

## **ONTARIO ENERGY BOARD**

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

**AND IN THE MATTER OF** a Board Staff Discussion Paper  
on Transmission Project Development Planning;

### **COMMENTS OF NORTHWATCH**

#### **I. INTRODUCTION**

1 Northwatch is a registered participant in this proceeding.

2 These are Northwatch's comments on the Board Staff's Discussion Paper on Transmission Planning (Discussion Paper).

3 Northwatch was founded in 1988 and is a coalition of community and district based environmental, social justice and social development organizations, as well as many individuals. Its primary purpose is to represent the public interest with respect to environmental protection, social justice, and resource management matters in north-eastern Ontario.

4 Specific members include but are not limited to: Algoma Manitoulin Nuclear Awareness; Algonquin EcoWatch; Clean North; Friends of Temagami; Nipissing Environment Watch; North Bay Peace Alliance; Sudbury Naturalists; Sudbury Women's Centre; Temagami Lakes Association; Temagami Wilderness Fund; Temiskaming Environmental Action Committee; and Timmins Area Nuclear Awareness Committee. Individual members include those who self-

identify as professionals, trappers, tourist outfitters, paddlers, parents, educators, conservationists, hunters and fishers, and environmentalists. The common thread throughout Northwatch's membership is a deep commitment to the region of northeastern Ontario and to the health, well being and sustainability of the human and natural communities throughout the region.

5 Northwatch's participation as an intervenor in the Demand Supply Plan hearing and the development of the IPSP provide examples of its history of involvement in energy planning. More recently, Northwatch has participated in the following proceedings:

(a) the Integrated Power Supply Plan (IPSP) EB-2007-0707 (IPSP Proceeding).

(b) the Transmission Connection Cost Responsibility Review EB-2008-0003.

(c) the Proposed Amendments to the Distribution System Code proceeding EB-2009-0077.

(d) the Regulatory Treatment of Infrastructure Investment EB-2009-0152.

6 At the IPSP Northwatch supported a move from centralised power production and long distance transmission to a regionally sustainable energy system planning approach of a distributed grid with supply/demand planning done on a regional basis, with all environmental, technological, economic and

planning fully integrated and coordinated.<sup>1</sup> The Board Staff Discussion Paper on Transmission Project Development Planning continues to propose a piecemeal approach and is in no sense, integrated planning. It does not apply environmental and sustainability criteria as the Board concluded was appropriate during the IPSP hearing.

## II. OVERVIEW

7 We agree with submissions by the NCO on jurisdiction, prematurity and procedural fairness but for different reasons. Northwatch's concerns are that the environmental and sustainability aspects of the economic prudence and cost effectiveness tests for transmission planning mandate of the Board that were to be considered during the IPSP are not considered here.

8 In the interests of collaboration between parties and efficiency we will not repeat NCO's arguments. Northwatch believes that the proposals for transmission planning in the Discussion Paper fall outside the Board's jurisdiction. It is the mandate of the OPA under the *Electricity Act* 1998 to plan for transmission through an integrated power supply plan (IPSP) and procurement processes. It is the mandate of the Board to review and potentially approve this plan. The Board cannot be both the planner and the approver, which it is attempting to do in this Discussion Paper.

9 Further, the Minister of Energy and Infrastructure in its Directive to the OPA (September 17, 2008), instructed the OPA to revisit and revise the IPSP in

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<sup>1</sup> EB-2007 -0707 Exhibit L Tab 16 Schedule 1, Witness Statement Dr. D. Scott Slocombe on behalf of The Intervenor, Northwatch

a number of areas which relate directly to the Discussion Paper. In particular, the OPA was instructed to address “the improvement of transmission capacity in the orange zones in northern Ontario and other parts of the province” and “the availability of distributed generation”. Clearly, these are planning matters to be addressed by the OPA in an IPSP, rather than by the Ontario Energy Board through staff discussion papers.

### **III. PLANNING THAT CAN ONLY BE PROPERLY CONDUCTED THROUGH THE IPSP**

10 Section 1.3 of the Discussion Paper references the IPSP as the planning basis for transmission expansions and the Board states almost in passing: “While an IPSP reviewed and approved by the Board would, under ideal circumstances, be best suited to the evolution of needed transmission facilities, no such approved plan is currently available.”<sup>2</sup> Northwatch urges the Board to pause until the IPSP is revised, resubmitted, reviewed and approved this providing the Board the necessary basis for transmission planning.

11 Northwatch and interveners with similar concerns will be specifically prejudiced because the planning in the Discussion Paper would allow the OPA to sidestep its statutory obligation to prepare an IPSP and procurement processes and have them approved by the Board. This will deprive Northwatch and other intervenors of the ability to bring forward and have tested issues that concern the transmission plan collectively as well individually.

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<sup>2</sup> Paragraph 2, Staff Discussion Paper on Transmission Project Development Planning, EB-2010-0059.

12 Specifically, s. 25.30(4) of the *Electricity Act* outlines the Board’s mandate in its review, that is, to review the IPSP to ensure that it:

(a) complies with any directions issued by the Minister;

(b) is economically prudent; and

(c) is cost effective.

13 Ensuring compliance with O. Reg. 424/04 is also part of the Board’s mandate. The Minister of Energy issued direction to the OPA in The Supply Mix Directive, dated June 13, 2006 (the “Directive”). The Directive states that the plan should comply with Ontario Regulation 424/04 as revised from time to time.

14 The Board provides guidance on how it will interpret the terms “economically prudent” and “cost effective” in the context of transmission planning in its Report of the Board on the Review of, and Filing Guidelines Applicable to, the Ontario Power Authority’s Integrated Power System Plan and Procurements Processes, dated December 27, 2006 (the “Review Report”).<sup>3</sup>

15 The Board makes the following comments in the Review Report:

“Economic prudence requires that the IPSP be sufficiently resilient to ensure that the plan’s goals, including goals for adequacy, reliability, renewable energy sources and conservation and demand management, can be achieved in the face of circumstances that turn out differently than assumed in the plan.

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<sup>3</sup> Ontario, Ontario Energy Board, *Report of the Board on the Review of, and Filing Guidelines Applicable to, the Ontario Power Authority’s Integrated Power System Plan and Procurements Processes* (Ontario: December 27, 2006).

An economically prudent plan will be able to adapt to different contingencies without causing major changes in overall costs.

As indicated above, it will be necessary to determine whether the goals set out in IPSP Directives have been satisfied in an economically prudent and cost effective manner.

In assessing the IPSP as a whole, the Board will examine the economic prudence and cost effectiveness of the IPSP's main components, particularly those aimed at achieving the goals set out in the Supply Mix Directive. The Board will expect the **OPA to demonstrate that it has evaluated alternative ways of achieving those goals, and to satisfy the Board that the selected solutions are individually and collectively economically prudent and cost effective.** For example, in order for the OPA to demonstrate that the replacement plan for the coal-fired facilities is economically prudent and cost effective, the IPSP would need to include an assessment of alternative plans. For each alternative, the timing of the replacement for each facility and the associated costs and air emissions would need to be provided.

**In the narrowest sense, the cost effective alternative achieves its goals at the lowest overall plan cost as measured on a \$/kW or \$/kWh basis.**

**However, the OPA will be required to make trade-offs in preparing the IPSP and to consider or address non-quantitative, non-financial or non-economic factors (such as some of the factors outlined in the IPSP Regulation) in choosing among alternative means of achieving the goals set out in the Supply Mix Directive. The Board accepts, in each case, the alternative chosen may be cost-effective and economically prudent even if it is not the "least cost" solution. Nonetheless, to the extent that the OPA proposes something other than the "least cost" solution, the onus will be on the OPA to satisfy the Board that this is justified based on relevant considerations other than those of cost or price.**

In making these assessments, the Board will require an understanding of the economic and financial cost implications of the IPSP, including the short- and long-term financial impact of IPSP initiatives on electricity system costs and how these might affect provincial electricity prices and rates. The Board will also require an understanding of the financial and other risks associated with IPSP initiatives. Section III.E addresses filing guidelines related to the evaluation of the IPSP as a whole.

**The Board is particularly concerned that environmental costs, such as those associated with air emissions, be considered in the development of the IPSP as such costs are not reflected fully in the cost of electricity. The Board will wish to understand how the OPA took environmental externalities into account in considering alternative ways of achieving the goals set out in the Supply Mix Directive. In this context, however, the Board will not require that environmental costs be measured in dollars. The Board expects that environmental externalities will be addressed in the following manner:**

- ▶ Environmental externalities should be addressed in a consistent manner for all IPSP resources (transmission investments, generation resources and conservation initiatives);**
- ▶ Only environmental externalities that are expected to have a significant impact should be included;**
- ▶ Environmental externalities should be quantified in appropriate physical units, and the assumptions underlying such quantification should be identified;**
- ▶ Where possible, quantification should be on a life cycle basis; and**
- ▶ The IPSP will, to the extent practicable, show how environmental externalities will be considered in planning decisions.**

16 O. Reg. 424/04 outlines elements that must be included in the IPSP at

s. 2:

2. (1) In developing an integrated power system plan under subsection 25.30 (1) of the Act, the OPA shall follow directives that have been issued by the Minister under subsection 25.30 (2) of the Act and shall do the following:

1. Consult with consumers, distributors, generators, transmitters and other persons who have an interest in the electricity industry in order to ensure that their priorities and views are considered in the development of the plan.

2. Identify and develop innovative strategies to accelerate the implementation of conservation, energy efficiency and demand management measures.
3. Identify opportunities to use natural gas in high efficiency and high value applications in electricity generation.
4. Identify and develop innovative strategies to encourage and facilitate competitive market-based responses and options for meeting overall system needs.
5. Identify measures that will reduce reliance on procurement under section 25.32 of the Act.
6. Identify factors that it must consider in determining that it is advisable to enter into procurement contracts under subsection 25.32 (1) of the Act.

**7. Ensure that safety, environmental protection and environmental sustainability are considered in developing the plan.**

**8. Ensure that for each electricity project recommended in the plan that meets the criteria set out in subsection (2), the plan contains a sound rationale including,**

**i.) an analysis of the impact on the environment of the electricity project, and**

**ii.) an analysis of the impact on the environment of a reasonable range of alternatives to the electricity project.**

**O. Reg. 277/06, s. 1.**

(2) For the purposes of paragraph 8 of subsection (1), the following are the criteria:

1. An environmental assessment of the electricity project under Part II of the Environmental Assessment Act must be required.
2. The electricity project, based on the recommended date for completion of the project in the plan, will in the opinion of the OPA require that an application for approval for an undertaking be made under the Environmental Assessment Act within five years after the approval of the plan by the Board. O. Reg. 277/06, s. 1.

(3) In this section,



**“electricity project” means a project that includes one or more of a transmission line, generation facility, transformer station or distribution station;**

**“environment” means air, land, water, plant life and animal life, including human life and “environmental” has a corresponding meaning. O. Reg. 277/06, s. 1.**

17 In the Review Report, the Board provides guidance in what it will be looking for in its review to ensure the IPSP is in compliance with O. Reg. 424/04, including:

The OPA should, in developing the IPSP, use the following definitions for each of the terms set out in paragraph 7 of section 2(1) of the IPSP Regulation:

Environmental protection:

Refers to the identification of adverse effects on the environment that an electricity project and identified alternatives to it may have and the measures that will be applied to mitigate those adverse effects in compliance with all applicable Ontario and federal laws and regulations related to environmental protection.

Environmental sustainability:

Refers to development that ensures that the needs of the present are met without compromising the ability of future generations to meet their own needs.

18 The Board’s jurisdiction to consider environmental protection, environmental sustainability and environmental externalities in transmission planning is clear. Yet Board staff has produced a Discussion Paper that is lacking in any consideration of these factors. The Discussion Paper does not mention sustainability as a criteria. This is a marked difference from the OPA’s IPSP.

#### **IV. NORTHWATCH SPECIFIC COMMENTS ON THE DISCUSSION PAPER**

##### **Discussion Paper Section 3: Board's Abilities**

19 The Discussion Paper fails to mention any environmental responsibilities of the Board when it lists the Boards "abilities" in section 3. Instead the Board proposes to accept the outcome of the Economic Connection Test (ECT) as filed without substantive examination. To Northwatch's knowledge there are no environmental criteria applied to the ECT.

20 The Discussion Paper also proposes that the need for projects will be determined at the Leave to Construct stage.<sup>4</sup> There is no consideration of environmental and sustainability criteria at the leave to construct stage. Integrated planning would dictate that there be an earlier assessment of need that integrates environmental and planning issues.

21 The Discussion Paper chart on page 18 assumes that there will be no Ontario environmental assessment for these transmission projects.

22 Without an integrated planning process and some consideration of the environmental effects by the Board, it is unlikely that the environmental effects of these projects will ever be considered. This is especially a concern as the Board is proposing to permit developers to recover the costs of development of transmission lines that they never complete. Northwatch questions whether this

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<sup>4</sup> Discussion Paper page 9

approach is economically prudent from the standpoint of environmental externalities and the ratepayer.

**Discussion Paper question: Are these the appropriate decision criteria? Should the decision criteria be weighted and, if so, which are most important?**

23 Should the Board proceed in absence of an IPSP, Northwatch submits that this list of criteria is insufficient as it lacks environment and sustainability criteria.

24 The lists lacks the environmental considerations that the Board was to apply to the IPSP set out above including environmental protection, environmental externalities, environmental sustainability including regional demand/supply balancing and the benefits of designing a distributed grid which connects load supply to local load. Specifically, under technical capability, the Board should include environmental expertise (biologists, planners).

25 The OPA evidence included a summary on how the OPA considered Sustainability in the IPSP. In particular the OPA developed six evaluation and decision making criteria: Feasibility, Reliability, Cost, Flexibility, Environmental Performance and Societal Acceptance.<sup>5</sup> In particular the OPA stated that it was “integrating environmental considerations directly into planning decisions by preferring new developments on existing sites and rights of way over creating new land disturbances and by evaluating options for upgrading, expanding or

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<sup>5</sup> IPSP Discussion Paper 6: sustainability, EB 2007-0707 Exhibit C-10-1 page 6

refurbishing existing facilities.”<sup>6</sup> The Discussion Paper does not take this integrated approach to transmission planning.

26 The OPA’s application of societal acceptance criteria to the IPSP included considerations of openness, conservation culture, livelihood sufficiency, regional development, acceptable land use, public health, and safety. In particular, the OPA evidence stated the importance of using transmission projects to generate significant intra-generational employment benefits in northern and native communities.<sup>7</sup> The OPA evidence also recognizes the opportunity to address regional development concerns. The OPA evidence recognises effects related to intra-generational equity as some communities will bear the costs of development renewable resources and transmission lines, but that some of the benefits, such as cleaner air will flow to all Ontarians. The Discussion Paper fails to mention societal acceptance, regional sustainability, inter or intra-generational equity as criteria.

27 Under land owner and other considerations on page 13, the Board should identify environmental and sustainability interests as a matter for consultation.

**Discussion Paper Question: Are staff’s proposals regarding the implications of plan approval reasonable?**

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<sup>6</sup> Ibid. p 14

<sup>7</sup> Ibid at p. 21

28 Again, should the Board proceed in absence of an IPSP, the Board's proposals are incomplete. Public interests in environmental matters and sustainability are not identified.

29 The Discussion Paper lacks clarity on which ratepayer is covering the costs of the developer despite reference to the "Ontario Uniform Transmission Rate". Northwatch remains concerned about the effects on intra-generational equity should northern ratepayers be required to bear disproportionate economic and environmental burdens for a cleaner air that will benefit all Ontarians. The Discussion Paper lacks any depth on planning and potential consequences – both fiscally and environmentally of not conducting good thoughtful, integrated planning.

**Discussion Paper Question: Under what circumstances should two transmitters be designated to develop the same project and to recover the development costs from ratepayers?**

30 Northwatch has serious concerns with this proposal. The Discussion paper provides no rationale for this proposal. Proponents should have to examine alternatives, but it should not require two proponents to do so. The ratepayer will pay for this duplication. This contrasts starkly with economic prudence.

## **Discussion Paper: Hearing for Leave to Construct**

31 The Discussion Paper does not ask for stakeholder input about the Leave to Construct process. Northwatch has a number of concerns with using this process as the primary planning and assessment process. First the Filing Guidelines for Leave to Construct assume that an IPSP is in place as one of the relevant factors to determine need is whether the project is identified in an IPSP. Second for electricity transmission the Filing Guidelines do not require filing of any environmental protection, environmental sustainability or environmental externalities information, so it is in no way a substitute for the integrated planning and approval process that is supposed to happen through the IPSP. This means that alternatives will be considered without reference to the environmental matters. Any future environmental assessment (which the Discussion Paper assumes will not occur) would be narrow and will not consider broad cumulative effects, or environmental sustainability across a number of transmission options.

**Discussion Paper Question: Are these appropriate filing requirements to enable to board to apply the decision making criteria identified in section 3.1? If other decision criteria are being suggested, what additional filing requirements would be appropriate for the other criterion or criteria?**

32 Northwatch submits that in absence of an IPSP, additional filing requirements will be needed to support the Board's consideration of the additional criteria of environment and sustainability. The concern from transmission developers may be that the sustainability criteria are more

appropriate for a broader planning process than on a case by case basis.

Northwatch agrees and is of the view that this Discussion Paper inappropriately sidesteps the OPA IPSP process. However, information that can support the Board's consideration of environment and sustainability criterion include:

- (a) A description of how this transmission proposal causes less new land disturbances than alternatives.
- (b) A description of the potential adverse effects on the environment of the transmission project and identified alternatives to it and the measures that will be applied to mitigate those adverse effects in compliance with all applicable Ontario and federal laws and regulations related to environmental protection.
- (c) Evidence of good utility practices measured on an international basis for environmental protection and sustainability.
- (d) Evidence that this transmission proposal meets energy demands of residents in the region in which it will be located.
- (e) Evidence that this transmission proposal provides significant employment and business advantages to the residents of the region in which it is located.
- (f) Evidence that this transmission proposal includes a significant ownership position by local and First Nation businesses of the region in which it is located.

## V. CONCLUSIONS

33 By avoiding any environmental and sustainability considerations, the proposals in the Discussion Paper improperly pre-empt the OPA's IPSP processes, and is in conflict with the Board's duty to act as an impartial adjudicator in approving an IPSP.

34 The Board's mandate is limited to facilitating the implementation of all integrated power supply plans approved by the Board in accordance with the *Electricity Act*, 1998.<sup>8</sup> With this proper order, environmental protection, environmental externalities and sustainability would be properly considered and integrated into the transmission planning process.

35 The Board's obligation in giving that plan approval is to ensure that the IPSP complies with any directions issued by the Minister of Energy and Infrastructure (Minister) and is economically prudent and cost effective, including the environmental considerations described above.<sup>9</sup>

36 Northwatch respectfully submits that the Board should require the OPA to resume the IPSP Proceeding by completing and submitting the revised IPSP that the OPA promised when the IPSP Proceeding was adjourned in accordance with the OPA's legal obligations.

37 If the Board is not mindful to require the OPA to resume the IPSP, Northwatch submits that Board must apply environmental and sustainability

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<sup>8</sup> Section 1(2) of the *Ontario Energy Board Act*, 1998. Under s. 25.30(4) and (5) of the *Electricity Act*, 1998, the OPA must submit the IPSP to the Board for review and approval.

<sup>9</sup> S. 25.30(4) *Electricity Act*, 1998.



criteria to Transmission Project Development Planning as they are properly part of the Board's mandate to consider whether transmission planning is economically prudent and cost effective.

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