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BY E-MAIL

February 22, 2011

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
Suite 2700, 2300 Yonge Street
P.O. Box 2319
Toronto ON M4P 1E4

Dear Ms. Walli:

**Re: Board Staff Submission
Canadian Niagara Power Inc.
Request for Approval to Establish a Deferral Account
Board File Number: EB-2010-0250**

Attached is Board staff's submission with respect to the subject proceeding, filed in accordance with Procedural Order No. 1 dated January 21, 2011.

Yours truly,

Original Signed By

Robert Caputo
Project Advisor
Applications and Regulatory Audit

Attachment

c. Applicant



ONTARIO ENERGY BOARD

STAFF SUBMISSION

**APPLICATION BY CANADIAN NIAGARA POWER INC. FOR
APPROVAL TO ESTABLISH A DEFERRAL ACCOUNT**

EB-2010-0250

February 22, 2011

1.0 INTRODUCTION

Canadian Niagara Power Inc. ("CNPI") has filed an application with the Ontario Energy Board, (the "Board") dated July 23, 2010 requesting Board approval to establish a deferral account for the purpose of recording expenses related to renewable generation connection and infrastructure investment arising from the *Green Energy and Green Economy Act, 2009* (the "GEGEA").

The purpose of this document is to provide Board staff's submissions in accordance with the Board's Procedural Order No. 1 dated January 21, 2011. These submissions are based on Board staff's review of CNPI's July 23, 2010 letter as well as CNPI's responses to interrogatories and its submissions.

2.0 SUBMISSIONS

2.1 Rationale for Establishing Deferral Account

In its July 23, letter to the Board, CNPI advised that it intends to participate in any "designation process" implemented by the Board to determine which transmitters would have the responsibility for developing enabler facilities and major network expansions. Such facilities can be identified by the Ontario Power Authority's ("OPA") Economic Connection Test ("ECT"), and through transmission plans filed with the Board pursuant to the deemed conditions referred to in subsection 70(2.1) of the *Ontario Energy Board Act, 1998*.

On August 26, 2010, the Board issued a policy under EB-2010-0059 entitled "Framework for Transmission Project Development Plans" (the "Policy"). It sets out the Board's policy with regard to transmission project development planning including cost recoverability for development work.

The following are some excerpts from the Policy:

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The Board agrees that the starting point for transmission project development planning should be an informed, effective plan from the province's transmission planner, the OPA. The Board believes

that the ECT¹ fits that description and is, therefore also a valid starting point for the process.

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When the Board receives an ECT report from the OPA, it will issue a Notice of a hearing to designate development of any enabler facilities and network expansions identified in the ECT report. In the Notice, the Board will invite all licensed transmitters to submit plans in the form mandated by the filing requirements. Only the transmitter that is successful in being designated will be able recover its costs of preparing a plan.

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From the Board's perspective, the objective of the development phase is to bring a project to the point whether there is sufficient information for the transmitter to submit a leave to construct application. Therefore development costs begin when a transmitter is designated and end when a leave to construct application is submitted.

The above statements indicate that the ECT is the starting point for transmission project development planning, that only the transmitter that is successful in being designated will be able to recover its costs of preparing a plan and that recoverable development costs only begin upon the designation of a transmitter.

The Board's designation process is not yet in place. Based on the Policy, since CNPI has not been designated, it is not entitled to be granted Board approval to establish a deferral account at this time. It is clear that the purpose of a deferral account is for recording development costs which only begin when a transmitter is designated and not for recording expenses related to participating in any designation process implemented by the Board.

2.2 Deferral Accounts Granted to Hydro One Networks Inc. and Great Lakes Power Transmission.

CNPI submitted that two of CNPI's competitors, Great Lakes Power Transmission LP ("GLPL") and Hydro One Networks Inc. ("HONI"), were both granted deferral accounts

¹ Economic Connection Test

("GEA deferral accounts")² on the basis that non-material costs for project development plans associated with the designation process may be recorded now, before the initial ECT reports are issued.

Board staff notes that the deferral accounts referred to by GLPL and HONI were granted on March 25, 2010, prior to the development of the Policy issued on August 26, 2010. The deferral accounts did not envisage recovery of costs associated with participation in the Board's designation process for which CNPI is seeking a deferral account.

The approval granted to HONI under EB-2009-0416 was to add planning costs for 14 new projects on an existing deferral account. These projects related to a letter from the Ontario Minister of Energy and Infrastructure, dated September 21, 2009, requesting that HONI immediately proceed with the planning, development and implementation of a number of transmission and distribution projects which allow the grid to accommodate additional renewable generation as per the policy objectives of the GEGEA, as well as seek the necessary approvals for these projects. In its application, HONI submitted that it will incur planning costs of \$125.5 million in 2010 for the 14 new projects.

The approval granted to GLPL under EB-2009-0409 was a deferral account for the purposes of recording capital expenditures as well as operation, maintenance and administration expenses related to renewable generation connection, system planning, and infrastructure investment arising from the GEGEA. GLPL estimated that the total cost to be recorded in the deferral account during 2010-2012 was \$37.35 million and provided year by year values for various projects/categories that make up the total.

In the Policy, the Board specifically addressed the prior approvals of deferral accounts for HONI and GLPL and referenced the Decision and Order in each case in which the Board stated that each of the transmitters "is cautioned that this approval does not provide any assurance, either explicit or implicit, that the amounts recorded in the account will be recovered from ratepayers. No finding of prudence is being made at this time..."³

In its response to Bard staff Interrogatory #1, CNPI submitted that it is currently engaged in preliminary work in the form of First Nations consultations, pre-engineering,

² EB-2009-0409 and EB-2009-0416 dated March 25, 2010.

³ At page 16.

cost estimation, and is incurring costs associated with these initiatives and related expenses. CNPI's parent FortisOntario Inc. ("FortisOntario"), and the First Nations' Lake Huron Anishinabek Transmission Company Inc. ("LHATC") announced on February 2, 2011 that FortisOntario and LHATC have entered into a binding memorandum of understanding for a joint venture to develop, construct and operate regulated electricity transmission projects in Ontario. CNPI did not provide information regarding timing or cost of the project or the amount that CNPI expects to record in the proposed deferral account.

It is clear that the project for which CNPI is seeking a deferral account has not been the subject of a Board-led designation process. In addition, CNPI's request for a deferral account was made after the development of the Board's Policy, which makes clear that development costs begin only at the point when a transmitter is designated for a project. In Board staff's submission, CNPI's request is therefore premature.

All of which is respectfully submitted.

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