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December 18, 2009

VIA EMAIL and RESS

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 26th Floor
Toronto, ON
M4P 1E4

Dear Ms. Walli:

Re: Board File No. EB-2009-0283
Final Submission of Ontario Power Generation Inc.

Pursuant to the Board's Procedural Order No. 3, please find attached Ontario Power Generation Inc.'s Final Submission in the above noted Board proceeding. This proceeding deals with an application by Canadian Niagara Power Inc. regarding a leave to construct and reinforce transmission facilities in the Fort Erie / Niagara Falls area.

If there are any questions with respect to this notice, please do not hesitate to contact me at (416) 592-3326.

Best Regards,

[Original signed by]

Colin Anderson

Encl.

cc. Regulatory Affairs Records, OPG

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cc: TO: Canadian Niagara Power Inc.
1130 Bertie Street
P.O. Box 1218
Fort Erie, ON
L2A 5Y2

Attn: Mr. Angus Orford
Vice President, Operations
Angus.orford@fortisontario.com

Mr. Douglas Bradbury
Director, Regulatory Affairs
Doug.bradbury@cnpower.com

TO: Torys LLP
Suite 3000
79 Wellington Street West
Box 270, TD Centre
Toronto, ON
M5K 1N2

Attn: Mr. Charles Keizer
ckeizer@torys.com

cc: TO: Intervenors of Record

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O.1998, c.15 (Schedule B);

AND IN THE MATTER OF an application by Canadian Niagara Power Inc. for an Order or Orders pursuant to section 92 of the *Ontario Energy Board Act, 1998* (as amended) granting leave to construct and reinforce transmission facilities in and around Fort Erie, Ontario.

**FINAL SUBMISSION
of Ontario Power Generation Inc.**

1. Ontario Power Generation Inc. ("OPG") shall restrict its submission to only the area of the application dealing with land matters.

Background:

2. On July 16, 2009, Canadian Niagara Power Inc. ("CNP") filed an application with the Ontario Energy Board ("OEB") seeking Leave to Construct for transmission reinforcements in and around the Fort Erie area. On September 24, 2009, OPG intervened in the proceeding.
3. Interrogatories filed by OPG dealt with land related matters, specifically in reference to the land in and around Murray TS / Niagara TS.
4. Interrogatory responses from CNP raise the possibility of an issue with respect to land rights approvals associated with the above referenced area, and described in more detail below.

OPG's Issue:

5. CNP stated in its response to OPG Interrogatory #4:
"Hydro One has confirmed to CNP that as of November 5, 2009 it owns Parts 3 and 4 on Reference Plan 59R-10611 and that OPG owns Parts 1 and 2 on Plan 59R-10611. Hydro One has further confirmed to CNP that

in 2002 OPG granted to Hydro One Networks Inc. an easement over Parts 1 and 2.” (These lands are hereinafter referred to as the “OPG Lands”)

6. Pursuant to Section 5.03 of the Easement Agreement made between OPG and Hydro One Networks Inc. (“HONI”), any assignment of the Niagara Murray Easement (the subject lands of which are the same as the OPG Lands), granted by OPG to HONI, to a third party requires the specific prior written consent of OPG unless, concurrent with the assignment of the Easement Agreement, HONI also transfers the dominant tenement lands benefitted by the Easement to the same third party assignee. To the best of OPG’s knowledge, OPG has not received a request for this consent from HONI or any other person, nor has OPG given such consent, nor is OPG aware of a sale of the dominant tenement to the same third party assignee.
7. Accordingly, in OPG’s submission, CNP does not possess full legal rights over the OPG Lands.
8. The easement rights granted to HONI by OPG under the Easement Agreement were granted under a non-arm’s length relationship between the parties and as directed by the Provincial Government. The Niagara Murray Easement terms are not standard commercial terms with respect to easements. Were OPG to have received a request for consent to assignment of the easement over the OPG Lands to a third party (and if it were to have given its consent), OPG would likely have done so on condition that the easement be on standard commercial terms.

OPG’s Proposed Resolution:

9. OPG, CNP and HONI have met and have corresponded to address the above referenced land issue.
10. OPG does not oppose CNP’s application, conditional on the successful resolution of the above referenced land issue. OPG commits to continuing to work expeditiously with both CNP and HONI in this regard.

All of which is respectfully submitted,

[Original signed by]

Colin Anderson
Director, Regulatory Affairs