern Ontario is a Government objective prescribed by directives/regulations then, at best, a case can be made that the 340 MW of increased flow capability associated with project D8 is needed by 2011. The additional flow capability associated with project D7 is not needed until 2013.

VECC notes that, in its submissions, Board Staff argues that compliance with the Government's objectives only requires that Hydro One Networks connect the new northern generation<sup>27</sup>:

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<sup>25</sup> It should be noted that in such an event, the Filing Requirements direct that Hydro One Networks (in conjunction with the OPA) demonstrate that not only is additional generation needed to maintain reliability but that increasing the N-S interface capability is the preferred alternative where others could include the construction of additional generation in southern Ontario.

<sup>26</sup> Exhibit I/Tab 6S/Schedule 70

<sup>27</sup> Page 6

Board staff is of the view that any projects that are not directly connecting new generation sites or load customers must be justified based on demonstrating that the benefits will exceed the costs, except where such projects are non-discretionary due to the strict criteria as outlined in the Filing Requirements, rather than as interpreted by Hydro One.

As noted earlier, VECC has concerns about broadly interpreting what projects should be considered as Non-Discretionary within the context of Government policy and directives. In VECC's view a broad interpretation will severely limit the Board's role and obligation to ensure that investments in the transmission system and the resulting rates are prudent and runs counter to the Board's statutory objective to protect the interests of consumers. VECC also notes that the Minister in his most recent communication to Hydro One Networks regarding projects that will enable renewable energy generation stated<sup>28</sup>:

"In no way does my request relate to the implementation or methods used to carry out the work described in this letter, including following appropriate consultation and approvals processes."

*Board's EB-2008-0272 Direction and Filing Requirements - Need for Economic Analysis*

As noted earlier, Hydro One Networks has taken the position that the two projects are Non-Discretionary (by virtue of Government directives) and that the type of economic analysis undertaken for project D5 and for the Bruce-Milton line is not needed, particularly as there are no reasonable alternatives.

As discussed already, it is VECC's submission that based on the expected timing of northern generation development there is no basis for considering project D7 as being required in 2010 to support the delivery of northern generation to southern load centres. Therefore, even if the Board were to adopt Hydro One Networks' perspective regarding Discretionary versus Non-Discretionary projects in the context of the Government's directives, the proposed 2010 in-service date

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<sup>28</sup> Exhibit I/Tab 1S/Schedule 92, Attachment

for project D7 is discretionary and, under the Filing Requirements, would require a supporting economic analysis.

As Hydro One Networks has noted, there are additional reasons – namely reliability for load customers north of New Liskeard – to pursue project D7 at this time. For a project to be considered Non-Discretionary on the basis of reliability issues it must be demonstrated that it is required to either a) Meet mandatory reliability requirements specified by Reliability Organizations or b) Comply with directions from the OEB in the event a determination has been made that the transmission system's reliability is at risk<sup>29</sup>. However, Hydro One Networks has provided no evidence to support a claim that project D7 is Non-Discretionary for reliability reasons. Furthermore, Hydro One Networks has declined<sup>30</sup> to provide the type of economic evaluations that are needed to support project D7 from a Discretionary perspective.

Accordingly VECC submits that, for project D7, Hydro One Networks has failed to address the Board's Filing Requirements and has also failed to supply the type of information the Board directed it to provide in EB-2008-0272 in order to support the inclusion of the project in rate base for 2010.

In the case of project D8, even if the Board accepts Hydro One Network's view that it is Non-Discretionary, there is still a question as to whether the company has complied with the Board's Filing Requirements. Board Staff argues that any reinforcements to reduce congestion must be supported by quantitative economic evaluation. Furthermore Staff notes that, under the Board's Filing Requirements, such analysis is needed even if the project is classified as Non-Discretionary<sup>31</sup>. As a result, Board Staff concludes that Hydro One Networks has not complied with the Board's Filing Requirements. In this regard, VECC notes that section 5.3.2 of the Filing Requirements specifically discusses non-discretionary projects and suggests that a net present value analysis be used to

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<sup>29</sup> Filing Requirements for Transmission and Distribution Applications, November 14, 2006 (EB-2006-0170), section 5.2.2

<sup>30</sup> Exhibit I/Tab 1S/Schedule 92, page 5

<sup>31</sup> Pages 6-7

demonstrate that the alternative put forward is the best option. VECC also notes that in its EB-2008-0272 Decision the Board specifically noted the need for such analyses.

In its EB-2008-0272 Decision, the Board did not fully disallow the requested costs based on this shortcoming but gave Hydro One Networks a rare opportunity to address the deficiency through the filing of additional evidence. Furthermore, the Board committed to an expedited process to review any such evidence.

Given these unique circumstances, VECC submits that Hydro One Networks should have made every effort to comply with the Board's direction and meet its expectations. Instead, Hydro One Networks chose to question the Board's classification of the project as "discretionary" and argue that there was no need to address the fundamental short-comings the Board identified with its original evidence. As a result, VECC submits that Hydro One Networks has failed to adequately support the inclusion of project D8 in rate base for 2010 as directed by the OEB.

Instead, what Hydro One is effectively trying to do is request that the Board vary its original Decision regarding the nature of these projects and the types of information required to support them. In VECC's view this is entirely inappropriate, particularly within the context of the expedited review process established by the OEB. If Hydro One Networks disagreed with the Board's Decision regarding the categorization and associated filing requirements for these two projects it should have initiated a review and vary motion and addressed the matter directly. VECC submits that the Board should reject Hydro One Networks arguments regarding the nature of these projects as being misplaced within the context of the OEB's EB-2008-0272 direction to Hydro One Networks and the process that was established to consider the additional information that was to be provided.

### *OPA Recommendation*

Hydro One Networks relies heavily on the OPA's view that increased flow capability is required on the North-South interface, that the proposed projects are the preferred option and that 2010 is the required in-service date<sup>32</sup>. However, OPA's original recommendation for a 2010 in-service date was "aimed to mitigate the impact of delays to the transmission projects by targeting for transmission projects to come into service in advance of when generation projects would require additional transmission capacity to connect to the power system"<sup>33</sup>. Furthermore, in response to the interrogatories it was confirmed that this is still the case<sup>34</sup>. In VECC's view it is inappropriate to include such costs in rate base for 2010 when this timing was established to address concerns that there would be delays and the actual in-service date would be later. In VECC's view, if the Board decides to provide for recovery of the costs associated with one or both of these projects in 2010, it should be by way of a deferral/variance account so as to protect customers in the event that the OPA's concerns are proved out and the facilities are not completed in 2010.

## **4. SUMMARY AND CONCLUSIONS**

In its EB-2008-0272 Decision the OEB offered Hydro One Networks a rarely granted opportunity to provide additional evidence to support the inclusion of certain Projects in rate base for 2010. Instead of following the Board's direction and providing the requested economic analyses, Hydro One Networks has chosen to dispute the Board's characterization of the projects and the Board's direction regarding the evidence required to support them. VECC submits that in taking this approach Hydro One Networks is going well beyond the scope of the Board's direction and effectively requesting that the Board review and vary its original decision. In VECC's view this is inappropriate, particularly in light of the expedited review process established by the OEB. The Board should reject this

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<sup>32</sup> Exhibit B/Tab 1/Schedule 1, page 3 and Exhibit C/Tab 1/Schedule 2

<sup>33</sup> Exhibit C/Tab 1/Schedule 2, page 4, lines 25-28

<sup>34</sup> Exhibit I/Tab 6S/Schedule 72

attempt by Hydro One Networks to change scope of the issue and focus on whether the Company has addressed the requirements as set out in its original Decision.

The timing of the new northern Ontario renewable generation suggests that both projects are not required in 2010 in order to facilitate the delivery of increased northern generation to southern load centres. In particular, VECC submits that Project D7 is not required for such purposes for a number of years and can clearly be viewed as Discretionary at this time for these purposes.

There may be reasons to proceed with Project D7 at this time in order to relieve current congestion levels on the North-South interface or improve reliability north of New Liskeard. However, Hydro One Networks has not provided the evidence necessary to support either a) the view that this project is Non-Discretionary from a reliability perspective or b) economic justification for advancing the project at this time if it is Discretionary in nature. As a result, VECC submits that Hydro One Networks has failed to adequately support the inclusion of Project D7 in rate base for 2010.

In the case of Project D8 it is a matter of interpretation as to whether or not the project should be viewed as Discretionary or Non-Discretionary and this interpretation concerns primarily the scope that should be attached to the Government's directives regarding Northern renewable generation development and the Board's Filing Guidelines. VECC submits that if the Board is to effectively carry out its mandate there is a need to narrowly interpret the scope of Ministerial directives, particularly in advance of any formal consideration of an IPSP by the Board. However, even if Project D8 is considered Non-Discretionary Board Staff suggests that, based on the Board's Filing Requirements, an economic evaluation is needed.

These uncertainties are matters that clearly need to be resolved for future applications. However, in VECC's view, the over-riding consideration for purposes of this proceeding is the fact that the Board directed Hydro One

Networks to provide certain types of information to support the inclusion of these projects in rate base. Hydro One Networks has failed to respond to the Board's direction and therefore has failed to meet the evidentiary requirements necessary to obtain the Board's approval for Project D8.

Finally, should the Board decide to provide for one or both of these projects in Hydro One Networks 2010 transmission revenue requirement, the OPA correspondence raises concerns as to whether the projects will actually be in-service in 2010. VECC submits that, if allowed, the costs should be recognized by way of a deferral/variance account. In the case of a variance account the costs would be permitted in rates but also recorded in variance account and subject to true-up based on the actual in-service date. In the case of a deferral account the costs would be recorded in a deferral account based on the timing as to when the projects actually come into service<sup>35</sup>.

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<sup>35</sup> VECC notes that in either case the purpose of the account would be to address timing differences and not to capture differences in 2010 between forecast and actual costs.