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March 3, 2011

**VIA EMAIL, RESS and Courier**

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street, 27th Floor  
Toronto, Ontario  
M4P 1E4

Dear Ms. Walli:

**Re: Ontario Energy Board (EB-2010-0331 and EB-2010-0332)  
Hydro One Brampton Networks Inc. and Hydro One Networks Inc.  
2011 to 2014 Board-Approved CDM Programs Application**

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The Ontario Power Authority ("OPA") is writing in respect of the Ontario Energy Board's letter dated March 2, 2011.

The Board's letter invites parties to make submissions on a number of issues. Although the OPA has no submissions to make on those issues, it has provided information in this application for the benefit of the Board and the parties. To continue in this vein, and to assist the Board and the parties in their consideration of the issues addressed in the March 2 letter, the OPA offers the following information:

1. The second bullet point following the first paragraph asks whether, *"the Board can consider in this application the costs of Ontario Power Authority ("OPA") CDM programs that are being acquired by HONI, and whether any rates resulting from these programs are just and reasonable."*

As indicated in HONI's letter of March 2, 2011, HONI's application is not applying for approval of OPA programs or to recover the costs of OPA programs. As a result, the issue of the treatment of any such costs is not raised in this application.

Having said this, it is important to bear in mind that the regulatory framework respecting OPA CDM programs precludes an OEB review of the costs of such programs. Specifically, section 27.2 of the *Electricity Act, 1998*, the Minister's Directive of March 31, 2010, and the Conservation and Demand Management Code all distinguish between "Board-Approved CDM Programs" on the one hand, and "OPA-Contracted Province-Wide CDM Programs" on the other. As the titles to these categories suggest, only "Board-Approved CDM Programs" are approved by the Board. As a result, the Board only has the authority to review the

costs of those programs. Nowhere in the statutory or regulatory scheme is the Board given the mandate or authority to review the costs of “OPA-Contracted Province-Wide CDM Programs.” The costs of “OPA-Contracted Province-Wide CDM Programs” are recovered from all provincial ratepayers via the Global Adjustment Mechanism, as prescribed by regulation, and are not subject to Board authorization. Section 25.20(4) of the *Electricity Act, 1998* provides that:

The OPA’s recovery of its costs and payments related to procurement contracts shall be deemed to be approved by the Board.

Section 78.4 of the *Ontario Energy Board Act, 1998* provides for the IESO to make payments to the OPA with respect to amounts that are paid under OPA procurement contracts that are prescribed by regulation. Section 4, paragraph 29.1 of O. Reg. 578/05 prescribes procurement contracts entered into under the April 23, 2010 direction to the OPA with respect to the OPA-Contracted Province-Wide CDM Programs for the purposes of section 78.4.

2. Question #1 of the March 2, 2011 letter asks whether the OPA’s CDM programs have been “established” as contemplated in the Minister’s Directive and, if not, what the consequences are for this proceeding. The OPA does not have submissions to make on this issue, but can advise the Board on the steps taken in the establishment of its programs. Specifically:
  - In December, 2009, the OPA, with the EDA, established OPA-LDC Working Groups to support the OPA with program design. The OPA-LDC Working Groups have continued to work together on detailed implementation of the new programs;
  - In July, 2010, the OPA Board of Directors approved a 4 year program budget for these programs;
  - Since that time, the OPA has undertaken a variety of communication initiatives to ensure that all LDCs in the province are provided with information on the new Province-Wide Programs. These initiatives included: webinars, workshops, an in person symposium and written program summary guides; and
  - The OPA and LDCs have successfully concluded negotiations on the Master CDM Program Agreement, and the Residential Province-Wide Program Initiative Schedules (Residential Schedules) and Commercial and Institutional Province-Wide Program Initiative Schedules (“C&I Schedules”) to that Master CDM Program Agreement. These agreements were made available in these proceedings by letters from the OPA to the applicant dated February 22, 2011 and March 2, 2011. The applicant filed the Residential Schedules and four of the C&I Schedules with the Board on February 24, 2011. The OPA understands that the remaining two C&I Schedules are anticipated to be filed by HONI by March 4, 2011. The Industrial Province-Wide Program Initiative Schedules are in the process of being finalized through a process of negotiations with the LDCs. The OPA anticipates that they should be available during the week of March 7, 2011, and certainly before the panel makes a decision.

Accordingly, the budget and design for the OPA’s programs are in place and (subject to the soon to be concluded Industrial Province-Wide Program Initiative Schedules) have

been legally documented and filed with the Board. The Board may take all of these factors into account in determining if it considers these programs to be “established”.

3. Question #2 of the March 2, 1011 letter asks two separate questions.

The first question is whether HONI’s proposal to retain a consultant to complete its evaluation plan template only after Board approval of any programs results in its application being considered incomplete. The OPA has no submissions on this issue.

The second question relates to the status of the OPA’s EM&V protocols and notes that there is currently a version of these protocols in draft form. In EB-2010-0279 (the OPA’s fees case) the OPA filed a link to its current EM&V protocols with the OEB in response to CME Interrogatory 12 at Exhibit I-11-12.<sup>1</sup> These protocols are final and will remain in effect until replaced by subsequent protocols; it is the subsequent protocols that are in draft form. It should be noted that the OPA’s EM&V protocols will continue to evolve with experience. As a result, it will not be unusual for there to be draft protocols in circulation from time to time. That does not take away from the fact that there are current EM&V protocols in effect.

The OPA trusts that the Board and the parties find this information helpful.

Yours truly,

(original signed)

Karen Frecker  
Manager, Regulatory Proceedings

cc Anne-Marie Reilly, Hydro One Networks Inc.  
Scott Miller, Hydro One Brampton Networks Inc.

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<sup>1</sup> <http://www.powerauthority.on.ca/benefits/evaluation-measurement-and-verification>