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May 12, 2010

BY EMAIL & COURIER

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge St, Suite 2701
Toronto ON M4P 1E4

Dear Ms. Walli:

**Board File No. EB-2009-0425 – Hydro One Networks Inc.
Leave to Construct Application – Toronto Midtown Transmission Reinforcement Project
Argument of Energy Probe**

Pursuant to Procedural Order No. 4, issued by the Board on May 5, 2010, please find attached the Final Argument of Energy Probe Research Foundation (Energy Probe) in the EB-2009-0425 proceeding for the consideration of the Board. An electronic version of this communication will be forwarded in PDF format.

Should you require additional information, please do not hesitate to contact me.

Yours truly,

David S. MacIntosh
Case Manager

cc: Anne-Marie Reilly, Hydro One Networks Inc. (By email)
Michael Engelberg, Hydro One Networks Inc. (By email)
Peter Faye, Counsel to Energy Probe (By email)
Intervenors of Record (By email)

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Ontario Energy Board

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

AND IN THE MATTER OF an Application by Hydro One
Networks Inc. pursuant to section 92 of the Act, for an Order
or Orders granting leave to construct the Toronto Midtown
Transmission Reinforcement Project.

Argument On Behalf Of

Energy Probe Research Foundation

May 12, 2010

**Final Argument On Behalf Of
Energy Probe Research Foundation**

How these Matters came before the Board

1. On December 23, 2009, Hydro One Networks Inc. (the “Applicant” or “Hydro One”), filed a Leave to Construct application with the Ontario Energy Board (the “Board”) seeking an Order of the Board granting leave to construct transmission facilities for the Toronto Midtown Transmission Reinforcement Project (“Midtown Project”). The work involves constructing and/or renewing 5.3 km of overhead and underground transmission line facilities in the City of Toronto.
2. The Board assigned File No. EB-2009-0425 to this application and issued a Notice of Application and Hearing on January 28, 2010.
3. Energy Probe Research Foundation (“Energy Probe”) reviewed prefiled evidence submitted by Hydro One and, on becoming aware that no party with a close affiliation with ratepayers, other than affected landowners had intervened in these proceedings, filed a Notice of Intervention on March 5, 2010 seeking status as a late intervenor.
4. Confirmation of Energy Probe’s requested status was provided on March 10, 2010 within Procedural Order No. 2. The Board approved Energy Probe’s application and cost eligibility on the basis that it accept the record as it stands, including no extension to the listed in Procedural Order No. 1.
5. Energy Probe submitted interrogatories to the Applicant on March 10, 2010.

Argument Overview

6. Energy Probe has conducted itself as an all issues intervenor throughout this proceeding.

7. In its Argument, Energy Probe will not seek to explore all outstanding issues before the Board, but will be examining those issues of concern to Energy Probe where we believe we can be of most assistance to the Board.

Project Need, Justification and Options

8. Energy Probe has examined the evidence provided by the Applicant and is satisfied that the need for the project has been established.

9. The option chosen by the applicant, however, requires a deep tunnel crossing of Yonge St. Energy Probe questions the rationale for a tunnel approximately 60 metres deep when other utilities seem capable of installing their plant at much shallower depths. Even the Toronto subway system has been tunnelled through the softer overburden materials that Hydro One suggests are problematic.

10. The North Rosedale Ratepayers Association (the “NRRA”) has proposed what it calls a ‘hybrid’ option which uses a relatively shallow soft ground tunnel to cross under Yonge St. and open trenching for the balance of the route.

11. Energy Probe believes that the NRRA option has merit in that it would appear to be less costly and less time consuming to construct than the Applicant’s preferred alternative.

12. If the ‘hybrid’ option would be significantly less costly than the Applicant’s preferred option, Energy Probe submits that this would have an impact on the cost of transmission that is ultimately reflected in the prices consumers pay for electricity. Furthermore, because Toronto Hydro will be paying part of the cost of this project, distribution rates in the City of Toronto could also be affected.

13. Energy Probe submits that the lower potential impact on transmission and distribution rates associated with the ‘hybrid option’ engages the Board’s obligations under s. 96(2) of the Ontario Energy Board Act to consider the interests of consumers with respect to prices.

14. Energy Probe submits that the Applicant’s evidence does not adequately address why the NRRA option is not feasible and, therefore, does not provide sufficient evidentiary basis on which the Board can make a decision.

In Conclusion

15. In order to provide the Board with sufficient evidence to evaluate both the Applicant’s preferred option and the NRRA option, Energy Probe recommends that the Board require Hydro One to consult with the NRRA in order to determine whether or not the ‘hybrid’ option is feasible.

16. The outcome of the consultation should be a joint report of the consulting parties entered as additional evidence in the proceeding. The report should clearly set out what parts of the project the parties agree on and what parts they disagree on. The latter should be supported with analysis and cost estimates to allow the Board to evaluate the impact on electricity prices of the parties differing positions.

17. Energy Probe submits that this process should not require a lengthy delay in the Application and will provide the Board with a sounder basis on which to base its decision than the evidence presently before it does.

Costs

18. Energy Probe submits that it participated responsibly in this proceeding. Energy Probe requests the Board award 100% of its reasonably incurred costs.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

May 12, 2010

Peter Faye

Counsel to Energy Probe Research Foundation