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File 16988

VIA COURIER AND EMAIL

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
27th Floor, 2300 Yonge Street
Toronto ON M4P 1E4

Dear Ms. Walli

RE: Hydro One Networks Inc. 2009-2010 Transmission Rate Application EB-2008-0272

Enclosed please find the Power Workers' Union final argument in this proceeding.

Two hard copies have been forwarded to the Board via courier delivery, and a copy has been filed through the Board's *RESS* filing system.

We trust this is satisfactory.

Yours very truly,
PALIARE ROLAND ROSENBERG ROTHSTEIN LLP

Richard P. Stephenson

RPS:jr
Att.
cc: All Participants (*via email*)
cc: Hydro One Networks Inc. *(via email)*

Doc 718043v1

EB-2008-0272

IN THE MATTER OF the Ontario Energy Board Act, 1998;

AND IN THE MATTER OF an Application by Hydro One Networks Inc. for an Order or Orders approving rates for the transmission of electricity commencing July 1, 2009.

Submissions of the Power Workers' Union

1. The following are the Power Workers' Union's ("PWU") submissions on the issues reviewed in the matter of Hydro One Networks Inc.'s ("Hydro One" or "HON") 2009-2010 Transmission Rate Application (EB-2008-0272).

CAPITAL EXPENDITURES

4.1. ***Are the proposed 2009 and 2010 Sustaining and Development and Operations capital expenditures appropriate, including consideration of factors such as system reliability and asset condition?***

Development Capital

2. Hydro One has proposed a development capital budget for 2009 and 2010 in the amounts of $553.4m and $658.8m, respectively. Hydro One has indicated that the overall spending on Development Capital work in the 2009 and 2010 test years has increased significantly over historical levels, largely due to higher number of Inter Area Network projects and the substantial increases in equipment and material costs in recent years. However, the proposed Development capital spending is for work programs that vary in terms of the following criteria: (i) in-service date; (ii) requirement for approval by the Board; and (iii) whether the projects are discretionary or not. This categorization is consistent with the Board's decision in the last Hydro One transmission case (EB-2006-0501). Hydro One has categorized the proposed projects based on these criteria. Consequently, the projects are comprised of: (i) those for which Hydro One is explicitly requesting approval; (ii) those on which it seeks the Board's guidance; and (iii) those which are provided as future year information

only. In this respect, the Board's consideration of the proposed spending should go beyond consideration of the blanket view of the proposed total year-over-year increase in spending and consider each project. The PWU submits that the following considerations are relevant when assessing the application.

3. First, the lion's share of the proposed Development Capital is for Inter Area Network Transfer Capability which for 2009 and 2010 accounts for 72% and 77%, respectively. In addition:

   a. Approximately one half of the $396m and $509m spending proposed for 2009 and 2010 on Inter Area network Transfer capability, is for the Bruce-Milton reinforcement project that has already been approved and work is underway;

   b. Of the 14 projects within this category (D1-D14), 12 are non-discretionary in nature. Of these 12 projects, three (D9, D10, D11) are non-discretionary, and Hydro One has indicated that they will be committed only if the OPA recommends them as necessary to accommodate new renewable generation in northern Ontario to satisfy Government directive(s). The remaining two projects include the HON-Hydro Quebec connection which is near completion and the Cherrywood TS x Claireville TS: unbundle 500kV Circuits project, which is partially discretionary. However, as noted in Exhibit D1/T3/S3/Pages 14-15, a detailed explanation of the need and benefits of the project was provided during the previous rate proceeding EB-2006-0501 and analysis by the IESO provided as part of that proceeding has indicated that the congestion and reliability related benefits of the project exceed its cost; and

   c. The PWU also notes that all the eight projects in the other major category, i.e., Local Area Supply Adequacy category, are non-discretionary and that Hydro One is either seeking guidance or providing information on four of them because their in-service dates are beyond the test years.

4. Secondly, with respect to Category 3 & 4 projects, Hydro One has adhered to the requirement of including capital cost in rate base only after the facility is put into service. The Company is either seeking guidance with respect to the recovery of cost for Category 3 projects, for which Hydro One will incur substantial costs in the test years even thought their in-service dates are beyond the test years. On a number of Category 4 projects, Hydro One is providing future year information. As can be seen from the following summary table, Hydro One is seeking guidance on projects that amount to $42.5m in 2009; and $224.2m in 2010. Spending for Category 4 capital projects is forecast as $ 7m in 2009; and $37.2m in 2010. As indicated in Ex I/T4/S33:

> **Category 4 projects will require future project-specific approvals from the OEB in the form of Section 92 applications. Hydro One is simply informing the Board of all components that make up Hydro One's capital expenditures in the test years. Category 4 projects do not impact the test years' revenue requirement as they will only go in-service beyond the test years. Thus, approvals for these projects are not being sought in the current application.**

		Category 3 Projects Spending ($m)												
					PROJECTS									
	D11	**D12**	**D13**	**D14**	**D19**	**D20**	**D30**	**D31**	**D32**	**D33**	**D34**	**D35**	**D36**	**Total**
2009	0.8	0.0	15.2	13.1	2.5	3.0	0.9	0.2	2.0	0.4	0.4	1.0	3.0	**42.5**
2010	20.9	5.5	44.4	38.5	3.4	5.9	21.3	12.7	25.7	18.3	14.4	4.7	8.5	**224.2**
		Category 4 Projects												
	D21	**D22**	**D37**	**D38**	**Total**									
2009	0.0	0.0	0.2	6.9	**7.1**									
2010	0.6	3.0	17.2	16.4	**37.2**									

5. Thirdly, the PWU submits that the Board should focus on the needs for each project proposed for 2009 and 2010 and the measures HON has/is implementing to improve its capacity to carry out approved projects rather than on HON's 2007 and 2008 experience. In particular:

a. Hydro One's actual capital expenditures for 2007 and 2008 were below the Board approved amounts by $152m and $70m, respectively. The variances for Development Capital were $46m and $104m, respectively[1]. Hydro One has provided evidence explaining the variances as caused by a number of factors including: the redirection of resources to carry out unplanned work that resulted from unplanned events, lack of resources including engineering staff due to competitive demands from other organizations, delays in getting the necessary outage approvals, and longer lead times to obtain key materials and equipment[2].

b. The evidence before the Board reveals that Hydro One has adapted from the learned lessons from 2007 and 2008 and that it is working to ensure that it can deliver the 2009 and 2010 work programs by adopting the work execution strategy outlined in Exhibit A, Tab 14, Schedule 7 pages 6-9, listing a number of key initiatives. In this respect, the PWU submits that the variances in spending exhibited in 2007 and 2008 should not be grounds for denial of the approval of any of the proposed projects and their estimated costs.

6. Fourthly, with respect to the current economic downturn, the PWU notes that some intervenors and Board Staff have raised the current economic circumstances in interrogatories and cross-examination and have suggested that in the face of the economic and financial circumstances, Hydro One's proposed expenditures are too high and have asked whether Hydro One would consider reprioritizing its proposed projects and potentially deferring the implementation of some to account for this phenomenon. The PWU submits that the current economic downturn would be relevant to the Board's decision in this application only if there is evidence before the Board in this proceeding that indicates that given the economic downturn, the work programs proposed in the application are *unnecessary* for ongoing service reliability, quality and safety that meets

[1] Exhibit D1, Tab 3, Schedule 1, Pages 4-8, Table 2 & Table 3
[2] Exhibit D1, Tab 3, Schedule 1, Pages 4-8

regulatory standards and to carry out government policy initiatives. The PWU submits that there is no such evidence.

7. The PWU submits that the Board should refrain from considering the current economic recession in considering Hydro One's application for the following reasons:

   a. It is true, as a result of the economic downturn, Ontarians have lost and are losing jobs and household incomes are affected. This undoubtedly impacts the ability of some Ontario electricity consumers to pay utility bills. While sympathetic to this situation, the PWU recognizes that this issue is beyond the scope of this proceeding and the Board cannot seek relief for ratepayers related to the current economic situation in this proceeding. The Board has appropriately exercised its power and mandate to protect rate payers whenever it considered that the customer rate impact related to a utility's applications was excessive. For example, Hydro One Distribution, in EB-2007-0681, proposed to reduce rate classes and harmonize rates according to the Board-proposed methodology with respect to revenue/cost ratio to protect customers against rate shock. Such mitigation was necessary because the issue was caused by Hydro One's proposal to harmonize rates and cut the number of rate classes to achieve fairness and efficiency, even though the revenue impact on Hydro One was minimal.

   b. However, the economic downturn is a broader phenomenon and should be dealt with through a broader initiative than Hydro One's rate proceeding to ensure equitability in regulatory treatment between regulated entities. The PWU notes that the Board is in fact currently inviting comment on Code Amendments related to the Board's consultation on Energy Issues Relating to Low-income Consumers, EB-2008-0722. The PWU agrees with Hydro One that in this proceeding the Board as an economic regulator should approve a revenue requirement and rates which reflect the true cost of providing the service; and that it

would be a mistake to use the electricity transmission system as a vehicle of social policy.[3]

c. Even in an economic downturn, transmission lines still need to be built, maintained or replaced, and electricity needs to be provided reliably and safely according to regulatory standards. That is why the competition for resources such as skilled labour, raw materials and components are still a reality even when jobs in other sectors are being lost. There is no evidence of any recession in the transmission business, in Canada, or elsewhere in North America. In fact, a robust electricity system is a critical requirement for Ontario businesses to emerge from the current economic downturn.

d. Moreover, as Hydro One indicated, the evidence suggests that many jurisdictions actually embark on expanding investment in infrastructure such as in transmission lines and roads during economic down turn as one strategy towards economic recovery. That said, Hydro One's application, is not made in consideration of economic recovery, but is based on current and future transmission system needs as developed and identified in its transmission system plan. In fact, Hydro One decided that it would not adjust its load forecast downward to account for the inevitable impact of the recession on load. This decision will affect Hydro One's revenue negatively. Nevertheless, the effect of the decision is to avoid Hydro One seeking an even higher rate increase to offset this loss of load..

e. In terms of cost of materials, contractors and labour, the Board should give weight Hydro One's evidence as to why it does not anticipate any downward pressure on these costs. Hydro One gave evidence as to the sustained world-wide competition for electrical components, materials as well as skilled labour. In response to this reality, Hydro One has locked-in many contracts for equipment purchases in order to guarantee timely

[3] HON Final Argument, EB-2008-0272, Transcript, Volume 7, Pages 3-4

delivery and for quality assurance, and also due to the fact that collective agreements with the unions representing 90% of its workforce are in place in the test years.

8. Fifthly, during this hearing, some questions about the recently tabled *Ontario Green Energy Act, 2009* ("*GEA*") and its potential impact on HON's application were raised.

   a. As the market rules, regulatory codes and Government regulation related to the *GEA* have yet to be developed, the extent of the impact on HON's application is not yet clear. Hydro One's application in this proceeding was not prepared either in anticipation or in the context of the *GEA*.

   b. What can reasonably be expected at this stage is that the *GEA* is likely to necessitate more expansion in transmission infrastructure. Hydro One is likely to become a bigger company, with a larger work program and more responsibilities. Demand, and hence cost pressures, for contractors, raw material, components and skilled labour are likely to increase, not decrease in coming years.

   c. Understandably, Hydro One has indicated that if in the future there are developments that would require HON to file information or require approval for any project as a result of the *GEA*, it would do so when they happen. In this respect, the PWU submits that, like in the case of the current economic downturn, the *GEA* is only relevant to the Board's consideration of HON's application to the extent that the evidence presented indicates that given the *GEA*, the projects proposed in HON's application are unnecessary. The PWU submits that there is no such evidence. Moreover, the PWU agrees with HON's view that:

> **...the present capital program is the core or the base program which will be necessary, regardless of new incremental demands imposed by the Green Energy Act. Delays in commencing the existing planned capital program will only cause costly and potentially very serious bottlenecks in the near future once the implications of the Green Energy Act begin to be felt by the**

transmission system.[4]

SUSTAINING CAPITAL: OM&A AND CAPITAL

3.1. ***Are the proposed spending levels for Sustaining and Development OM&A in 2009 and 2010 appropriate, including consideration of factors such as system reliability and asset condition?***

4.1. ***Are the proposed 2009 and 2010 Sustaining and Development and Operations capital expenditures appropriate, including consideration of factors such as system reliability and asset condition?***

9. Hydro One is requesting approval for overall OM&A expenditures of $435.2m and $449.7m for 2009 and 2010, respectively. HON's evidence indicates that total OM&A expenditures for test year 2009 increases by $61.4m or 16% over the 2008 amounts. The total OM&A expenditures for 2010 is a further increase of $14.5 million, or 3%, over 2009. However, the increases in 2009 and 2010 over the 2008 amounts need to be understood in the context of the relatively lower base in 2008. First, the $373.8m actual OM&A expenditure in 2008 was approximately $14m lower than the 2008 Board-approved amount.., secondly, the 2008 actual OM&A was $39m lower than the $412.9m actual OM&A spending in 2007.

10. The major reason for the increase in OM&A spending is the increase in Stations and Lines Maintenance Sustaining costs. The proposed Sustaining OM&A expenditure in 2009 and 2010 account for $226.5m and $240m, respectively. The 2009 Sustaining OM&A amount represents a 21% increase over the 2008; however, the 2008 actual Sustaining amount was a relatively lower base in that it was less than the 2007 amount by over $18m and less than the 2008 Board-approved amount by about $13m.

11. Similarly HON's proposed Sustaining Capital investment level for test year 2009 is $279.9 million, which is less than the 2008 actual amount by half a million

[4] HON Final Argument, EB-2008-0272, Transcript, Volume 7, Page 5

dollars. The investment level for test year 2010 is $321.6 million, which is a 15% increase over 2009. The increase in 2010 spending is primarily driven by higher spending on Station assets in 2010.

12. The PWU recommends that the Board approve HON's proposed Sustaining OM&A and Capital spending on the basis of the work program requirements identified in HON's evidence. In particular, the PWU submits that the Board consider the following in making its determinations:

    a. Hydro One has adduced that the increased Sustaining OM&A and Capital expenditures are required to address the increased maintenance and refurbishment requirements of the large number of assets that will enter their mid-life to end-of-life ("EOL") regions or those reaching their EOL in the test years. It must be understood that proposed Sustainment budgets could show significant increases and yet be reasonable and prudent provided that HON's Asset Condition Assessment ("ACA") methodology and its process of reviewing, prioritizing and approving work programs are accepted as reasonable. It is the present and the future needs identified by the assessment process that should be the basis for approval of the proposed amounts;

    b. Delays in some Sustainment work in 2007 and 2008 have contributed to the Sustainment work proposed for the test years. In this respect, Hydro One has outlined its work execution strategy going forward based on lessons learned and therefore the lower than Board-approved expenditure in 2008 should not prejudice Hydro One's need for resources for the test years.

    c. Denying any one of Hydro One's proposed Sustainment work programs will require Hydro One to revisit the proposed programs and make cuts. The fact of the matter is that, as indicated earlier, any work programs that HON would be forced to cut are programs which it has determined to be necessary based on the ACA and other planning considerations. Moreover, cutting work programs today will only put off required investment to a future date. The need for investment on the system will

continue to exist. In addition to increased risks to transmission reliability, service quality, and safety, the delay in investment will cost rate payers even more in the future given the much higher cost of correcting a system that has been allowed to deteriorate, relative to the cost of planned, on-going maintenance.

d. As Hydro One witnesses confirmed during cross-examination by the PWU, to a large degree, the increase in overall cost was due to an increase in the overall level of activity, rather than unit cost.[5] Even if HON maintained its labour and material unit costs at historical levels, the increased scope of work would cause HON to require a larger budget to carry it out. The truth of the matter is that HON is also facing significant pressure in terms of cost of materials, as explained by Hydro One's witness during cross-examination:

> **There are significant cost increases that the company has seen in the past few years relating to materials. We have all seen the commodity price increases, and certainly the price of copper...And also I would like to add, those costs do not show any signs of decreasing. Despite the economic climate that we're in, we have got every evidence to suggest that those costs are continuing to go up. There is very large demand throughout the world by companies and countries putting money into their infrastructure. So that's one very significant increase in costs.**[6]

e. The fact that Hydro One's asset base has significantly increased means that even though Hydro One is able to replace its EOL assets as proposed in its current plan, the Company is likely to have more units reaching EOL than it is replacing. During cross- examination by the PWU, Hydro One's witness alluded to this pressure arising from increased asset base and asset demography:

> **MR. STEPHENSON: Assuming that your application as proposed was approved, and assuming that you actually executed the program that you proposed, at the end of that program would you have more components at their end-of-life period than you have now, or less?**

[5] Transcript, Volume 2, Page 96, Lines 15-18
[6] Transcript, Volume 2, Page 94, Line 28 & Page 95, Lines 1-4

> **MR. CURRIE: The demographic pressures that we're facing on the system would indicate that we would have more end-of-life assets.**[7]

f. As indicated in Exhibit I/T4/S2, Hydro One's system reliability risk has increased due to deferment of Sustainment work in 2007 and 2008 and also due to the competing demand from the Company's Development work. The Business Plan forecasts that:

> **As a result of transmission development requirements and limitations on resources, some sustainment work has been deferred, increasing risks to reliability and customer satisfaction in the short and medium term. Addressing this risk will be a key focus of the 10-year transmission plan.**
>
> **...Given development requirements and funding and execution constraints, the level of work required to sustain the existing transmission system is achieved beyond the business plan period.**

In other words, due to the already deferred Sustainment work and the anticipated competition for resources from Hydro One's Development work, the reliability risk of the system has increased and will continue to increase over the test years. Any decision by the Board to cut the proposed Sustainment budget will serve to exacerbate the situation.

COMPENSATION AND STAFFING

3.3 *Are the Compensation levels proposed for 2009 and 2010 appropriate?*

13. The PWU is aware of the concerns that have been expressed by parties that compensation costs at HON "appear to be too high". In all its participation in proceedings involving HON, the PWU has consistently submitted that consideration of compensation levels for HON's full time staff cannot be taken in isolation of the Company's overall staffing strategy because the ultimate goal should be to determine the reasonableness of HON's total compensation costs. HON's staffing strategy in turn should be considered in the context of the challenge that Hydro One is facing in hiring and retaining skilled workers in light

[7] Transcript, Volume 2, Page 99, Lines 1-8

of the "perfect storm" resulting from the combination of (i) expected retirement of a significant portion of its labour force, (ii) the ever increasing work programs and (iii) the competition from the rest of the industry for skilled workers. The PWU has also been pointing out that due consideration should be given to the significant initiatives taken by HON, in many cases with collaboration from its labour unions, which have resulted in improved efficiency and labour cost savings.

14. The current collective agreement between Hydro One and its PWU-represented workers runs to March of 2011, which is beyond the test years. Obviously, the Board is not bound by an applicant's collective agreements in assessing the reasonableness of Hydro One's unionized labour costs. On the other hand, the Board has a responsibility to allow Hydro One to recover its reasonable compensation costs based on the evidence before it. The PWU has consistently submitted that if the Board attempts to arbitrarily deny Hydro One the recovery of its reasonable compensation costs, it would result in Hydro One cutting some of its work programs - programs required for the ongoing reliable and safe operation of Ontario's transmission system. The PWU's position in this respect has not changed.

15. The PWU submits that Hydro One's staffing strategy is working: savings are being realized; the company is getting more work done for less money; the company's decision to focus on productivity and flexibility as opposed to direct reductions in compensation cost is a responsible strategy that avoids the risk of work stoppages and unhealthy relationships between employees and management which in turn can negatively affect efficiency.

16. Pursuant to the Board's decision on Hydro One's 2008-2009 transmission rate application, EB-2006-0501, Hydro One has filed compensation-productivity benchmarking studies. The Board had directed Hydro One to engage an independent party to submit an independent, testable and repeatable report on

compensation cost and productivity for Hydro One and comparable companies as part of its next transmission rate application. The Board specifically directed Hydro One to provide useful and reliable information concerning Hydro One's compensation costs, and how they compare to those of other regulated transmission and/or distribution utilities in North America. The Board's decision also indicated that the benchmarking study would include empirical evidence that reveals the relative productivity of HON's workforce in comparison to other utilities. In response, Hydro One has filed a study conducted by Mercer (Canada) Limited and Oliver Wyman, who addressed compensation and productivity, respectively.

17. In PWU's view, there are two issues before the Board with respect to these benchmarking studies:

    a. First, do the Studies meet the Board's expectation as stated in EB-2006-0501?

    b. Secondly, if so, do they demonstrate that HON's compensation levels are unreasonable?

18. Intervenors have been selective in questioning the findings of the benchmarking studies; for example, they questioned only the credibility of the productivity benchmarking study by Wyman but not credibility of the compensation benchmarking by Mercer, which apparently shows HON's compensation (base salary, bonus, etc) is above market median by 17%.

19. It is important to understand that generally when considering compensation costs, it is necessary to consider compensation paid out in terms of the amount of work done i.e. productivity. The Board ought not to be interested only in what a company pays its staff without also evaluating what it gets in return.

20. Both the compensation and productivity aspects of the study have significant limitations and therefore the Board must inform itself on the strengths and

limitations of both analyses. In particular, it should focus on the productivity benchmarking study which actually attempts to link compensation with performance.

21. In the following sections, the PWU examines the suggestion that HON's overall labour rates are unreasonable. The PWU submits this suggestion is not supported by either the benchmarking studies or the existing business, economic and labour market realities.

A. The Mercer Compensation Benchmarking Study

22. The 13 organizations that participated in the compensation benchmarking study included a telecommunication company, electricity distribution companies, transmission companies, integrated transmission and distribution companies, gas distributor, generators, private and public utilities. The appropriateness of the peer group used in the compensation benchmarking study can be questioned on many grounds - just as intervenors questioned the appropriateness of the peer group for the productivity benchmarking study. For example, the sheer size of HON's service territory imposes requirements on the company for staffing in remote locations, including staff, equipment, and facilities, all of which are difficult to effectively utilize at the level that would be possible in a more densely-populated area. In other words, the findings of the compensation benchmarking study are not a result of an apples-to-apples comparison.

23. Mercer's compensation benchmarking study excludes consideration of policies on overtime and outsourcing, and narrows compensation to just basic salary and short term/long-term bonuses. Overtime and outsourcing policies are significant variables in total compensation cost. Therefore, consideration of what types of jobs are outsourced (and at what cost) and what overtime policies are implemented would address a significant shortcoming of this study. As it stands, it is not clear from the study results to what degree the other companies included in the study might use contractors to carry out the highly skilled work that would

result in a company having a larger proportion of low skilled employees, which in turn would draw down the average cost per employee.

24. One of the terms of reference for the Study was:

> **Identify policies and/or practices used by utilities with respect to the determination of the particular services that are provided by the utilities' own direct employees and those services provide by contractors engaged directly or indirectly by the utilities, together with the costs of such contractor provided services.** [8]

25. The PWU raised the issue of the Mercer Study's lack of consideration of contracting out in cross-examination. The PWU suggested that if a company does more contracting out than the comparator companies, its compensation numbers will be, relatively speaking, lower and, if it does very little compared to the other companies, then its compensation numbers would be higher. Ultimately, the only proper concern should be the total cost of having the required work done. Substituting contractors for in-house labour may very well increase total costs, even if they decrease the compensation costs. The PWU suggested that in the absence of a measurement of the costs of outsourcing, the compensation benchmarking does not tell us anything. The response from Hydro One's witness was that it was exactly for that same reason that contracting out was not included in the Study.[9] The PWU submits that absence of such crucial information, whether favourable or not to HON's performance makes the Study seriously incomplete.

26. Similarly, the exclusion of overtime from the Study makes it impossible to know if a company's overtime policy incorporated in its overall staffing and remuneration strategy is actually helping the company control its overall compensation cost. The fact of the matter is that a compensation benchmarking study that does not consider overtime policy is flawed and produces questionable results.

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[8] Exhibit I-T1-S45, Pages 4-5
[9] Transcript, Volume 4, February 27, 2009, Page 129, Lines 1-7

27. The study compares the median compensation of Hydro One's incumbents for each position to the market median or 50th percentile on base salary, total cash compensation and total remuneration. The study, however, provides little information with respect to the drivers behind the differences in compensation levels other than acknowledging skill level and legacy collective agreements in general terms.

> **On an overall weighted average basis for the positions we reviewed, Hydro One is approximately 17% above the market P50. This positioning appears to be driven by a combination of competitive base salaries, especially for the most highly skilled Power Workers' Union ("PWU") positions, and legacy collective agreement wages, pension and benefits programs.**[10]

28. The PWU submits that there are a number of issues that need to be recognized in considering both the findings of the Mercer Study and the Study's explanation of the drivers behind HON's allegedly higher compensation levels compared to the market median, particularly relating to employees represented by the PWU:

a. Legacy collective agreements inherited from the old Ontario Hydro reflect the skill levels and experience of the old Ontario Hydro's employees as they were at that time and are not an arbitrary set of agreements which HON just assumed. The multi - and high level skills of today's HON employees was as relevant to Ontario Hydro at the time.

b. Qualifications, skill levels and experience behind the compensation for the identified positions are not explained satisfactorily. For example, as HON stated in response to Board Staff IR #49 (Ex I/T1/S49), HON's Regional Maintainer-Lines Supervisor classification is "a multi-skilled trade position, unlike the majority of respondents to the benchmarking survey. In addition, this classification is also able to work on both Transmission and Distribution assets."

29. In response to Energy Probe's IR #18, (Ex I/T8/S18) wherein Energy Probe asked why apprenticeship for Regional Maintainer-Lines is 2 years longer than a typical distribution line maintainer, HON stated that:

[10] Exhibit A-T16-S2, Attachment 1, Pages 1-2

a. Regional Lines Maintainer has completed a 4 year Power Line Technician Apprenticeship. Once selected to a regular position with Hydro One, they receive a further 2 years of training before they are placed at the top step of the Regional Maintainer classification.

b. Approximately 45% of Regional Maintainers are equally proficient on Transmission or Distribution assets. All other Regional Maintainers have basic Transmission training.

30. This evidence is consistent with one of the findings of the compensation comparison study in EB-2007-0681 (Hydro One 2008 Dx Application) that compared Hydro One's wage rates (Minimum and Maximum) against comparators. The Study[11] found that for employees at HON more steps and longer time is required to reach the Maximum rates compared to the other organizations. For example, for the Powerline Maintainer classification, 9 wage rate steps and 72 months is required at HON compared to the group's average of 5 steps and 41 months, respectively.

31. The Mercer benchmarking study, which is based on comparison of the median compensations for each position does not consider progression timing. From this, it can be seen that to reach the median compensation for a given position at HON it is necessary to progress through more steps and that it takes a longer period of time reflecting higher experience and skill levels. Therefore the comparison of median compensation alone does not tell the whole story. The PWU asked about this in interrogatory and HON responded that:

> **The benchmarking analysis does not consider progression for a certain classification. Since individual respondent data is not available to Hydro One, it is not possible to make a comparison of progression steps to comparable organizations.** [12]

[11] EB-2007-0681, Exhibit A-15-2, Attachment B, Page 11
[12] Exhibit I-T7-S5

32. Other key drivers such as safety, reliability and age of system are not factored in the analysis. One of the deliverables identified in the Terms of Reference for the compensation cost benchmarking study is stated as:

> **Identify and select utility labour cost drivers, including, but not limited to operational productivity, reliability, dependability, safety, competition for new employees, franchise characteristics, etc., to be incorporated into the benchmarking survey[13];**

33. The authors of the compensation-productivity benchmarking study identified some adjustment factors that would impact their findings such as "level of outsourcing, age of system, level of unionization and acres of vegetation managed.[14] They however admit that the study experienced low response in capturing those adjustment factors.

34. As explained by Hydro One in its response to SEC's interrogatory 25(b), there are a number of other factors influencing Hydro One's level of compensation:

> **Question**
> **(b) Given that its compensation levels are, on average, 17% above the median level, does HONI agree that in order to be offset by higher productivity, HON's productivity levels would also have to be significantly above the median?**
>
> ***Response***
>
> **(b) No Hydro One does not agree with the inference drawn in the question. There are a number of factors that can drive compensation levels, productivity being one of them. Also affecting compensation are geography, history, customer service and satisfaction, safety, reliability. There is no set "one size fits all" formula to determine what an appropriate offset to higher compensation levels might be. [15]**

With regard to HON's response above, the question arises regarding how successful the study has been in identifying and quantifying key cost drivers.

35. The compensation benchmarking figures are by position and by representation (PWU, Society, Non-represented); however, the productivity figures (which are

[13] Exhibit I-T1-S45, Pages 4-5
[14] Exhibit A-T16-S2, Attachment 1, Pages 23-24
[15] Exhibit I-T4-S25

expressed as a ratio of compensation to the four output metrics such as MWh and Km of Line) are by organization. As such, while the compensation benchmarking study largely isolates certain positions or representations as getting compensation much higher than the market median, the productivity benchmarking study doesn't tell us the productivity performance of a certain position such as Regional Maintainer or Stock Keeper and therefore cannot tell us whether their compensation levels can be justified at least on the ground of their performance. The fact of the matter is that based on this study it is not possible to understand the productivity performance of individual positions or individual representations. The compensation benchmarking study in this regard serves little purpose on its own.

B. The Productivity Benchmarking Study

36. As indicated above, the PWU is aware of some of the limitations of the productivity benchmarking study that were partly raised by intervenors and Board Staff both in their interrogatories and in cross examination. Many of the questions relate to the appropriateness of the peer group and the reliability of some of the metrics used to measure productivity of the workforce. In fact, the consultants themselves have identified some of the problems they faced:

> **Key challenges were experienced by Oliver Wyman in conducting this productivity analysis. First, in Oliver Wyman's experience there are currently no standard industry-wide measures for workforce productivity in the electric T&D industry. Traditionally, the measurement focus has been on total cost (e.g., Total Transmission O&M expense per MWh), and this is not a direct measure of workforce. Total cost has traditionally been the focus because this is the measure that stakeholders are typically concerned about. Cost is also the measure that enterprise data systems are built around, because it is a requirement for financial reporting purposes. The same requirements have not historically existed for worker productivity.**
>
> **An additional key challenge was the Board's request to understand productivity across the entire workforce. The workforce, however, is composed of a number of disparate functions with many discrete activities. Potential metrics that measure these discrete activities (even if those could be captured uniformly) do not roll up to a single metric.[16]**

[16] Exhibit A-T16-S2, Attachment 1, Page 21-22

37. However, the PWU submits the productivity benchmarking study is by far the better study that somehow relates compensation to what HON gets in return. The PWU notes that the two metrics used by the consultants, viz., compensation per Km of Line and compensation per Gross Fixed Asset ("GFA") didn't face much scrutiny because Km lines and GFA are assets that can clearly and explicitly be attributed to an organization. With respect to concerns raised relating to comparability as a result of other companies having more distribution components, HON has filed Undertaking J4.3 that includes a letter from Mercer/Wyman which clarifies the metrics used in the productivity benchmarking study. In the letter, they clarify that, for companies that have more distribution in their mix, they will have more distribution compensation costs, but will also have more distribution assets or more distribution Km Lines to normalize the compensation value. With respect to area of service territory, Mercer/Wyman clarify that not only their calculation of the combined distribution and transmission service territories avoids the double counting of overlapping territories but also that HON's service territory area that was provided represented only 60% of Ontario's total area.

38. In this respect, the PWU submits that the Board should see the productivity benchmarking study from two perspectives:

a. First, the four metrics in combination, not individually, provide some information about the reasonableness of HON's compensation.

b. Second, if the Board is not satisfied with some of the metrics, then it should focus on the metrics which do not appear controversial.

39. It is in this light that the PWU outlines the following summary of the findings in terms of what they actually mean. In this regard, the PWU submits the Board should ask itself the following question:

> **What would HON's compensation cost be if HON's productivity performance were at the market median level?**

40. The following table included in the compensation benchmarking study summarizes the results relating to Transmission and Distribution productivity.

T & D Productivity

Indicator	(#) of Observations	Multiple of P50	Least Productive 0.5	0.75	P50 = 1	1.25	Most Productive 1.5	
MWh Sold	6	2.07					X	← Result exceeds range of graph
Gross Asset Value	6	1.02			X			
KM of Line	6	1.08			X			
Service Territory	5	0.86		X				

41. The results reveal that HON's productivity measured as a ratio of compensation to MWh sold, Gross Asset Value, and Km of Line is higher than the market median by 107%, 2%, and 8%, respectively. Using the Service Territory metric, HON's productivity is lower than the market median by 14%.

42. The actual values of the 4 metrics for Hydro One are known - from Ex A-16-2, Attachment 1 and from Undertaking J4.3. They are as follows:

- Compensation per MWh ($/MWh)=2.14
- Compensation per Asset ($/$1000 asset)= 31
- Compensation per Line Km ($/Km)= 3599
- Compensation per service territory ($/sq.Km) = 670

43. It is possible to calculate from the above information and from the table above, the market median values:

- Compensation per MWh ($/MWh)= 4.4298
- Compensation per Asset ($/$1000 asset)= 31.62

- Compensation per Line Km ($/Km)= 3886.92
- Compensation per service territory ($/sq.Km) = 576.2

44. This means that using the actual total values of Km Lines, GFA value, MWh, and Service territory for Hydro One for 2006 (the year which the data for the productivity study is based on) it is possible to calculate what HON is able to save on its compensation compared to the compensation cost it would have incurred if its productivity performance were at the market median (See Table 1 & 2 below).

Table 1: Transmission & Distribution: Hydro One's savings on Compensation Cost Compared to Compensation Cost at Market Median Productivity

	Hydro One 2006			Hydro One	Multiple of	Market Median	HON Savings per unit	Total Savings $
MWh	195,800,000	Compensation per MWh (Dx & Tx)	$/MWh	2.14	2.07	4.4298	2.2898	448,342,840
GFA ($m)	15,331.60	Compensation per Asset (Dx + Tx)	$/$1000 asset	31	1.02	31.62	0.62	9,505,592
KM of line	148,900	Compensation per Line KM (Dx & Tx)	$/KM	3599	1.08	3886.92	287.92	42,871,288
Service Territory	640,000	Compensation per Service Territitory	$/Sq. KM	670	0.86	576.2	-93.8	-60,032,000

Table 2: Customer Service: Hydro One's savings on Compensation Cost Compared to Compensation Cost at Market Median Productivity

	Hydro One 2006		Hydro One	Market Median [17]	HON Savings	Total Savings
MWh	195,800,000	Compensation per MWh ($/MWh)	0.21	1.06	0.85	166,430,000
GFA($m)	15,331.60	Compensation per Asset (Dx + Tx) ($/$1000 asset)	3.05	12.3	9.25	141,817,300
KM of line	148,900	Compensation per Line KM (Dx & Tx) ($/KM)	351	689	338	50,328,200
Service Territory	640,000	Compensation per Service Territitory ($/Sq. KM)	65	251	186	119,040,000

45. Table 1 above shows that, if Hydro One's productivity were at market median level, then:

a. Hydro One's compensation cost for the total MWh sold in 2006 would have been higher by over $448m. As we have seen earlier, Hydro One's productivity was higher by more than 100%; which means, Hydro One's compensation cost would have been more than twice what it was. Interestingly, as per Ex I/T1/S19, Hydro One's total wages for 2006 was $459.3m.

b. Hydro One's compensation cost for the total GFA in 2006 would have been higher by about $9.5m.

c. Hydro One's compensation cost for the total Km of Line in 2006 would have been higher by over $42m.

d. Hydro One's compensation cost for the total service territory would have been lower by about $60m, which means Hydro One's productivity performance using this metric according to the Study is inferior to the market median by about 14%.

[17] Market median calculated from data on page 37, 38, 39 & 40 of Exhibit A-T16-S2 (benchmarking study)

46. With respect to Customer Service, Table 2 above shows that, if Hydro One's productivity were at market median level, then:

a. Hydro One's compensation cost for the total MWh sold in 2006 would have been higher by over $166m.

b. Hydro One's compensation cost for the total GFA in 2006 would have been higher by about $141m.

c. Hydro One's compensation cost for the total Km of Line in 2006 would have been higher by over $50m.

d. Hydro One's compensation cost for the total service territory would have been higher by about $119m.

Conclusions Concerning the Benchmarking Study Findings

47. The following conclusions concerning the Benchmark Study findings are reasonable:

a. Like most benchmarking studies, both the compensation and the productivity benchmarking studies have limitations some of which were identified earlier here in the PWU's submission and some raised during the hearing;

b. Hydro One, in Undertaking J3.5, has filed clarifications and comment from the consultants which address some of those concerns with respect to the productivity benchmarking study;

c. The Board's position on the reliability of the productivity benchmarking study and its usefulness should take into account HON's clarifications as well as the overall results of the productivity study which provide far better information on how reasonable Hydro One's compensation levels are. What the Board can conclude is that the "higher wage rates" in the Mercer Study are offset by the efficiencies associated with having highly skilled and experienced workers, and HON's staffing strategy which positively contributes to total compensation cost saving. The Board should also consider the geographic spread of HON's service territory, which requires

skilled individuals across a wide geographical area and high skill levels and extraordinary work demands placed on HON's staff;

d. It would be erroneous to selectively rely on the Mercer Study (compensation alone), which only compares compensation by position, and to reject the more reasonable approach of measuring reasonableness, by considering compensation together with productivity; and

e. If the Board has no confidence in the studies and concludes that they are flawed and cannot be relied on, the Board should reject the results and not use them as a basis for any part of its decision.

Other Evidence Regarding Relative Compensation Levels

48. Any examination of relative compensation levels encounters difficulty in obtaining truly comparable "apples to apples" comparators. Hydro One has a unique history as a successor to Ontario Hydro that makes comparison to other Canadian utilities difficult. However, in the present case, the Board does have some evidence of a comparative nature between Hydro One and other companies that share its unique legacy.

49. In particular, in Interrogatory Response to Board Staff IR #41 (Ex I/T1/S41) Hydro One sets out a historical comparison of wage rates of a number of employee categories shared by it and a number of other Ontario Hydro successor companies, including OPG, Bruce Power, and the IESO. The key to the comparison is that all of the employee categories were originally governed by a single collective agreement prior to 1998 at Ontario Hydro. In addition, the employee categories have been represented at all of the companies by the same trade union through the entire period (the PWU or the Society of Energy Professionals, as the case may be). Finally, all of the companies operate in the same general labour market – i.e. Ontario.

50. The comparison demonstrates that from 1999 to 2009 Hydro One has been very effective relative to the other Ontario Hydro successors at managing compensation increases. With respect to the PWU represented job categories, compensation increases are either lower, or not materially different than the other Ontario Hydro successors. The PWU submits that the comparison with Bruce Power is of particular significance. As the Board knows, Bruce Power is a privately owned, non-regulated generation company. Presumably, this is a company where costs, including labour costs face "market discipline" and are managed on a competitive basis. Nevertheless, the information regarding the common job categories reveals that compensation cost increases at Bruce Power over the past decade for the PWU represented job categories has substantially exceeded those at Hydro One.

51. The PWU submits that the information contained in Board Staff Interrogatory Response #41 is important and relevant to demonstrate that amongst this key cohort of comparables, Hydro One has done an effective job at managing compensation costs.

CONCLUSION

52. For all the above reasons, and considerations that call for the Board's appropriate judgement with respect to the individual components of the application, the PWU respectfully submits that Hydro One's proposed 2009 and 2010 revenue requirement is prudent and cost effective, and therefore should be approved by the Board.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

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