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January 19, 2009

Kirsten Walli
Board Secretary
Ontario Energy Board
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Dear Ms Walli,

Hydro One Networks Inc. ("Hydro One")

Draft Rate Order

Board File No.: EB-2007-0681

Our File No.: 339583-000002

This letter contains our comments, as counsel for Canadian Manufacturers & Exporters ("CME"), on the material circulated by Hydro One Networks Inc. ("Hydro One") on January 12, 2009, in response to the directive contained in the Board's Decision with Reasons dated December 18, 2008 (the "Decision"), requiring Hydro One to circulate a Draft Rate Order.

We have reviewed the materials provided by Hydro One and the submissions provided earlier today by Board Staff and counsel for the Vulnerable Energy Consumers Coalition ("VECC"). Our comments are set out below.

1. The format of a "Draft Rate Order" should be a Formal Order

We cannot find a draft of a formal Rate Order in the material circulated by Hydro One. The document attached to Hydro One's January 12, 2009 covering letter entitled "Draft Rate Order" contains a narrative description of Hydro One's response to the Decision. The document is not a draft of the formal Rate Order Hydro One asks the Board to issue.

It appears that Hydro One expects the Board to prepare its formal Rate Order on the basis of this narrative. For the purposes of this particular case, we will rely on the Board to complete this task. However, in future cases, we suggest, to comply with a Draft Rate Order directive, Hydro One should prepare a draft of the formal Rate Order which reflects the complete effect of the Decision.

2. Board Directives should be included in the Formal Order

The narrative description Hydro One provides entitled "Draft Rate Order" does not list the directives contained in the Decision. These directives include the following:

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- (a) The directives, found at pages 8 to 10 of the Decision, pertaining to the incorporation of the impacts of Conservation and Demand Management ("CDM") into Hydro One's load forecasts in future cases;
- (b) The directive, found at page 13 of the Decision, to develop a benchmarking approach, in consultation with intervenors and Board Staff, with respect to Hydro One's costs and the costs of comparable utilities;
- (c) The directive, at pages 24 and 31 of the Decision, requiring further studies to improve the understanding of Hydro One's cost allocation based on density criteria;
- (d) The directive, at page 24 of the Decision, requiring Hydro One to re-examine the practicality of additional class definitions to improve understanding of cost causality;
- (e) The directive, at page 40 of the Decision, that Hydro One, as part of its 2010 Application for Rates, bring forward evidence relating to a specific rate for Milton Hydro ("Milton") in the event that Milton has been unable to complete a purchase, on or before May 1, 2010, of the assets described in the Decision.

Hydro One's January 12, 2009 covering letter to the Board states as follows:

"Hydro One has also made note of the Board recommended studies and will examine what may be accomplished for its next Distribution application."

In our view, this statement, noting the directives and indicating that they will be examined to determine what might be accomplished for Hydro One's next Application, is not what the Decision requires. We submit that each of the directives contained in the Decision should be the subject matter of an explicit provision in the formal Order the Board issues.

3. Working Capital Allowance ("WCA") Adjustment

We agree with the comments of Board Staff to the effect that the final WCA amount should reflect the changes between the applied for and Board approved Operating, Maintenance and Administrative ("OM&A") expenses.

4. Cost of Capital

We agree with Board Staff's submissions to the effect that Hydro One's cost of "deemed" long term debt should be determined using the same methodology that the Board applies to other distributors.

5. Rate Impacts

In its January 12, 2009 covering letter and in the "Draft Rate Order" narrative, Hydro One states that it has limited the total bill impacts to 10% or less for the first year of the four year harmonization process approved by the Board in its

Decision. We assume that the formal Order the Board issues will reflect the Decision that the rate harmonization impact caps in years 2, 3 and 4 of the harmonization implementation period will be as proposed by Hydro One and that the percentage cap amounts for years subsequent to 2008 will be specified in the Order.

6. Hopper Foundry

We submit that the formal Order should contain an express provision pertaining to the Board's response to the Hopper Foundry situation, and that a provision will be included in the Order continuing the existing Time-of-Use rates to April 30, 2010, as specified at page 37 of the Decision.

7. Deferral and Variance Accounts

We suggest that the formal Order the Board issues should include express provisions to reflect the Board's response, at pages 47 to 50 of the Decision, with respect to each of the following:

- (a) The Board's approval of a Pension Cost Differential deferral account for Hydro One in the same terms as the account which has already been authorized by the Board for Hydro One Networks Transmission;
- (b) The Board's rejection of a OEB Cost Variance deferral account for Hydro One; and
- (c) The Board's approval of the Bill Impact Mitigation deferral account proposed by Hydro One, along with the direction that the account be cleared "at the first opportunity following the end of the implementation of the mitigation plan."

8. Implementation Revenue-to-Cost Ratios

Counsel for VECC notes in his submissions that Hydro One's determination of final 2008 rate levels, by multiplying its 2008 proposed rates by a factor of 96.2%, could, for some rate classes, have the effect of producing 2008 revenue-to-cost ratios which could materially differ from the "Proposed Ratios" for each rate class shown in Column 2 of the Table at page 32 of the Decision and perhaps lie outside the parameters of the "Target Ranges" shown in Column 3 of that Table. We will rely on the Board to determine how best to respond to this criticism of the final 2008 rate levels Hydro One asks the Board to approve.

Bearing in mind that the objective is to have Board approved 2008 rates in place by February 1, 2009, Hydro One might be directed to establish some sort of tracking account to facilitate any material rate re-balancing that is required as a result of its failure to re-run its cost allocation model before determining its 2008 final rate levels contained in the material circulated on January 12, 2009.

We hope these comments will be of some assistance to the Board in finalizing the terms of the formal Order which concludes these proceedings.

Please contact me if there are any questions about the contents of this letter.

Yours very truly,

A handwritten signature in black ink, appearing to read 'P. Thompson', followed by a long horizontal flourish.

Peter C.P. Thompson, Q.C.

PCT\slc

c. Hydro One Networks Inc.
Interested Parties EB-2007-0681
Paul Clipsham (CME)
Vince DeRose & Nadia Effendi (BLG)

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