

August 6, 2009

RESS & COURIER

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

Attention: Ms. K. Walli, Board Secretary

Dear Ms. Walli:

Re: Canadian Niagara Power Inc. - Section 81 Notice of Proposal

On July 16, 2009 Canadian Niagara Power Inc. ("CNPI") filed with the Ontario Energy Board (the "Board") an application pursuant to section 92 of the *Ontario Energy Board Act* (the "Act") for leave to construct and reinforce transmission facilities in and around Fort Erie, Ontario (the "Leave to Construct Application"). The Board assigned file no. EB-2009-0283 to the Leave to Construct Application.

In connection with the Leave to Construct Application, CNPI is hereby filing a Notice of Proposal pursuant to section 81 of the Act. Section 81 of the Act is triggered because the construction and reinforcement of transmission facilities proposed under the Leave to Construct Application would be carried out by CNPI, which is an affiliate of a generator. That generator is FortisOntario Inc., which owns and operates generation facilities in Ontario, and which is itself affiliated with Fortis Properties Corporation, which also owns and operates generation facilities in Ontario.

The construction and reinforcement of transmission facilities that is proposed under the Leave to Construct Application will not adversely affect the development or maintenance of a competitive electricity market in Ontario. There are no issues of market power arising from the proposed construction and reinforcement. Moreover, the generation facilities that are owned and operated by the affiliates of CNPI are not physically connected to the CNPI transmission system that is the subject of the Leave to Construct Application. As such, CNPI does not believe that a review by the Board under section 81 is warranted.

Yours truly,



Jonathan Myers

Tel 416.865.7532
Fax 416.865.7380
jmyers@torys.com

cc: Mr. R. Caputo, Board Staff
Mr. A. Orford, CNPI
Mr. D. Bradbury, CNPI
Mr. C. Keizer, Torys LLP

Ontario Energy Board
Preliminary Filing Requirements
For Applications under Sections 80 and 81
Of the *Ontario Energy Board Act, 1998*

INSTRUCTIONS:

This form applies to all applicants who are providing a Notice of Proposal to the Ontario Energy Board (the "Board") under sections 80 and 81 of the Ontario Energy Board Act, 1998 (the "Act"), including parties who are also, as part of the same transaction or project, applying for other orders of the Board such as orders under sections 86 and 92 of the Act.

The Board has established this form under section 13 of the Act. Please note that the Board may require information that is additional or supplementary to the information filed in this form and that the filing of the form does not preclude the applicant from filing additional or supplementary information.

PART I: GENERAL MINIMUM FILING REQUIREMENTS

All applicants must complete and file the information requested in Part I.

1.1 Identification of the Parties

1.1.1 Applicant

Name of Applicant	File No: (Board Use Only)	
Canadian Niagara Power Inc. ("CNPI")		
Address of Head Office 1130 Bertie Street PO Box 1218 Fort Erie, ON L2A 5Y2	Telephone Number (905) 871-0330	
	Facsimile Number (905) 871-8676	
	E-mail Address	
Name of Individual to Contact Douglas Bradbury Director, Regulatory Affairs	Telephone Number (905) 994-3634	
	Facsimile Number (905) 994-2207	
	E-mail Address doug.bradbury@cnpower.com	

1.2 Relationship between Parties to the Transaction or Project

1.2.1	Attach a list of the officers, directors and shareholders of each of the parties to the proposed transaction or project. Canadian Niagara Power Inc. ("CNPI"): <u>Directors</u> William J. Daley (Chair) John Walsh Glen King <u>Officers</u> William J. Daley (President and Chief Executive Officer) Glen King (Vice President, Finance and Chief Financial Officer) Angus S. Orford (Vice President, Operations) R. Scott Hawkes (Vice President, Corporate Services, General Counsel & Corporate Secretary) <u>Shareholder</u> FortisOntario Inc.	

1.2.2	Attach a corporate chart describing the relationship between each of the parties to the proposed transaction or project and each of their respective affiliates. Please see the corporate chart attached as Appendix 'A'.	
-------	---	--

1.3 Description of the Businesses of Each of the Parties

1.3.1	Attach a description of the business of each of the parties to the proposed transaction or project, including each of their affiliates licenced under the OEB Act to operate in Ontario for the generation, transmission, distribution, wholesaling or retailing of electricity or providing goods and services to companies licenced under the OEB Act in Ontario ("Electricity Sector Affiliates"). CNPI: CNPI is licenced as an electricity transmission company by the Ontario Energy Board ("OEB"). CNPI's transmission system is interconnected with Hydro One Networks Inc. in Niagara Falls, Ontario and provides service in and around the area of Fort Erie, Ontario. The transmission system is also interconnected, through an emergency tie line, with the transmission system owned and operated by US National Grid in New York State. With respect to its distribution business, CNPI also owns the electricity distribution systems for the service areas of Fort Erie and Gananoque. The electricity distribution system for the service area of Port Colborne is leased by CNPI from Port Colborne Hydro Inc., a wholly-owned subsidiary of the Corporation of the City of Port Colborne. CNPI-Gananoque serves over 3,000 customers, CNPI-Fort Erie serves over 15,000 customers, and CNPI-Port Colborne serves over 9,000 customers. FortisOntario Inc. ("FortisOntario"): FortisOntario, which is headquartered in Fort Erie, Ontario, owns and operates generation, transmission and distribution businesses in the province of Ontario. Founded in 1892, FortisOntario began generating electricity in 1905 from its Rankine Generating Station located on the Canadian side of the Niagara River, and subsequently began distributing electricity to the Town of Fort Erie in 1907. Most of FortisOntario's generation assets have been transferred to Fortis Properties Corporation ("FPC"). The exception to this is a 5.5 MW cogeneration district heating plant located in Cornwall, Ontario. This facility is an embedded generator selling district heating to local customers, and electricity to Cornwall Street Railway, Light and Power Company Limited ("Cornwall Electric"). FortisOntario's electricity transmission and distribution businesses are carried on through two subsidiaries – Cornwall Electric and CNPI.	
-------	---	--

	FortisOntario also holds a ten percent (10%) interest in Westario Power Inc. (a 21,000 customer electricity distributor located in mid-western Ontario), Rideau St. Lawrence Holdings Inc. (a 6,000 customer electricity distributor located in southeastern Ontario), and Grimsby Power Inc. (a 10,000 customer electricity distributor located in the Niagara region of Ontario). Fortis Properties Corporation (“FPC”): FPC owns and operates six hydroelectric generating stations: five located on the Rideau Canal system in eastern Ontario with combined capacity of 5.6 MW (embedded generators for CNPI), and a 2 MW hydroelectric generating station located at Rideau Falls in Ottawa. These stations are licensed by the OEB. Fortis Inc.: FortisOntario is the Ontario-based subsidiary of Fortis Inc., which is the largest investor-owned distribution utility in Canada. With total assets exceeding \$12 billion and annual revenues exceeding \$3.9 billion, Fortis Inc. serves almost 2,000,000 gas and electricity consumers. Its regulated holdings include a natural gas distribution utility in British Columbia, and electric distribution utilities in five Canadian provinces and three Caribbean countries. Fortis Inc. owns non-regulated hydroelectric generation assets in Newfoundland and Labrador, Ontario, British Columbia, Belize and New York State. Fortis Inc. is a publicly-traded company listed on the TSX (Ticker Symbol: FTS). Cornwall Electric: FortisOntario also owns Cornwall Electric, which serves over 23,000 electricity distribution customers in Cornwall, Ontario. Cornwall Electric is not connected to the IESO-controlled grid.	
1.3.2	Attach a description of the geographic territory served by each of the parties to the proposed transaction or project, including each of their Electricity Sector Affiliates, if applicable, and the geographic location of all existing generation facilities. CNPI: CNPI is a licenced transmitter. Its transmission facilities are interconnected with Hydro One Networks Inc. in Niagara Falls, Ontario and provides transmission service in and around Fort Erie, Ontario. CNPI's transmission system is also interconnected with US National Grid in New York State. This is more specifically described in its Electricity Transmission Licence (ET-2003-0073). CNPI is also a licenced distributor providing electricity distribution service to the Town of Fort Erie, the City of Port Colborne and the Town of Gananoque. The specific service areas are set out in CNPI's Electricity Distribution Licence (ED-2002-0572).	

	FortisOntario: A brief description of the geographic territories served by the Electricity Sector Affiliates of FortisOntario is set out below. More specific descriptions are found in the licences noted below. Copies of these licences are not attached to this application since these licences (and their service areas) will be unaffected by the proposed construction and reinforcement project. Cornwall Electric: Cornwall Electric is a licenced distributor providing electricity distribution service to the City of Cornwall. The specific service area is set out in Cornwall Electric's Electricity Distribution Licence (ED-2004-0405).	
1.3.3	Attach a breakdown of the annual sales (in C\$, and in MWh) as of the most recent fiscal year end of the existing generation output among the IESO Administered Markets ("IAM"), bilateral contracts, and local distribution companies. Energy sales from FortisOntario to the IESO Administered Market (Rankine Generating Station) for 2008 were as follows: • 655,286 MWh • \$31,997,216 Of this generation, 653,496 MWh does not originate at FortisOntario's Rankine generating station. By way of an agreement with Ontario Power Generation, water that would have otherwise been utilized at the Rankine Generating Station is allowed to flow to Ontario Power Generation's facilities and FortisOntario is compensated by an amount equivalent to that which is available at the Rankine Generating Station. Energy sales from FortisOntario to Cornwall Electric (Cornwall District Heating) for 2008: • 4,611 MWh • \$562,904 Cornwall District Heating, which is owned by FortisOntario, is not connected to the IESO-Controlled Grid and therefore its production does not contribute to the Ontario Primary Demand.	

1.3.4	Attach a list identifying all relevant Board licences and approvals held by the parties to the proposed transaction or project and each of their Electricity Sector Affiliates, and any applications currently before the Board, or forthcoming. Please include all Board file numbers. <u>Board Licences and Approvals Held :</u> • CNPI: ED-2002-0572; ET-2003-0073 • Cornwall Electric: ED-2004-0405 • FortisOntario: EG-2003-0107 <u>Current Applications:</u> FortisOntario is currently party to a section 86 application and a section 81 notice of proposal (EB-2009-0282). There is currently one 2009 Electricity Distribution Rate Applications before the Board: • CNPI (Port Colborne): EB-2008-0224	
-------	---	--

1.4 Current Competitive Characteristics of the Market

1.4.1	Describe the generation capacity (in MW), within the Province of Ontario, of the parties to the proposed transaction or project, including each of their respective Electricity Sector Affiliates, prior to the completion of the proposed transaction or project. None of the generation facilities listed below will be impacted by the proposed construction and reinforcement project because they are not connected to the CNPI transmission system. FortisOntario Rankine Generating Station is no longer owned by FortisOntario. Cornwall District Heating has a capacity of 5.5 MW. Fortis Properties Corporation ("FPC"), a subsidiary of Fortis Inc., owns six small hydro plants in eastern Ontario. These plants have a combined capacity of 7.6 MW. Specifically, FPC owns the following hydro electric facilities in Ontario: Jones Falls (near Elgin, Ontario); Brewers Mills (near Seeley's Bay, Ontario); Kingston Mills (Kingston Mills, Ontario); Washburn (also near Seeley's Bay, Ontario); Gananoque (Gananoque, Ontario); and Rideau Falls (New Edinburgh, Ontario). There are no other generating facilities associated with FortisOntario in Ontario.	
-------	--	--

1.4.2	Describe the generation market share based on actual MWh production as a percent of the Annual Primary Demand, within the Province of Ontario, of the parties to the proposed transaction or project, including each of their respective Electricity Sector Affiliates, prior to completion of the proposed transaction or project. FortisOntario As noted, FortisOntario no longer owns the Rankine Generating Station (as of May 1, 2009). Cornwall District Heating, which is owned by FortisOntario, is not connected to the IESO-controlled grid and therefore its production does not contribute to the Ontario Primary Demand.	
-------	--	--

1.5 Description of the Proposed Transaction or Project and Impact on Competition - General

1.5.1	Attach a detailed description of the proposed transaction or project, including geographic locations of proposed new transmission or distribution systems, or new generation facilities. CNPI proposes to reinforce 2.0 km of its transmission system (being lines A36 and A37), to construct and reinforce 0.5 km of conductor from the Bertie Hill Tower to the Queen Street Tower in Fort Erie, as well as to construct and reinforce 0.66 km of conductor from the Queen Street Tower in Fort Erie across the Niagara River to the High Tower in Buffalo, New York. CNPI also proposes to install a 150 MVA phase shifting transformer and voltage regulator at Transmission Station #18 in Fort Erie, along with various other equipment at different locations along its system, all as further described in CNPI's Section 92 Leave to Construct Application (EB-2009-0283).	
1.5.2	Describe the generation capacity (in MW), within the Province of Ontario, of the parties to the proposed transaction or project, including each of their respective Electricity Sector Affiliates, after the completion of the proposed transaction or project. The proposed project will not modify the generation capacity of CNPI or its affiliates.	
1.5.3	Describe the generation market share based on anticipated MWh production as a percentage of the Annual Primary Demand, within the Province of Ontario, of the parties to the proposed transaction or project, including each of their respective Electricity Sector Affiliates, after the completion of the proposed transaction or project. The proposed project will not modify the generation market share of CNPI or its affiliates.	

1.5.4	Attach a short description of the impact, if any, of the proposed transaction or project on competition. If there will be no impact on competition, please state the reasons. Cite specifically the impacts of the proposal on customer choice regarding generation, energy wholesalers, and energy retailers. The proposed project will have no impact on competition. The proposed project will provide significant reliability benefits to the CNPI transmission system. In addition, the project will provide benefits to Ontario as a whole because of expanded intertie capacity with New York. This increase in intertie capacity is approximately 150 MW. Although beneficial, its size relative to the total Ontario Market will not have an effect on competition.	
1.5.5	Provide confirmation that the proposed transaction or project will have no impact on open access to the transmission or distribution system of the parties or their affiliates. If open access will be affected explain how and why. The proposed project will have no impact on open access to the transmission or distribution systems of CNPI and its affiliates. None of the generation facilities owned or operated by CNPI affiliates will physically connect to the CNPI transmission system.	

1.6 Other Information

1.6.1	Attach confirmation that the parties to the proposed transaction or project are in compliance with all licence and code requirements, and will continue to be in compliance after completion of the proposed transaction or project. The parties to the proposed project confirm that, to the best of their knowledge, they are in compliance with all licence and applicable code requirements and will continue to be in compliance after the completion of the proposed project.	
-------	--	--

**Part II: SECTION 80 OF THE ACT—TRANSMITTERS AND DISTRIBUTORS
ACQUIRING AN INTEREST IN GENERATORS OR CONSTRUCTING A
GENERATION FACILITY**

All applicants filing a Notice of Proposal under section 80 of the Act must complete and file the information requested in Part II.

2.1 Effect on Competition

2.1.2	Describe whether the proposed generation output will be primarily offered into the IAM, sold via bilateral contracts, or for own use. Not applicable.	
2.1.3	Provide a description of the generation including fuel source, technology used, maximum capacity output, typical number of hours of operation in a year, and peaking versus base-load character. Not applicable.	
2.1.4	Provide details on whether the generation facility is expected to sign a “must run” contract with the IESO. Not applicable.	
2.1.5	Provide details of whether the generation facility is expected to serve a “load pocket”, or is likely to be “constrained on” due to transmission constraints. Not applicable.	

2.2 System Reliability

Section 2.2 must be completed by applicants who are claiming that the proposed transaction or project is required for system reliability under section 82(2)(b) of the Act.

2.2.1	Provide reasons why the proposal is required to maintain the reliability of the transmission or distribution system. Provide supporting studies. See Leave to Construct Application, Exhibit B, Tab 3, Schedule 1 for a discussion of the need for the proposed project.	
-------	--	--

2.2.2	Discuss the effect of the proposal on the adequacy (ability of supply to meet demand) of supply in the relevant control area or distribution region, citing effects on capacity plus reserve levels in comparison to load forecasts. See Leave to Construct Application, Exhibit B, Tab 4, Schedule 1 for a discussion of the benefits of the proposed project.	
2.2.3	Discuss the effect of the proposal on the security (ability of supply to respond to system contingencies) of supply. See Leave to Construct Application, Exhibit B, Tab 4, Schedule 1 for a discussion of the benefits of the proposed project.	
2.2.4	Provide a copy of the IESO Preliminary System Impact Assessment Report, if completed, and the IESO Final System Impact Assessment Report, if completed. If the IESO is not conducting a System Impact Assessment Report, please explain. A copy of the IESO System Impact Assessment Final Report is provided with the Leave to Construct Application at Exhibit B, Tab 9, Schedule 2.	

PART III: SECTION 81 OF THE ACT—GENERATORS ACQUIRING AN INTEREST IN OR CONSTRUCTING A TRANSMISSION OR DISTRIBUTION SYSTEM

All applicants filing a Notice of Proposal under section 81 of the Act must complete and file the information requested in Part III.

3.1 Effect on Competition

3.1.1	Provide a description of the transmission or distribution system being acquired or constructed. See response to 1.5.1 above, as well as section 92 Leave to Construct Application by CNPI (EB-2009-0283).	
3.1.2	Provide details on whether the generation facilities owned by the acquiring company are or will be directly connected to the transmission or distribution system being acquired or constructed. The generation facilities owned by the affiliates of CNPI will not be directly connected to the transmission system being constructed.	

3.1.3	Provide details of whether the generation facility is expected to serve a “load pocket”, or is likely to be “constrained on” due to transmission constraints. Not applicable.	
3.1.4	Provide details on whether the generation facilities are expected to sign a “must run” contract with the IESO. Not applicable.	

How to Contact the Ontario Energy Board

The Ontario Energy Board is located at:

P.O. Box 2319
2300 Yonge Street, Suite 2701
Toronto, Ontario
M4P 1E4

Telephone:	416-481-1967
Toll Free Number:	1-888-632-6273
Fax:	416-440-7656
Website:	http://www.oeb.gov.on.ca
Board Secretary's e-mail address:	boardsec@oeb.gov.on.ca

APPENDIX A

CORPORATE CHART

