

PETER C.P. THOMPSON, Q.C.  
T (613) 787-3528

pthompson@blg.com

Borden Ladner Gervais LLP  
World Exchange Plaza  
100 Queen St. Suite 1100  
Ottawa, ON, Canada K1P 1J9  
T (613) 237-5160  
F (613) 230-8842  
F (613) 787-3558 (IP)  
blg.com



By electronic filing

November 2, 2010

Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street  
27<sup>th</sup> floor  
Toronto, ON M4P 1E4

Dear Ms Walli,

**Hydro One Networks Inc. (“Hydro One”)  
2011-2012 Transmission Rate Case  
Board File No.: EB-2010-0002  
Our File No.: 339583-000057**

Please find attached the Written Argument of Canadian Manufacturers & Exporters (“CME”) in this proceeding.

The Argument includes a Non-Confidential version of Appendix A. The Confidential version of Appendix A will be circulated to those who have executed the Confidentiality Undertaking.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Peter C.P. Thompson', is written over a horizontal line.

Peter C.P. Thompson, Q.C.

\s/c  
enclosure

c. Anne-Marie Reilly (Hydro One)  
Intervenors EB-2010-0002  
Paul Clipsham

OTT014252014\1

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

**AND IN THE MATTER OF** a review of an application filed by Hydro One Networks Inc. for an order or orders approving a transmission revenue requirement and rates and other charges for the transmission of electricity for 2011 and 2012.

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**ARGUMENT OF  
CANADIAN MANUFACTURERS & EXPORTERS (“CME”)**

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November 2, 2010

**BORDEN LADNER GERVAIS LLP**  
World Exchange Plaza  
100 Queen Street, Suite 1100  
Ottawa ON K1P 1J9

Peter C.P. Thompson, Q.C.  
Vincent J. DeRose  
Jack Hughes

Counsel for Canadian Manufacturers & Exporters

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## APPENDIX A – NON-CONFIDENTIAL

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**I. OVERVIEW**

1. Hydro One Networks Inc. (“Hydro One”) asks the Board to approve transmission revenue requirements of \$1,446M for 2011 and \$1,447M for 2012. These revenue requirements produce a 25.5% increase in transmission rates over the two (2) years commencing January 1, 2011.<sup>1</sup> The revenue deficiencies Hydro One seeks to recover are \$188.1M for 2011 and \$121.7M for 2012.<sup>2</sup>
2. These requests for large increases in transmission revenue requirements and rates come when consumer concerns with the very significant year-over-year increases in their electricity bills are at an all-time high; and when more overall bill increases of significance are in the offing.<sup>3</sup>
3. In times of significant year-over-year increases in electricity prices, protection of consumers should become the Board’s rate-making priority; and particularly so when the economic feasibility of the end-state contemplated by the Government of Ontario’s (the “Government”) “greening” of Ontario’s integrated power system has yet to be established.<sup>4</sup>
4. The protective relief the Board can grant, without compromising system reliability and safety, is broad.<sup>5</sup>
5. An exercise of that broad power is required, in the circumstance of this case, in order to bring the revenue requirement amounts Hydro One asks the Board to approve within the limits of reasonableness.<sup>6</sup>

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<sup>1</sup> Hydro One Argument, Transcript Vol. 11, p.4.

<sup>2</sup> Transcript Vol. 3, p.133.

<sup>3</sup> CME Evidence of Bruce Sharp (“Sharp Evidence”), Ex.M-2; CME Responses to Interrogatories, Ex.\_\_\_\_; Affidavit of Bruce Sharp sworn October 7, 2010; and letter from Borden Ladner Gervais (“BLG”) to the Ontario Energy Board (the “Board”) dated October 7, 2010, containing Mr. Sharp’s written response to cross-examination questions submitted in writing by Hydro One.

<sup>4</sup> See paras. 8 to 26 of this Argument.

<sup>5</sup> See paras. 49 to 59 of this Argument.

<sup>6</sup> See paras. 67 to 83 of this Argument.

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6. The Application should not be approved as filed, as Hydro One argues. The revenue requirement amounts for 2011 and 2012 and resulting rates should be materially reduced.

## II. CONTEXT AND GUIDING PRINCIPLES

7. We submit that matters relevant to a determination of the questions contained in the Issues List include the items described in the paragraphs that follow.
- A. Significantly Increasing Electricity Prices and their Causes
8. Consumers are currently attempting to cope with overall increases in their 2010 electricity bills in the 15% to 20% range. The 2010 electricity bill of a typical Hydro One residential consumer is about 17.7% higher than the 2009 bill.<sup>7</sup> Media reports indicate that consumers of other electricity distributors are experiencing increases in their 2010 electricity bills in the same order of magnitude.<sup>8</sup> More overall bill increases of significance are in the offing.
9. The evidence filed by CME indicates that over the years 2011 to 2015, non-residential consumers should expect annualized increases in their bills ranging between 8.0% and 10.4% per year. In the same period, residential consumers should expect annualized bill increases ranging between 6.7% and 8.0%.<sup>9</sup>
10. The unprecedented multi-year electricity price increases that consumers have recently experienced and will continue to face in the future are primarily attributable to the initiatives of the Government pertaining to the “greening” of Ontario’s integrated power system. These initiatives require massive transmission and distribution system

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<sup>7</sup> Ex.J6.4 and Transcript Vol. 7, pp. 51 to 53.

<sup>8</sup> Ex.K10.1 provides the total estimated monthly bill information from the Board’s website for each of the electricity distributors the Board regulates. The information pertains to a residential consumer using 1000 kWh/month. The Board can derive year-over-year increases for such consumers by comparing the current information on its website to the information that existed a year ago. Our expectation is that such a comparison will show increases for most of the consumers analyzed in the 15% to 20% range.

<sup>9</sup> Sharp Evidence, Ex.M2, pp. 6 to 8.

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expenditures to accommodate the attachment of more and more renewable generation sources to the grid. This, in combination with the very high prices that the Ontario Power Authority (“OPA”) is agreeing to pay for renewable generation under the auspices of long-term fixed price, and the large sums that are being directed towards conservation and demand management (“CDM”) are currently producing and will continue to produce significant year-over-year electricity price increases. In combination, these year-over-year price increases pose a material risk of irreparable harm to Ontario’s economy unless considerable care is taken to mitigate that risk by managing the pace and level at which these year-over-year price increases are implemented.

11. For manufacturers, Ontario’s electricity prices are now greater than electricity prices available to their competitors in other jurisdictions. A large proportion of the manufacturers represented by CME are “price takers”. This means that if care is not taken in managing the year-over-year price increases associated with the “greening of the grid”, then manufacturers, currently located in Ontario, will leave and go elsewhere. In this context, it should be remembered that manufacturing is a core component of Ontario’s economy.
12. The absence of a well planned and disciplined approach to the “greening of the grid” is illustrated by the Government’s erratic approach to the matter. The events that prompt our suggestion that the Government’s approach has been erratic includes the following:
  - (a) The Integrated Power System Plan (“IPSP”), EB-2007-0707, upon which the “greening” initiatives were based, was supposed to be subject to public scrutiny and approved by the Board. The Government effectively placed that process in limbo by a Directive issued on or about September 17, 2008.
  - (b) When the “greening of the grid” initiatives were announced back in the spring of 2009, the then Minister of Energy stated in the Legislature that their implementation would lead to electricity bill increases of about 1% per year over

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the next fifteen (15) years.<sup>10</sup> No study was ever produced to show how the Government derived that electricity pricing estimate.

- (c) The prices the OPA established for wind and solar power and agreed to pay under the auspices of long-term contracts made the achievement of a 1% per year increase in electricity prices over the next fifteen (15) years impossible. Using a renewable end-state target of 10 MW<sup>11</sup> and a mix of wind, solar and other renewable generation considered to be reasonable, one can readily determine that electricity prices are going to increase exponentially. Moreover, the transmission and distribution system investments required to accommodate the renewable generation end-state the Government envisages are in the billions of dollars. Based on the foregoing, the Government's notion that electricity prices would remain relatively stable and increase at a level of about 1% per year over fifteen (15) years beyond 2009 is a notion that lacks any credibility.
- (d) Despite the many indicators that the impact of the initiatives on electricity prices would be severe, neither the Government nor any of its wholly owned entities involved in the initiatives such as the OPA, the Independent Electricity System Operators ("IESO"), Hydro One and Ontario Power Generation Inc. ("OPG") have yet to complete an economic feasibility analysis of the end-state electricity pricing that will be the likely result of these initiatives. An analysis of the economic feasibility of all of this apparently remains a work-in-progress.<sup>12</sup>
- (e) Undaunted by the absence of any economic analysis estimating the likely electricity pricing end-state of the initiatives and the economic consequences that could ensue, the Minister of Energy issued a letter to Hydro One in September 2009 directing it to undertake a broad range of projects to facilitate the implementation of renewable generation.<sup>13</sup> This letter, characterized during the hearing as the "rush to renewables" letter, is the basis for a portion of the transmission system planning that forms the subject matter of this Application.
- (f) By letter dated February 25, 2010, the Ministers of Energy and Finance expressed concurrence with Hydro One's initial spending plans for 2011 and 2012.<sup>14</sup> However the steep rise in electricity prices in 2010 and the resulting hue and cry prompted the new Minister of Energy to take the following actions:
  - (i) Verbally requesting Hydro One, on or about March 29, 2010, to refrain from filing its initially planned Application for rate increases, thereby countermanding the concurrence with the business plans that had been provided by letter about a month earlier;

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<sup>10</sup> Legislative Assembly of Ontario, *Hansard*, First Session, 39th Parliament, No. 116, March 2, 2009, p. 5121.

<sup>11</sup> Transcript Vol. 3, p. 124, line 25 to p. 124, line 6.

<sup>12</sup> Transcript Vol. 6, p. 56 to 92 where counsel for CME discussed the issue of the lack of any publically available economic feasibility study with Mr. Struthers.

<sup>13</sup> Ex.A, Tab 11, Schedule 4, Attachment A, letter dated September 21, 2009, to Hydro One; Transcript Vol. 3, pp. 111 and 112.

<sup>14</sup> Ex.I, Tab 7, Schedule 8.

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- (ii) Submitting a letter to Hydro One dated May 5, 2010, requesting Hydro One to review its rate increase Application with a view to reducing the amount of the requested increases;<sup>15</sup> and
- (iii) Issuing a further letter dated May 7, 2010, to the OPA countermanning the “rush to renewables” letter issued approximately eight (8) months earlier and calling for the OPA to re-examine the situation.<sup>16</sup> This letter came to be characterized as the “down tools” letter during the course of the hearing because, in response to it, Hydro One stopped all work on projects listed in the “rush to renewables” letter, except those currently ripe for implementation.
13. The primary reason for the issuance of the “down tools” letter was undoubtedly the concerns raised by consumers over the steep rise in their 2010 electricity bills. A contributing factor may have been the system operation difficulties that attaching more and more wind and solar generation is imposing on the IESO. An operational outcome of the implementation of the Government’s “greening of the grid” initiatives is that more and more hydro-electric generation is being wasted. We are now spilling far more water than ever before and thereby wasting the most environmentally friendly and cheapest form of electricity generation.<sup>17</sup>
14. It is in the midst of this turmoil that Hydro One brings forward its request for a 25.5% increase in transmission rates over two (2) years based on its attitude of “entitlement” to recover whatever costs it plans to incur to respond to the wishes of its owner, the Government of Ontario.<sup>18</sup> Hydro One suggests that the Company has no accountability for factors that are beyond its control, including the actions of its owner.<sup>19</sup> Details of the extent to which electricity prices have increased and are likely to increase over the

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<sup>15</sup> Ex.I, Tab 1, Schedule 98, Attachment 2.

<sup>16</sup> Ex.I, Tab 1, Schedule 98, Attachment 1; Transcript Vol. 3, p. 112.

<sup>17</sup> Ex.I, Tab 3, Schedule 7, p. 2, para. (c). We recognize that the attachment of more and more wind and solar power generation is only one of the drivers of increasing actual Surplus Base load Generation (“SBG”). However, our understanding from the evidence is SBG will likely be experienced as more and more renewable generation resources are added to the grid.

<sup>18</sup> The “consumers must pay whatever it costs” theme appears in Hydro One’s Argument-in-Chief, for example, at Transcript Vol. 11, p. 17, lines 3 to 5, and at other places in the record where counsel for Hydro One referred to “government policy” as the basis upon which “consumers must pay” the costs Hydro One incurs.

<sup>19</sup> Transcript Vol. 11, p. 15, lines 3 to 6.



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course of its planning cycle are of no interest to Hydro One.<sup>20</sup> It neither prepares nor considers current and prospective electricity price increase estimates as part of its planning process. Nor is it aware of any such estimates having been prepared by the Government or any of the other entities it owns whose coordinated actions are critical to the achievement of the Government's initiatives in a cost-effective manner. We are told that whatever costs Hydro One plans to incur must be recovered from consumers and that any other result makes no economic sense.<sup>21</sup>

15. We disagree with the positions Hydro One takes based on its attitude that there can be no "denial of cost recovery".<sup>22</sup> We submit that the overall electricity price increases consumers are facing and will likely face over the course of Hydro One's five (5) year planning cycle are a critical consideration when determining the overall reasonableness of the revenue requirement amounts Hydro One asks the Board to approve for 2011 and 2012. We submit that when exercising its rate-making jurisdiction under the *Ontario Energy Board Act, 1998* (the "OEB Act"), in the midst of a period of very significant electricity price increases, the Board should accord a high priority to its statutory objective of protecting consumers with respect to electricity price increases.
16. It is not enough to merely assert, as Hydro One argues, that it considered, in an unquantifiable way, that electricity prices would increase.<sup>23</sup> One needs some idea of the year-over-year price increases consumers are experiencing and likely to face over the balance of the planning period in order to determine the degree of consumer protection that is appropriate in a particular test period.

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<sup>20</sup> Transcript Vol. 3, p. 111, lines 3 to 13; Transcript Vol. 5, pp. 143 to 146; Transcript Vol. 6, p. 65, line 8 to p. 71, line 19.

<sup>21</sup> Hydro One Argument-in-Chief Transcript Vol. 11, p. 16, line 23 to p. 17, line 2.

<sup>22</sup> See Hydro One's September 3, 2010 letter to the Board criticizing CME's evidence that uses the phrase "denial of cost recovery".

<sup>23</sup> Hydro One Argument-in-Chief, Transcript Vol. 11, p. 19, line 26 to p. 20, line 1.

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17. The need to consider overall bill impacts was emphasized by the Board in its April 9, 2010 Decision with Reasons in EB-2009-0096, being Hydro One's Application for approval of 2010 and 2011 distribution rates (the "Decision"). In the Decision, the Board expressly acknowledged that:

**"In giving effect to the Board's objective to protect the interests of consumers the Board cannot ignore the overall impacts on customers."**

18. The Decision also states that:

**"... the Board must take into account the overall increase and prospect of further increases in the commodity portion of the bill. While these charges are outside of the control of the applicant, they are no less real for customers."**<sup>24</sup>

19. In the context of that acknowledgement and Hydro One's failure to provide in evidence any estimates of the electricity price increases consumers were experiencing in 2010 and facing in the other years of its five (5) year planning cycle, CME commissioned and filed the evidence of Mr. Bruce Sharp.
20. Mr. Sharp's evidence, containing estimates of the 2010 electricity price increases consumers are experiencing, and the level of electricity price increases consumers will likely experience over the balance of Hydro One's planning cycle, is evidence pertaining to the "overall increase and prospect of further increases in the commodity portion of the bill". His evidence is precisely the type of evidence that the Decision states cannot be ignored.
21. The bill impact evidence submitted by Hydro One does not reflect the total bill impacts of all of the factors that prompt Hydro One's five (5) year business plans from which its spending plans for 2011 and 2012 are derived. Only the evidence prepared by Mr. Sharp addresses the overall impacts on customers. The Board's statutory objective to

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<sup>24</sup> EB-2009-0096 Decision with Reasons dated April 9, 2010, p. 12.

