



ONTARIO ENERGY BOARD

FILE NO.: EB-2007-0681

VOLUME: Issues Day

DATE: February 15, 2008

BEFORE:

Gordon Kaiser	Presiding Member and Vice Chair
Paul Vlahos	Member
Paul Sommerville	Member

THE 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 an application by Hydro One Networks Inc. for an order approving or fixing just and reasonable rates and other charges for the distribution of electricity.

Hearing held at 2300 Yonge Street,
25th Floor, Toronto, Ontario, on Friday,
February 15, 2008, commencing at 9:40 a.m.

Issues Day

BEFORE:

GORDON KAISER	Presiding Member and Vice Chair
PAUL VLAHOS	Member
PAUL SOMMERVILLE	Member

A P P E A R A N C E S

MICHAEL MILLAR	Board Counsel
RUDRA MUKHERJI	Board Staff
DONALD ROGERS	Hydro One Networks Inc.
ROGER WHITE	Energy Cost Management Inc. (ECMI)
JAY SHEPHERD	School Energy Coalition (SEC)
WAYNE CLARK	Association of Major Power Consumers of Ontario (AMPCO)
BASIL ALEXANDER	Pollution Probe
ROBERT WARREN	Consumers Council of Canada (CCC)
ROBERT FRANK	Rogers Cable Communications Inc., Electrical Contractors Association of Ontario
MICHAEL BUONAGURO	Vulnerable Energy Consumers Coalition (VECC)
DAVID MacINTOSH KIMBLE AINSLIE PETER FAYE	Energy Probe Research Foundation
DAVID POCH	Green Energy Coalition (GEC), Pembina Institute, Ontario Sustainable Energy Association
ALSO PRESENT:	
AL COWEN MIKE RODGER SUSAN FRANK HENRY ANDRE ANITA VARJACIC	Hydro One Networks Inc.

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NO UNDERTAKINGS WERE FILED DURING THIS PROCEEDING

1 Friday, February 15, 2008

2 --- On commencing at 9:40 a.m.

3 MR. KAISER: Please be seated.

4 The Board is sitting today in connection with an
5 application by Hydro One Networks Inc. with respect to an
6 application the company filed on December 18th with the
7 Ontario Energy Board under section 78 of the Ontario Energy
8 Board Act.

9 In addition, the applicant, Hydro One, has filed two
10 requests contained in letters of December 20th and 21st for
11 the continuation, on an interim basis, of interim rates for
12 the existing regulatory assets phase II rate riders, and,
13 secondly, the continuation of the existing time-of-use
14 rates until such times as the new distribution rates are
15 implemented pursuant to the application of December 18th
16 which I spoke of.

17 In addition, we have some procedural matters which we
18 have been asked to deal with, including a letter from Mr.
19 Shepherd on behalf of the School Energy Coalition with
20 respect to dividing this proceeding into two phases.

21 The Board has of course issued a procedural order in
22 this matter on February 6th, which appendix A of that order
23 set out certain proposed issues and issue list, and we will
24 hear submissions today with respect to that, as well.

25 May I have the appearances, please?

26 **APPEARANCES:**

27 MR. ROGERS: Yes, sir. Good morning, Mr. Kaiser. My
28 name is Donald Rogers and I appear on behalf of the

1 applicant. With me today is Mr. Al Cowan, who is director
2 of applications for the company.

3 MR. KAISER: Mr. Rogers.

4 MR. WHITE: Roger White, ECMI, representing the ECMI
5 coalition of small- and medium-sized distributors.

6 MR. KAISER: Mr. White.

7 MR. SHEPHERD: Good morning, Mr. Chairman, Members of
8 the Board. Jay Shepherd, School Energy Coalition.

9 MR. KAISER: Thank you, Mr. Shepherd.

10 MR. CLARK: Good morning. Wayne Clark, representing
11 the Association of Major Power Consumers of Ontario.

12 MR. KAISER: Mr. Clark.

13 MR. ALEXANDER: Basil Alexander, counsel for Pollution
14 Probe.

15 MR. KAISER: Mr. Alexander.

16 MR. WARREN: Robert Warren, Consumers Council of
17 Canada.

18 MR. KAISER: Thank you, Mr. Warren.

19 MR. FRANK: Robert Frank for Rogers Cable
20 Communications Inc. and for the Electrical Contractors
21 Association of Ontario.

22 MR. KAISER: Thank you, Mr. Frank.

23 MR. BUONAGURO: Michael Buonaguro, counsel for VECC.

24 MR. KAISER: Mr. Buonaguro.

25 MR. ROGER: Mike Roger, Hydro One.

26 MR. KAISER: Thank you.

27 MR. ANDRE: Henry Andre, Hydro One.

28 MR. KAISER: Thank you.

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1 MS. VARJACIC: Anita Varjacic. I'm with Mr. Rogers.

2 MR. KAISER: Yes, thank you.

3 MS. FRANK: Susan Frank with Hydro One.

4 MR. KAISER: Ms. Frank.

5 MR. MACINTOSH: David MacIntosh on behalf of Energy
6 Probe Research Foundation, and with me today is Kimble
7 Ainslie. And Mr. Faye asked that I put in an appearance
8 for him. He is unable to come today.

9 MR. KAISER: Thank you, Mr. MacIntosh.

10 MR. MILLAR: Good morning, Mr. Chair. Michael Millar
11 on behalf of Board Staff with me is Mr. Rudra Mukherji. I
12 have also been asked to put in an appearance for Mr. David
13 Poch who, in this proceeding, is on for the Green Energy
14 Coalition, Pembina, and I think one other organization,
15 which will show up somewhere on the record, but Mr. Poch
16 asked that I enter an appearance for him.

17 MR. KAISER: Thank you, Mr. Millar. How do you want
18 to proceed, Mr. Rogers?

19 MR. MILLAR: Mr. Chair, as you pointed out in your
20 opening remarks, there are a couple of things we need to go
21 through today. There is the issues list with a few
22 disputed issues. There are also the procedural issues that
23 Mr. Shepherd has raised in his letter.

24 I am in the Board's hands with regard to which you
25 wish to address first. I see Mr. Rogers may have a comment
26 to make on that, as well.

27 **PROCEDURAL MATTERS:**

28 MR. ROGERS: Well, yes, I am quite prepared to proceed

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1 however you would like, sir, but my suggestion would be
2 that we deal with the issues list first, and then deal with
3 the two letters, requests we don't believe are terribly
4 controversial. I hope not, and then deal with Mr.
5 Shepherd's proposal.

6 MR. KAISER: All right. Go ahead.

7 MR. ROGERS: The Board will be aware that we had a
8 meeting on Wednesday of this week to discuss the proposed
9 draft issues list which was attached to the Board's order,
10 and you will be aware that the company proposes in this
11 case that the issues list be divided into two categories,
12 those issues which would be dealt with in the oral hearing
13 and those issues which we submit are of minor importance in
14 this particular case, but arguably have some relevance to
15 it, that they should be dealt with in writing.

16 The applicant did that on the basis that those issues
17 which were thought to be best dealt with in writing are
18 those that reflect previous Board decisions or statutory
19 requirements, issues which relate to the use of a
20 methodology which has been reviewed and accepted by the
21 Board in a previous proceeding, issues related to evidence
22 where there is not a material change from the evidence
23 reviewed as part of a previous rate application, and issues
24 where the evidence is based on external consensus
25 forecasts.

26 Now, I want the Board to understand that it is very
27 difficult to argue that any issue dealing with an
28 applicant's costs is irrelevant. I mean, every item of

1 cost we concede is relevant. What the applicant is trying
2 to do is put forward a proposal which can ration the
3 valuable hearing time to those issues really which are of
4 importance to the stakeholders and to the public.

5 And those other matters which we concede have some
6 relevance, rather than take them off the list altogether,
7 just let them be dealt with in writing, so the applicants -
8 - I'm sorry, sir did you have --

9 MR. SOMMERVILLE: No.

10 MR. ROGERS: That's the rationale.

11 MR. SOMMERVILLE: I think we could probably spend an
12 awful lot of time today, if we wanted to, to try to find
13 the right rationale for whether this issue or that issue
14 ought to be handled either orally or in writing. It seems
15 to me it may be sensible to defer that to a later time when
16 the evidence starts to ripen and take shape with respect to
17 these issues, and nothing much turns on it. I may be
18 wrong. You may want to correct me on this, but it seems to
19 me not a great deal may turn on the question as to whether
20 we make a decision today or in the near future on the
21 issues list as to whether a specific issue ought to be
22 handled in an oral proceeding or by way of writing.

23 Is that fair?

24 MR. ROGERS: Well, that's a good comment. And I do
25 believe that -- I don't want to speak for my friends, but I
26 think that the position of those who oppose the company's
27 proposal generically is on the basis that they would like
28 to have the interrogatory phase first, and then decide

1 whether or not issues are of sufficient significance to
2 have oral hearing.

3 I understand the argument. If I was an intervenor, I
4 would probably want that, too, to keep it open as long as
5 possible until I really come to grips with the case and
6 understand what it is about and what is important to my
7 client.

8 From the company's point of view, let me just outline
9 for you the reasons why we ask you to make that decision
10 today.

11 The company, in the last distribution case, called I
12 think 19 witnesses, managers, men and women from this
13 company, to come and testify before the Board. These are
14 senior people in the corporation who are busy trying to run
15 the corporation, of course.

16 Now, we recognize this process is extremely important.
17 And the reason that we would like you to make a decision
18 today on this point is that we would like to know, sir,
19 which witnesses we have to take out of their normal duties
20 to prepare for an oral hearing.

21 Now, we've got some time, it's true, but plans have to
22 be made so that we can decide which people we would like to
23 bring forward to the Board to deal with the issues in the
24 oral hearing, and the sooner that we know that, the better,
25 from the company's standpoint.

26 The company has -- these are selfish company
27 positions, I guess, but I want you to be aware of them.
28 This is what is driving this request. The company, in

1 addition to this case, is going to be filing a transmission
2 application this summer, and that will require a great deal
3 of time of its management.

4 The company also is about to embark on the Bruce-
5 Milton leave-to-construct case, which I think is scheduled
6 to start in May. Then of course there is the IPSP hearing
7 this summer, as well.

8 So it is for those reasons that I would ask the Board
9 to make a decision today on this point so that we can
10 decide which witnesses we need to prepare for the oral
11 hearing and make plans to see that their other duties are
12 taken care of in their absence. It is not just coming to
13 the hearing, of course. We want these people, when they
14 come, those who are going to come to deal with the issues,
15 to be well prepared to provide the Board with the highest
16 quality information that we can, and that is a time-
17 consuming process. So that's the rationale.

18 MR. SOMMERVILLE: Thank you.

19 MR. KAISER: Anyone opposed to Mr. Rogers on this?

20 MR. SHEPHERD: Well, I am happy to start, Mr.
21 Chairman. We are opposed to this request, although the
22 underlying suggestion, i.e., that we shouldn't waste time
23 in an oral hearing on things that don't need an oral
24 hearing, is absolutely right. We agree 100 percent, but we
25 agree with Mr. Sommerville this is the wrong time.

26 Mr. Rogers and his client appear to be trying to
27 reinvent the wheel here a little bit. There is a tried and
28 true way this Board does this in which we, as Mr.

1 Sommerville says, allow the evidence to ripen a bit, and
2 see what things are really an issue. Because we will have
3 an issues list here but in fact over the course of the next
4 month we're going to agree with the company that their
5 evidence demonstrates that some things are right or that
6 the issue is narrow, that the thing we're disagreeing on is
7 quite narrow.

8 Rather than try to figure out today what those things
9 are, it makes sense to wait until we have had the
10 interrogatory responses and then assess that.

11 So, for example, we have suggested -- and I think
12 other parties may suggest -- that even if the company is
13 not interested in ADR in this process, and I don't think
14 they are, that the ADR process is not just a question of
15 compromising on issue it is also a question of scoping
16 issues and figuring out how to deal with them in a hearing.
17 So even for that, there should be an ADR ordered even if it
18 is only a couple of days to figure that out.

19 I want to make one other comment on this before my
20 friends speak up, as well, and that is as a practical
21 matter, I think you approach how you draft and answer
22 interrogatories differently if you think that there is
23 going to be an oral hearing to deal with anything left
24 over. So for example, you have to be much more thorough
25 and be very careful to make sure you get absolutely
26 everything in an answer, if you think there is only going
27 to be a written hearing. You will never have another shot
28 at getting the right information on the record. So you

1 have to be much broader in your interrogatory responses;
2 and conversely, if you are the company, you can afford to
3 be a little narrower in your response, because nobody is
4 going to get a shot to cross-examine you on it. This is a
5 practical matter that I think it is not in the Board's
6 interests to do that.

7 So if there were some compelling reason why today we
8 have to figure this out, that would be one thing. There is
9 not a compelling reason to do it today. And the right time
10 to do it is after the interrogatories have been responded
11 to. Thank you.

12 MR. KAISER: Mr. Rogers, does it help you if we deal
13 with it after the interrogatories? Does it still benefit
14 you to some extent?

15 MR. ROGERS: Yes, sir. The soon we know, the better.
16 That is really the point I would like to make to the Board.
17 We thought this was a somewhat innovative approach that
18 might satisfy both sides of the equation, because a lot of
19 these points that are on the issues list now might be
20 resisted, we might be more is Spartan about what we think
21 should be issues if we thought everything was possibly
22 going to be oral. It's really the oral hearing we are
23 mostly concerned about.

24 As well, I would say this, that the company's position
25 certainly would be this, if we -- if you did accede to our
26 request today and a number of these issues were designated
27 as in writing, if after the interrogatory process, after
28 the written questions were put and the answers received,

1 some the intervenors think there are really important
2 issues that have emerged, that these are important for some
3 reason, we would be quite open to an application to the
4 Board to move it over to the oral list.

5 I suspect if there are good reasons for doing that,
6 that wouldn't be necessary. We're really just trying to,
7 as soon as possible, concentrate on what are the important
8 issues in this case so I can prepare this case properly.

9 MR. KAISER: All right. Thank you.

10 Mr. Warren, do you have anything?

11 MR. WARREN: As painful as it may be, I agree with Mr.
12 Shepherd on this.

13 I would underscore one other point, though, and that
14 is the importance of the A -- of an ADR process, because we
15 have come to understand in the ADR process that it is an
16 immensely important mechanism for efficiency. Issues get
17 refined. The understanding that parties have of the issues
18 is enhanced, and I think that would contribute as much as
19 anything to the kind of efficiencies that Mr. Rogers seeks.

20 Thank you.

21 MR. ALEXANDER: For the record, Pollution Probe also
22 opposes the request, but I have nothing to add to the
23 submissions that have already been made.

24 MR. KAISER: Do you have anything to add, sir?

25 MR. CLARK: My experience is as an intervenor. As you
26 probably know, I am not a lawyer. My experience as an
27 intervenor is that when you see -- you can craft your
28 written interrogatories as carefully as you possibly can,

1 but it is only when you see the responses to all of the
2 written interrogatories that you actually start to ask more
3 questions.

4 If that process were cut off before a second
5 opportunity that might come up in oral to assemble the
6 responses from the interrogatories and ask further
7 questions, I think the whole process would be impeded on
8 some issues. So I am supportive of Mr. Sommerville's
9 suggestion that we defer this.

10 MR. SOMMERVILLE: I just want it to be clear, Mr.
11 Sommerville didn't make any suggestion. Mr. Sommerville
12 simply made an enquiry of the applicant.

13 MR. CLARK: I apologize. You can tell I'm not a
14 lawyer, right. But, and I think the other point is that an
15 ADR process could get a lot of this stuff away from the
16 oral hearing and that may be the proper way to do it.

17 MR. KAISER: Mr. Warren, I take it you agree you would
18 be prepared to deal with this question after receipt of the
19 interrogatory answers?

20 MR. WARREN: Absolutely, sir. I think the thrust of
21 the idea that there be some issues hived off to written
22 makes great sense. It is just a question of time.

23 MR. KAISER: Right. Understood. Mr. Buonaguro.

24 MR. BUONAGURO: I also support Mr. Shepherd's
25 comments, and specifically to what the Board has been
26 enquiring about, in terms of doing it after the
27 interrogatories are coming in. It's my experience, sir,
28 that is exactly what we do at the ADR process. The ADR

1 process usually follows the interrogatory responses being
2 filed within a few days and then -- well, days or maybe a
3 week or two. And then we sit down and eliminate issues off
4 the issues list completely because there is not going to be
5 an issue.

6 So the suggestion seems to be let's come back to the
7 Board and have a formal application to divide it into
8 written and oral, and I just don't think it is necessary
9 based, on my experience. That's what we do with the ADR in
10 part and it is even more efficient because it takes issues
11 completely off the list, not just written or oral.

12 MR. KAISER: Mr. MacIntosh?

13 MR. MACINTOSH: Energy Probe feels it should be a
14 matter of the ADR. It is part of the negotiations that
15 take place. Thank you.

16 MR. KAISER: So, Mr. Rogers can we defer this, do you
17 think, until after the interrogatories?

18 MR. ROGERS: Of course, you can. You can. I have
19 explained to you why we wanted to do it now, but the sooner
20 the better for us. But I understand the rationale, I just
21 -- well, I can't say any more. I am not going to repeat
22 myself.

23 MR. KAISER: While we are on this, what's the
24 situation on the ADR?

25 MR. ROGERS: Well, we don't have -- there's nothing in
26 the Board's procedural order for ADR at the moment. I must
27 say that I have certain reservations about the ADR process
28 in these cases.

1 I do agree, however, that it is a very valuable
2 exercise in scoping the issues, and if the Board feels --
3 doesn't wish to accede to our request today about the
4 written/oral dichotomy, then I think we would think an ADR
5 process to try and deal with, if nothing else, let's figure
6 out what issues really are of importance to people and
7 let's spend the time dealing with those in the hearing
8 would be valuable.

9 The sooner that can be done, sir, the better, for the
10 reasons that I have explained.

11 MR. KAISER: Mr. Shepherd any response to that? This
12 is the ADR issue.

13 MR. SHEPHERD: I agree with Mr. Roger. I am
14 disappointed with the notion that a utility would come in
15 saying: We won't negotiate the substance of the issues.

16 MR. KAISER: Sounds like he is saying he will come.

17 MR. SHEPHERD: There are two parts to the ADR. Part
18 one is negotiating the substance of the issue and part two
19 is scoping and planning for the dispute, the adversarial
20 portion of the issues.

21 My sense, from Hydro One, is that they don't want to
22 do the former. They do want to do the latter. I sort of
23 thought that the Board's policy was, all parties should be
24 willing to at least consider the former.

25 However, having -- leaving that aside for a second,
26 the ADR is still valuable because of the scoping and
27 procedural aspects of it.

28 MR. KAISER: He might turn out to be more reasonable

1 than you think. Anyway, he is prepared to proceed to an
2 ADR. I guess we need to make provisions for that, do we,
3 as soon as possible. It sounds like. No one is objecting
4 to the ADR? All right. What's next?

5 MR. SOMMERVILLE: Just one comment just arising from
6 some of the discussion. The idea that -- I know this is
7 not your intention, Mr. Rogers, but the Board sees a
8 written process as being appropriate according to the
9 subject matter, not necessarily the significance or
10 importance of the issue, but rather that there are some
11 subject matters that typically lend themselves better to a
12 written format rather than an oral format.

13 The Board deals with many, many matters that are of
14 great significance and importance by way of written hearing
15 and it is because they sort of lend themselves to that kind
16 of treatment. I wouldn't want the impression to be left
17 that the Board considers a written process to be reserved
18 for less significant types of issues.

19 MR. KAISER: What's next, Mr. Rogers?

20 MR. ROGERS: Well, we have -- I am assuming my request
21 to deal with the written/oral has been unsuccessful.

22 MR. KAISER: If is deferred.

23 MR. ROGERS: Deferred. Therefore, today we have the
24 issues list, which really there is very little disagreement
25 about, I believe. There are a couple of items that -- I
26 think Consumers Association has a couple of items to add to
27 the list, but otherwise I believe there is general
28 agreement that these are the issues.

1 MR. KAISER: All right. Well, I think there are four
2 issues that there are some comments on.

3 MR. ROGERS: If I could just deal with those, maybe I
4 could do that. Do you have a copy of the list, Mr.
5 Chairman, members of the Board?

6 MR. KAISER: Yes.

7 **CONTESTED ISSUES 3.4 AND 3.7:**

8 **SUBMISSIONS BY MR. ROGERS:**

9 MR. ROGERS: If we look to 3.4, you will see 3.4 and
10 3.7 are contested. This is a fairly trivial matter. I
11 don't want to take a lot of the Board's time over this. I
12 don't think there is any real problem over this. We were
13 concerned that --

14 MR. KAISER: 3.4 is the 3.5 that's in the procedural
15 order, is that right, the one that went out in the
16 procedural order?

17 MR. SHEPHERD: They're actually 3.5 and 3.7.

18 MR. ROGERS: You will see that there's been -- there
19 is some underlining. The issues list that went out in the
20 procedural order had 3.5 and 3.7, among many others, and
21 then in the meeting the other day, there was some
22 disagreement about the wording of those two. And you
23 should have before you now a version with underlining,
24 underlining the disputed wording. It is really not worth
25 arguing about, I don't think, if we're not going to have
26 the written/oral dichotomy today.

27 The reason that we wanted to have the wording about
28 being consistent with methodologies in there is to

1 highlight t o the Board that is the reason for the request
2 to make it in writing. I think in view of your comments
3 today, I don't -- we are quite happy with the wording that
4 is proposed.

5 MR. KAISER: All right. So on 3.0, 3.5, new 3.4, we
6 remove the words "and consistent with the methodology
7 approved by the Board in the previous Hydro One rate
8 applications". Same principle applied to 3.7?

9 MR. ROGERS: Yes.

10 MR. KAISER: We remove the words "and in line with the
11 depreciation methodology approved by the Board in the
12 previous Hydro One rate applications"?

13 MR. ROGERS: Excuse me. Excuse me a moment, sir.

14 Thank you. I believe what the issue is that my
15 friends were contesting that that wording is underlined.
16 We believe it should be there. The significance of it is
17 that these issues have already been reviewed by the Board
18 extensively. So I don't know how my friends feel about it
19 in view of the fact we're going to have this deferred.

20 **SUBMISSIONS BY MR. SHEPHERD:**

21 MR. SHEPHERD: Sorry. I had understood Mr. Rogers to
22 say that because these are no longer listed as written,
23 that that wording can come out.

24 MR. ROGERS: I misspoke.

25 MR. KAISER: All right. So you are opposing Mr.
26 Shepherd on that, or do you care?

27 MR. SHEPHERD: It seems to me that once you decide
28 whether something is appropriate or not, it is irrelevant

1 whether it is consistent with past decisions. If it is
2 appropriate, consistency is irrelevant. If it is not
3 appropriate, it is still irrelevant.

4 So the question is whether it is appropriate. The
5 issues should be set that way. That's all that we've
6 suggested.

7 MR. KAISER: All right. Anything further?

8 MR. ROGERS: I have nothing to add, no.

9 MR. KAISER: All right. Mr. Buonaguro.

10 **SUBMISSIONS BY MR. BUONAGURO:**

11 MR. BUONAGURO: We support Mr. Shepherd in having
12 those struck, and the way I viewed it -- again, I don't
13 think it is going to fundamentally alter the course of the
14 hearing, but the way I viewed it, I can certainly predict,
15 I think, reliably they're going to make the argument that
16 part of the reason why it is appropriate is because it is
17 consistent with methodologies approved previously.

18 My objection to it is simply that they're building in
19 their argument for appropriateness into the issue where it
20 is not necessary. You're going to hear that argument when
21 they argue that it is appropriate. And I don't think it is
22 -- if I were to ask the Board to build in my reasons for
23 appropriateness into every issue, you would have a very
24 long issues list.

25 So that was the simple point why we supported Mr.
26 Shepherd in having it simplified. Thanks.

27 MR. KAISER: All right. Anyone else have anything to
28 add on this? Let's go on to -- is it 8.4, Mr. Rogers?

1 **CONTESTED ISSUES 8.4 AND 8.5**

2 MR. ROGERS: Yes. The other two items I believe which
3 are contested are 8.4 and 8.5. These are new issues
4 proposed by The Consumers Association. So perhaps Mr.
5 Warren could deal with that.

6 MR. KAISER: Mr. Warren.

7 **SUBMISSIONS BY MR. WARREN:**

8 MR. WARREN: Yes. Mr. Chairman. Our position on this
9 can be expressed in just a shade under ten nanoseconds. We
10 disagree with -- Hydro One is proposing that the capital
11 O&M expenditures related to smart meters be included in the
12 forecast of rates. Our position is that there may be an
13 alternative to that approach, and that is to continue the
14 deferral account treatment with respect to the stranded
15 meters -- sorry, stranded costs.

16 We want to explore -- and at the end of the day
17 nothing may turn on this, but we want to explore the extent
18 to which what they're proposing is consistent with the
19 approaches taken for other utilities.

20 Neither of these matters, Mr. Chairman and Members of
21 the Panel, are going to take very much time in this
22 process. We simply want the opportunity to be able to ask
23 questions about them and to explore them, and that's what
24 an issues list is really about, in the first instance, is
25 to allow parties to explore possible alternative approaches
26 to these issues.

27 We don't think it is going to add materially at all to
28 the complexity of the case or the time taken to do it, and

1 that's why we proposed that they be included.

2 Those are my submissions.

3 MR. KAISER: Mr. Rogers. Oh, before I come to you,
4 Mr. Shepherd, did you have something?

5 **SUBMISSIONS BY MR. SHEPHERD:**

6 MR. SHEPHERD: We support Mr. Warren on this. In
7 particular, I guess we are a little bit concerned that
8 stranded meter costs are quite a big component of the
9 change in revenue requirement in this application, perhaps
10 most of the change in revenue requirement -- sorry, and
11 smart meter costs.

12 And I guess we are concerned that the Board should be
13 able to look at the totality of the impacts of smart meters
14 and assess how is that best played out over the next few
15 years, and if part of that is adjusting the current
16 accelerated treatment of stranded meter costs, that should
17 be open to the Board to do that.

18 Similarly, if part of that is changing the regulatory
19 structure, for example, using a deferral account, that
20 should also be open to the Board to do that. We shouldn't
21 restrict your options today. Those are our submissions.

22 MR. KAISER: Yes, thank you. Mr. Buonaguro, do you
23 have anything?

24 **SUBMISSIONS BY MR. BUONAGURO:**

25 MR. BUONAGURO: No. We are supportive of the two
26 issues put forward. Thank you.

27 **SUBMISSIONS BY MR. ROGERS:**

28 MR. ROGERS: If I can just respond very briefly, 8.4

1 deals with stranded meter costs. Those stranded meter
2 costs, I am instructed, have already been approved by the
3 Board, the treatment, in the last case as part of the
4 depreciation study, which was approved. Those costs are in
5 the present rates and there is no increase being sought for
6 those, so we don't think it is an issue.

7 8.5 I think we could concede is an issue, but it is
8 covered by 8.1, 8.2 and 8.3, and it is just redundant.
9 That's the only reason we oppose it.

10 MR. KAISER: Mr. Warren, do you agree that it is
11 redundant? I guess not.

12 **FURTHER SUBMISSIONS BY MR. WARREN:**

13 MR. WARREN: I don't, sir. It is entirely possible
14 that with the exchange of interrogatories and the
15 discussions that would take place at any ADR, that this may
16 become more fully scoped -- more precisely scoped, I'm
17 sorry. Until that happens, I am reluctant to say it is
18 clearly unequivocally included in the first three and I
19 would prefer, at least for the moment, Members of the
20 Panel, that it be kept with a separate issue.

21 With respect to, if I can, the 8.4, the fact that it
22 was approved in an earlier case is not binding on this
23 Panel. Again, the purpose of an issues list is to explore
24 the extent to which a change in the approach is important
25 in light of present circumstances.

26 Those are my reply submissions. Thank you.

27 MR. VLAHOS: Mr. Rogers, can I just ask for some
28 clarification? On 8.5, you said that it is redundant

1 because it is subsumed in 8.1, 8.2 and 8.3, I believe you
2 said.

3 I just don't read those issues to subsume 8.5. 8.1
4 talks about the budget. 8.2 talks about capital spending
5 program. Well, one is the O&M; the other one is capital
6 budget. And 8.3 talks about the amounts in the various
7 accounts, the amounts. I suspect that is for disposition.
8 It's a disposition issue. But the regulatory treatment,
9 which I take it is going forward, I don't see how this is
10 subsumed in the other three.

11 **FURTHER SUBMISSIONS BY MR. ROGERS:**

12 MR. ROGERS: You know, I have an answer for you, sir,
13 but I don't know that it is really necessary to give it.
14 If my friends feel strongly about it, I think we are
15 willing to concede. We do believe -- he would not be
16 foreclosed from asking any questions under the first three
17 headings, we believe. But if he feels better by having
18 this added, then I don't object.

19 MR. VLAHOS: Okay, thank you. With respect to 8.4,
20 treatment on stranded meter costs, you said that the Board
21 has already dealt with this?

22 MR. ROGERS: Yes. I am instructed and I should know
23 this, I just don't recall, but in the first distribution
24 case, this was dealt with as part of the depreciation study
25 which was approved by the Board. I believe Board Staff is
26 familiar with that aspect.

27 MR. VLAHOS: Sorry. I may ask you to consult with
28 your advisor. Is it possible that the Board dealt with the

1 treatment of the costs up to that point -- of the stranded
2 meter costs up to that point?

3 MR. ROGERS: Excuse me a moment. I am instructed that
4 as part of the depreciation study, it was proposed that the
5 stranded meter costs be amortized over five years, and the
6 Board approved that.

7 **FURTHER SUBMISSIONS BY MR. BUONAGURO:**

8 MR. BUONAGURO: If I may. I was in the smart meter
9 proceeding, as some of the Board Panel remember. My
10 understanding is that, yes, the depreciation rate for the
11 stranded meters were -- was shortened to five years, to I
12 guess match the cycle with which they're being removed, but
13 that leaves an outstanding issue which is the impact of
14 that much increased depreciation expense in those years as
15 compared to the then incoming new smart meter costs, being
16 added at the same time. Now you have an inflated
17 depreciation cost, along with the cost of the new meters
18 being put into rate base at the same time and so on.

19 So by way of example, there was a proposal in the
20 Toronto Hydro proceeding that they do the same thing, they
21 reduce the depreciation costs but we have made submissions
22 which are outstanding before the Board that you take the
23 depreciation costs which have been accelerated, put them in
24 a deferral account, and then extend them over time,
25 depending on what the overall impact is going to be of not
26 only the depreciation expense but also at the same time the
27 smart meter expenses are being added on top of it. So to
28 that extent, there are certainly, I think, outstanding

1 issues. So even though they have a new depreciation rate
2 for the stranded meter costs, there are issues that we
3 would like to ask questions about and make submissions on.

4 MR. VLAHOS: Mr. Rogers, are you referring to the
5 smart meter decision, the combined one? Or are you
6 referring to another proceeding specific for Hydro One?

7 MR. ROGERS: Mr. Vlahos, I am referring to the 2006
8 Hydro One distribution rate case, where this was dealt with
9 as part of the depreciation study. It did not get a lot of
10 attention, but it was part of the depreciation study and I
11 think the Board staff was quite familiar with that. That's
12 what I am talking about.

13 MR. VLAHOS: That was settled, was it, that issue, in
14 the depreciation study?

15 MR. ROGERS: I believe so, I believe so.

16 MR. VLAHOS: Okay, thank you for that clarification.

17 MR. KAISER: Mr. Buonaguro, do your questions go
18 beyond the depreciation rate that was proved in the Hydro
19 One case that Mr. Rogers is referring to?

20 MR. BUONAGURO: I think what the company is saying is,
21 they've adjusted the depreciation rate for the stranded
22 meters, so that at least in theory, they're being removed
23 from rate base at the same rate that the actual meters are
24 being removed from use, which is one of the ways in which
25 companies have proposed to deal with stranded meter costs.
26 But there is a flip side to that, which is now that you
27 have this increased depreciation cost related to stranded
28 meters, which will have an impact on rates in those years,

1 at the same time that you are adding new meters into rate
2 base and other smart meter costs.

3 So I think it is only one part of it. Now that you
4 have this accelerated depreciation, is the effect of that
5 combined with other rate factors so much that you should do
6 something else? I.e., one proposal that we have made
7 already, which is pending before the Board in Toronto Hydro
8 is: Take that depreciation cost and perhaps amortize it
9 over a longer period.

10 MR. KAISER: So could I say you contemplate there may
11 be a need to adjust the depreciation rate that has been
12 approved in light of more current circumstances?

13 MR. BUONAGURO: Not necessarily, but rather the effect
14 of the depreciation. Again, I'm not making the submission,
15 but it is one of the issues that might come up based on our
16 questions, is that the effect of them changing the
17 depreciation rate to five years is that they're
18 depreciation expense for that item is much higher than it
19 was before. And in the context of smart meter programming
20 and smoothing, for example, the impact on consumers of
21 stranded meter costs, you might take the depreciation
22 costs, put them in a deferral account and then clear the
23 deferral account over a longer period of time so, instead
24 of experiencing the depreciation in five years, you
25 experience over a longer period to smooth the impact
26 because there's so many smart meter costs involved in that
27 shortened five-year span.

28 Again, I haven't had a chance to ask questions about

1 the actual level of the costs and I don't have that at my
2 fingertips. I am not saying I am going to make that
3 submission, but at this point the issues list should
4 reflect the concerns that we are going to ask questions
5 about it and then possibly make submissions to that effect,
6 for example. Thank you.

7 MR. KAISER: Thank you. Mr. Shepherd.

8 **FURTHER SUBMISSIONS BY MR. SHEPHERD:**

9 MR. SHEPHERD: I just want to add one thing. We talk
10 about smart meters, we have been focussing on the fact that
11 there are costs in the last couple of years in the smart
12 meter proceeding and other places. Of course they're
13 intended to be a benefit in the longer term.

14 What we want is to make sure that it is open to the
15 Board to take that package of smart meter costs, including
16 stranded meter costs, et cetera, whether it is depreciation
17 or a variance account or whatever, and as much as possible,
18 match those costs to the benefits over time so that the
19 ratepayers see, yes, they're spending money but they're
20 getting a benefit for it. We want that to be open to you
21 in the proceeding. Those are our submissions.

22 MR. KAISER: Thank you. Any other submissions on 8.4?

23 **FURTHER SUBMISSIONS BY MR. ROGERS:**

24 MR. ROGERS: No. I will just say this, Mr. Chairman,
25 that -- I have listened to what has been said. My client
26 does not believe it is an issue, but I don't think -- if in
27 view of what has been said, they think it is so we believe
28 we can satisfy them with a couple of interrogatory answers

1 that it is not an issue so I don't object to it being on
2 the list.

3 MR. KAISER: All right. That is helpful.

4 Is that all we had with respect to the issues list,
5 Mr. Rogers?

6 MR. ROGERS: I believe so.

7 MR. VLAHOS: Mr. Chair, I have a couple of
8 clarification questions on the non-contested issues. Is
9 this a proper time to ...

10 MR. KAISER: Sure. Yes.

11 **NON-CONTESTED ISSUE 2.1:**

12 MR. VLAHOS: Mr. Rogers, I would start with you and if
13 anybody else wants to jump in to assist.

14 I am looking at issue 2.1, under cost of capital. The
15 issue now reads:

16 "Is the proposed capital structure and rate-of-
17 return on equity for Hydro One's distribution
18 business appropriate?"

19 Has there been a change -- the proposed capital
20 structure, does that, is that a change from the last Board-
21 approved capital structure?

22 **SUBMISSIONS BY MR. ROGERS:**

23 MR. ROGERS: Yes, sir, it is. Because the company is
24 now following the Board's guidelines.

25 MR. VLAHOS: I see. So it is following the Board's
26 guidelines?

27 MR. ROGERS: Yes.

28 MR. VLAHOS: The rate-of-return part of this question

1 is still a guideline thing?

2 MR. ROGERS: Yes. It is in accordance with the
3 Board's formula.

4 MR. VLAHOS: Right. So why is this an issue?

5 MR. ROGERS: Well, people might like to ask about the
6 arithmetic so that is why we suggested it be in writing.
7 Otherwise, I agree, it is not an issue.

8 MR. VLAHOS: So it is the methodology that -- whether
9 the company has or will apply the methodology?

10 MR. ROGERS: Yes. See this is a very good example of
11 where the company tried to be expansive in the issues list
12 hoping they could deal with some of it in writing. These
13 are two issues that probably, if we went back to the
14 beginning again, we would oppose and say they're not
15 issues.

16 MR. VLAHOS: Any other party? Mr. Buonaguro.

17 **SUBMISSIONS BY MR. BUONAGURO:**

18 MR. BUONAGURO: I think it is also a good example of
19 an issue which, once we have had a few IRs and we get to a
20 ADR, you may find out it is not going to be something that
21 is part of the oral hearing and there may be no submissions
22 on it at all, but it doesn't mean that it shouldn't be an
23 issue on the issues list.

24 MR. VLAHOS: Okay, thank you for that.

25 **NON-CONTESTED ISSUE 4.1:**

26 MR. VLAHOS: Turning to issue 4.1, it reads:

27 "Are the amounts proposed for rate base
28 appropriate?"

1 That's a pretty wide scope. I mean, there are a bunch
2 of issues under rate base, category 4.

3 I want you to visualize the Board decision in the
4 document itself. How can a decision be made on that issue
5 without reading all of the sub-issues under that category?

6 So what I am asking is: It is not really amounts the
7 parties may be after; rather, the methodologies that lead
8 to those amounts, the calculation, Mr. Shepherd?

9 **SUBMISSIONS BY MR. SHEPHERD:**

10 MR. SHEPHERD: Perhaps I could comment on that. This
11 has actually been discussed.

12 The issues in rate base have three components, it
13 seems to us. One is the capital expenditures for the test
14 year and their impact on rate base.

15 The second is the capital expenditures in 2007, which
16 was an IR year and their impact on rate base. And the
17 third is any variation between the capital expenditures in
18 2006, the last forward test year, between what was approved
19 and what was actually spent, and their implications on rate
20 base, because none of those have had -- none of those
21 components have had a prudency test yet, so this is the
22 opportunity to have that prudency test.

23 It might be more efficient to split those out into
24 three components, but we assumed all three are implied by
25 the question of: Is the rate base number right?

26 MR. VLAHOS: Thank you for that clarification, Mr.
27 Shepherd. The way it is phrased now does not assist. The
28 information is great. Now I know what to look forward to,

1 okay, but the way it is phrased just does not do it.

2 So any other issues that are not covered under 4,
3 other than the ones you mentioned, that may be dear to some
4 of the intervenors?

5 MR. SHEPHERD: Except for, of course, the implications
6 of depreciation and retirements, which I suppose are always
7 an issue, but depreciation is a separate issue on the
8 issues list, anyway. Except for that, I can't think of
9 any.

10 MR. VLAHOS: All of those things will inform and play
11 or they will flow into the final rate base --

12 MR. SHEPHERD: Yes.

13 MR. VLAHOS: -- which -- at the end of the day, the
14 Board I don't think will be in a position to find a rate
15 base, a number. It will be a number that probably will
16 flow back from the utility once it goes through its
17 calculations to reflect the Board's finding. So that is
18 why, the problem with that sort of generic language.

19 MR. SHEPHERD: Yes. I think your point is well taken,
20 although we may in fact, in final argument, propose a rate
21 base continuity chart reflecting the submissions we made on
22 various things. But you are right that in the end the
23 utility --

24 MR. VLAHOS: You can do that. It doesn't have to be
25 on -- that doesn't have to be an issue phrased as it is.

26 MR. SHEPHERD: Exactly.

27 **NON-CONTESTED ISSUE 7.3:**

28 MR. VLAHOS: All right. Thank you.

1 Similarly, on issue 7.3, which reads:

2 "Are Hydro One's proposed rates appropriate?"

3 Well, I mean we could have that issue and just drop
4 everything else. So is there anything specific here, other
5 than what has been covered? Does it go to the
6 harmonization issue, which it is an issue which has been
7 covered in that section? So what other issue, in
8 particular, is meant to be -- is contemplated here?

9 **SUBMISSIONS BY MR. ROGERS:**

10 MR. ROGERS: Well, it's my client's issues list. I
11 guess I should respond to that. But it is a very broad
12 question and I think an issue, and I think the intent
13 probably was to make sure that the intervenors were content
14 that everything under this head would be covered and that
15 nothing is trying to be taken off the table. That's all.
16 It's sort of an omnibus heading.

17 MR. VLAHOS: Okay, thank you, Mr. Rogers. I guess one
18 could have just five general -- an outline -- income, rate
19 base, revenue -- and, you know, that would be the issues
20 list. What we are trying to do here is trying to get as
21 much specificity as reasonably possible.

22 MR. ROGERS: Yes, I understand that. That's why these
23 other items are there, to try and meet that second concern
24 you have raised, but we understand your point. It was
25 really just an attempt to be inclusive, because we
26 recognize especially in the cost allocation, rate design
27 phase, this is a very important part of this case, and we
28 wanted people to feel that all of the legitimate concerns

1 would be open.

2 MR. VLAHOS: That's fine. It's just are the proposed
3 rates -- I mean, one cannot have a section in the decision
4 on that without having to go through all of the other
5 items, which, having done so, it will lead to certain rates
6 at the end of the proceeding. So having that as a separate
7 issue, I just don't see how it can help.

8 MR. ROGERS: Well, I understand your point. Perhaps
9 in the scoping, I can persuade intervenors to drop it,
10 among others.

11 MR. VLAHOS: Thank you. Those are my questions.

12 MR. KAISER: Mr. Buonaguro, did you have something you
13 wanted to add?

14 **SUBMISSIONS BY MR. BUONAGURO:**

15 MR. BUONAGURO: Yes, just on that one issue. I always
16 viewed that type of issue, which I don't think is uncommon,
17 as looking at the sum of the parts and saying, Is the rate
18 itself, after everything else has been considered,
19 appropriate?

20 And I sort of have always conceptualized it as
21 including issues about -- it sort of makes explicit issues
22 about rate shock and things like that. Those things -- I
23 assume those things are implicit in everything you do,
24 anyway, so that if you were to take the issue off, those
25 would still be in play.

26 But I think it makes explicit that things -- at the
27 end of the day, you might approve all of the sum of the
28 parts as being appropriate, but then when you add them all

1 together and you look at the final rates that are being
2 imposed on ratepayers, are they themselves appropriate in
3 the context of, I guess, the rest of the bill, or what have
4 you. That's how I have always viewed that kind of an
5 issue. Thank you.

6 MR. KAISER: Thank you. All right, let me turn next
7 to the interim rate question.

8 **INTERIM RATES**

9 **SUBMISSIONS BY MR. ROGERS:**

10 MR. ROGERS: There are two requests, Mr. Chairman and
11 Members of the Board. The first is contained in a letter
12 of December 20th, 2007 and the second in a letter of
13 December 21, 2007.

14 Now, I don't know that there is any opposition to what
15 the company is requesting here, and I don't know how much
16 detail I should go into in explaining this. I have extra
17 copies of these letters for you if it would be of
18 assistance.

19 MR. KAISER: I think we have them, but we should
20 probably mark them, Mr. Millar.

21 MR. ROGERS: If we are going to discuss them, I do
22 have copies of the letters, so we can -- they outline the
23 rationale better than I can.

24 MR. MILLAR: We will mark that as Exhibit KI, for
25 issues day, KI.1, and that is the letter to the Board from
26 Hydro One dated December 20th, 2007.

27 **EXHIBIT NO. KI.1: LETTER TO THE BOARD FROM HYDRO ONE**
28 **DATED DECEMBER 20, 2007**

1 MR. KAISER: Could we also, while we are at it, mark
2 the revised issues list, which has been referred to by Mr.
3 Rogers? The numbering is different from the one we have on
4 the record.

5 MR. MILLAR: Yes, that's right, Mr. Chair.

6 The proposed -- the jointly proposed issues list, I
7 will call it, although of course there is contested issues
8 in there, will be KI.2.

9 **EXHIBIT NO. KI.2: JOINTLY PROPOSED ISSUES LIST.**

10 MR. ROGERS: Would you like copies now?

11 MR. KAISER: I think we have them.

12 MR. ROGERS: Do you have them?

13 MR. VLAHOS: Yes.

14 MR. KAISER: Before Mr. Rogers proceeds, anyone
15 opposed to this? All right, thank you.

16 MR. ROGERS: That's a nice change. Thank you.

17 [Laughter]

18 MR. KAISER: We more or less understand the issue,
19 too. I think you can be quite brief on this.

20 MR. ROGERS: Very good, sir. Let me deal with the
21 easier one first, if I could, and that's the time of use
22 proposal that's contained in the letter of December 21,
23 2007.

24 As outlined in that letter, the company now has
25 interim rates in effect for time-of-use rates for, I think,
26 three customers, with a relatively small amount of money
27 involved.

28 The Board's interim order approved recovery of these,

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1 of this revenue shortfall. It is \$150,000 a year, which
2 was being recovered through the third MARR, which ended
3 September 30th, 2007. The company then requested an
4 extension to April 30th, 2008, which was granted.

5 What we are now just asking is that that be extended
6 until the rates flowing from this case are put into place
7 so there that won't be the need to adjust the rate in the
8 meantime.

9 The company is willing to absorb the revenue shortfall
10 and it has no effect on any intervenors. It is just a
11 question of really rate smoothing so they customers don't
12 see a yo-yo effect.

13 MR. KAISER: Thank you.

14 MR. ROGERS: All right. Now, if I can deal with the
15 second one. This is the letter of December 20th, 2007.
16 This is a request to maintain an existing regulatory asset
17 rider. The rationale is set out in the letter.

18 Once again, the Board has already approved the
19 recovery of these regulatory assets. That is to expire,
20 however, as of April 30th, 2008. This amount was being
21 drawn down over a three-year period from April 1, 2005 to
22 April 30th, 2008.

23 The concern, once again, is that for a number of
24 reasons explained in the letter, if that rate were to, were
25 simply to expire as of April 30th, 2008 before the decision
26 in this case was made, it would require an adjustment to
27 the rates for a very short period of time, a downward
28 adjustment which then hopefully, from my client's

1 standpoint, would be adjusted upward again a short time
2 later.

3 So it is really a rate smooth issue. Those funds
4 would be kept in a variance account and then distributed
5 once the new rates are put into place in accordance with
6 the Board's Order.

7 It is pointed out to me that I probably should have
8 said that one expires April 30th, 2008 and the other one
9 expires April 1st, 2008. That is all explained in the
10 letter.

11 MR. KAISER: Thank you. Mr. Shepherd, can we hear
12 from you next on your February 13th letter.

13 **SUBMISSIONS BY MR. SHEPHERD:**

14 MR. SHEPHERD: Thank you, Mr. Chairman.

15 Mr. Chairman, members of the panel, the issue of rate
16 harmonization is one that we were aware is one that may be
17 of considerable concern to a number of ratepayers. And I
18 think it's fair to say that Hydro One thought there might
19 be some negative feedback when they went out and advertised
20 and gave notices that this harmonization plan was going to
21 go into effect.

22 As I understand it, they didn't get much in the way of
23 feedback, negative feedback. A few phone calls, but
24 nothing much. They can tell you more about that, I think.

25 Last week, I went down with the head of the Ontario
26 Public School Board Association to Upper Canada District
27 School Board. We do this on a fairly regular basis,
28 report, in person, to affected school boards on what we're

1 doing. They are spending money. They want to know what
2 they're getting for their money. In this case, it was a
3 meeting of the full board of trustees of the school board,
4 a school board with 104 schools in eastern Ontario.

5 I went through the normal presentation, that you know
6 this is the impact of the Union Gas settlement, this is the
7 impact of the Enbridge settlement, the Hydro One
8 transmission case, et cetera.

9 But one of the things that we always present is, what
10 are we doing right now and what are the potential impacts
11 of what's on the table right now?

12 So we talked about OPG, for example, which has a big
13 impact. Then we came to Hydro One harmonization and we had
14 done a calculation that appears to suggest that their rates
15 will go up about half a million dollars a year -- their
16 Hydro One bill will go up about half a million dollars a
17 year as a result of harmonization.

18 I have to tell you that -- we're in the council
19 chamber, right, there is 20 trustees around the room, and
20 there were people who turned white with that number.
21 Because -- and they said to me, it's because that's a music
22 program at this high school. That's the expanded geography
23 cluster at this high school.

24 My point is not to be dramatic. My point is this,
25 that brought home to me and to the School Energy Coalition
26 that people out in the affected communities are not aware
27 of what's coming. They don't actually understand that this
28 is going to be serious dollars to them.

1 The school board -- I asked the school board, I said
2 there was notice in all of the local newspapers. Didn't
3 you read it? And they said, Well, sure, we read it but we
4 get a notice every week or so on some sort of thing going
5 on at the OEB. We can't read all of them and calculate the
6 impact of every single one of them so we didn't actually
7 know that this one is a big one.

8 There are some, there may be some clusters of
9 customers, for example, schools -- because if you think
10 about it, the schools generally are in the towns, and the
11 towns are where the acquired utilities are. And small
12 businesses, and perhaps hospitals and a few others, that
13 may be disproportionately affected by harmonization.

14 It may also be true that residential consumers don't -
15 - aren't aware of it either and are going to -- once they
16 realize it, will want to have something to say about it.

17 So what we said is, what we feel is that despite the
18 laudable efforts of Hydro One to communicate this to the
19 public, the public isn't yet aware of it and they're only
20 now starting to become aware of what's going to happen and
21 the potentially very substantial impacts, increases of 100,
22 200 percent in some cases in their distribution bills.

23 What we think that it makes sense for the Board to do
24 is, let's deal with the 2008 rate case as a regular rate
25 case, with regular rates coming out of it. Which -- those
26 rates have already been calculated because obviously you
27 can't do harmonization until you get your starting point,
28 right?

1 So Hydro One has already done their starting point of
2 2008 rates before harmonization. There is no reason why
3 you can't go through the revenue requirement process, and
4 the cost allocation and rate design process and get to a
5 normal cost of service answer first and order those rates.
6 In fact, it would be a lot simpler and shorter process. It
7 might be a two-week hearing or one-week hearing even,
8 instead of a four-week hearing.

9 And then after that -- I am assuming that what the
10 Board would do is it would order rates and declare them
11 interim so that you have all of your options open to you.

12 Then after that, come to a second phase in which you
13 actually go out into the communities - not every one of
14 them, obviously; there is 80 or 90 of them, but a few of
15 them - and give people the opportunity to talk to you about
16 how this is going to impact them. Whether those people are
17 school board officials -- school board officials are happy
18 to come down here and tell you here in person. Or
19 individual small business owners or hospital
20 administrators, or whatever. Give those people the
21 opportunity in those communities to tell you what their
22 concerns are about this process, if there are any. Maybe
23 there aren't. Maybe they will be happy.

24 And that you can do in a second phase and then make a
25 decision about the best way to harmonize these rates,
26 whether it is the way Hydro has proposed, some other way,
27 or changing the timing, changing the period of time over
28 which it's done; there are all sorts of different ways you

1 can slice this, with the intention to get an answer that
2 reflects the concerns of the people in the community.

3 Hydro One, I think, expected that there might be some
4 negative feedback and they haven't got any. But I don't
5 think they haven't got any because there isn't any. I
6 think they haven't got any yet. And part of what this
7 Board does effectively, I think, is make sure the public
8 has an opportunity to participate in issues like this. And
9 that's what we're suggesting through a phased process that
10 you can do.

11 You have seen our letter. We have made a specific
12 proposal as to how to do it and if you have any questions,
13 I am happy to answer them.

14 MR. KAISER: The one question I have is that we
15 generally assume, in all of these cases, that with the
16 quantity of intervenors that we have, funded by the process
17 as they are, that these interests are represented.

18 Is there something now in this case that there's some
19 substantial body of people who are not represented by a
20 combination of Mr. Warren or Mr. Buonaguro or whoever else?

21 MR. SHEPHERD: I think --

22 MR. KAISER: I mean I understand you're not arguing on
23 behalf of the schools. Presumably you have told them what
24 the impact is on them, and they will be here substantially
25 represented. You are concerned about some other
26 constituency.

27 MR. SHEPHERD: Well -- and I guess, two things about
28 that. First of all, there probably are some constituencies

1 affected by this and are not represented here. For
2 example, those small business owners in Brockville and
3 Smith Falls that are going to see their bill go from
4 \$25,000 to \$30,000, let's say, all of which comes out of
5 profit. Those people aren't here. So they may want to
6 talk to you. So that is the first thing. There are some
7 that are not represented.

8 But I think it is also true that -- and I will tell
9 you it this way. After the meeting last week in Brockville
10 with Upper Canada District School Board - they have about
11 half of their schools affected by this - one of the
12 trustees came up to me and said, You know, it is not just a
13 question of us sending a delegation down to talk about what
14 this means to us. It also is a question of the parents of
15 our kids saying to the board members, saying to the people
16 who are making the decision, This is my kid's music
17 program. And they want to have that opportunity to do
18 that.

19 I think this Board has done that in the past, and to
20 good success, because it gives the members of the public
21 the understanding that it's not just a bunch of people in
22 Toronto deciding their future. They're participating in
23 the process themselves, and those people in Toronto will
24 actually come out and talk to them. There are some
25 circumstances, like this one, in which that is appropriate,
26 in our view.

27 MR. KAISER: All right.

28 Mr. Warren.

1 **SUBMISSIONS BY MR. WARREN:**

2 MR. WARREN: Mr. Chairman, you have raised an issue of
3 some delicacy for my client in the rate harmonization
4 issues.

5 In the typical case that my client confronts, it's an
6 application by LDCs in a discrete area where the interests
7 of residential ratepayers are, by and large, homogenous.

8 What we have in this case is that we may have -- I am
9 speaking hypothetically. We may have residential
10 ratepayers who are in adjacent communities that will be
11 faced with very different impacts as a result of it. And
12 they may be -- they may say, Why do they get a better deal
13 than we do?

14 In those circumstances, it is effectively impossible
15 for my client to represent both of them. What we have said
16 to people in these categories, to the extent they have
17 spoken to my client, is, our brief is to ensure that Hydro
18 One has applied a consistent, fair, rational, defensible
19 set of policies across the Board and the results will come
20 up where they are.

21 But I have also said to them, those individuals who
22 contacted me, I have said, In circumstances where you may
23 be in conflict, you should come and tell the Board that you
24 are not happy with the result of that, so that the Board
25 can say, direct one way or another, all of which is to say
26 that I am not entirely confident that the representational
27 quality that the Board relies on in of all its other cases
28 - I think entirely appropriate relies on - necessarily

1 applies in this case.

2 I don't know whether or not there are people in
3 communities out there who will say anything if the Board
4 were, for example, to go to Kenora or wherever it happens
5 to be. I do think Mr. Shepherd is correct in saying that
6 it is an issue of considerable sensitivity and that
7 ensuring that people understand the impacts and have an
8 opportunity to say something is an important part of the
9 Board's job, if you wish, as a regulator.

10 So all of which is in aid of saying two things.
11 Number one, I am not sure that the representational
12 structure that you referred to is necessarily applicable in
13 this unique case. Secondly, I would add a note of caution
14 that it is important that people have an opportunity to
15 speak, to say their piece about what Mr. Shepherd, I would
16 say, to use the vernacular, is the "ouch" factor. This
17 hurts and it hurts for a number of reasons, and we want the
18 Board to grant some relief.

19 Those are my submissions on the point, sir.

20 MR. KAISER: Mr. Frank.

21 **SUBMISSIONS BY MR. FRANK:**

22 MR. FRANK: I just want to make one small additional
23 point.

24 The proposed rates, of course, are something that the
25 various stakeholders can consider, and, assuming they're
26 adopted, can assess the impact. But what the Board's
27 ultimate decision is on rates is not certain, and it's
28 certainly theoretically possible that a different rate gets

1 set and the impact can change, perhaps significantly, on a
2 percentage basis, and those would impact the submissions
3 parties and stakeholders might make on harmonization
4 issues.

5 So until rates are known and what the actual impact is
6 known, it's a little bit -- stakeholders are in a bit of a
7 difficult position to know exactly what they might say
8 about harmonization.

9 MR. KAISER: Well, the notice as it currently exists
10 presumably relates to the applicant's application, which,
11 if granted, would yield certain rate increases. It's not
12 likely the Board would approve rates greater than those
13 requested.

14 MR. FRANK: No, I recognize that. I recognize that,
15 Mr. Chair. I guess the converse isn't necessarily the
16 case, and if a percentage increase that looks significant
17 in fact is different, it may be that harmonization over a
18 different period of time is appropriate.

19 MR. KAISER: Mr. Buonaguro, do you have the same
20 problem, if I could call it that, that Mr. Warren does in
21 this type of client situation?

22 **SUBMISSIONS BY MR. BUONAGURO:**

23 MR. BUONAGURO: I think Mr. Warren's submissions
24 captured the problem that any intervenor is going to have
25 in this particular situation.

26 I hadn't thought of it quite that way until he made
27 his submissions, but I think he is quite right in terms of,
28 in this particular case, there being almost a fractured

1 view of the constituency and that special care needs to be
2 taken. I have nothing further to add.

3 MR. SOMMERVILLE: The issue, Mr. Shepherd, as you pose
4 it, is one that relates to notice, and it's whether there's
5 been an effective notice to communities that are going to
6 be affected by the -- or may be affected by the applicant's
7 proposal.

8 Is there a specific deficiency that you see with
9 respect to the Board's notice in this case?

10 MR. SHEPHERD: You know, I asked that. The trustees
11 of the school board, of course, are pretty plugged into
12 their communities. They want to know what's going on.
13 They're politicians. So I asked, like, Why didn't you know
14 about this? They gave two answers. One I have already
15 given you, which is they see a lot of these notices, and,
16 frankly, I think they blur a little bit. They're lengthy,
17 complicated notices.

18 But I think the other thing is that Board's notices
19 generally look at bill impacts and things like that and do
20 not look at dollars. They don't tell a school board, This
21 is half a million dollars, and they don't look at
22 percentage increase in a component of the bill like
23 distribution rates. And so it is harder for the
24 uninitiated to understand, I think, what it really means,
25 unless -- you know, and unless you have some past knowledge
26 of the area.

27 But I want to say that I am not complaining about the
28 notice in this case. This is not a legal issue. This is a

1 practical issue. People don't actually know about it,
2 whether or not the notice has been correct or not.

3 MR. SOMMERVILLE: Then does the issue become one of
4 timing of incidents within the case? I mean, I take your
5 letter to say that what you want to do is to defer some
6 specific elements of the case until the revenue requirement
7 has been finally determined?

8 MR. SHEPHERD: Well -- sorry. Go ahead.

9 MR. SOMMERVILLE: So that interrogatories, for
10 example, with respect to the harmonization program and the
11 sort of creation of the evidentiary record with respect to
12 the harmonization program, would be put in abeyance until
13 such time as the revenue requirement in sort of splendid
14 isolation from that had been determined.

15 Is there a great risk in proceeding to deal with the
16 evidentiary record in the interim? And if there are sort
17 of special circumstances that are -- where there may be
18 some requirement or some suggestion that a further
19 notification or some kind of outreach at that point may be
20 appropriate, that we could deal with that then?

21 MR. SHEPHERD: Two comments on that. First of all,
22 Mr. Frank has made the point, which I think is correct,
23 that one's view of harmonization may change, depending on
24 what the revenue requirement result is.

25 If there's a big increase in revenue requirement, that
26 will have a cumulative effect on the harmonization impacts.
27 But the second point, which I think is the more important
28 one in the context of your question, is this: If you think

1 logically of the process of setting harmonized rates, step
2 1 is, set the rates before harmonization, logically you
3 have to do that any way. You have to figure out the
4 revenue requirement, you have to figure out what it means.
5 Because the harmonization component is quite discrete. It
6 is a zero sum game. You are moving money between
7 ratepayers that -- Hydro One is staying the same.

8 So you have to go to the first step, anyway, and in
9 fact, we were talking the other day about, you know, would
10 it be a lot of trouble for Hydro One to have to do a set
11 of, a full set of rates without harmonization? I think the
12 answer is: They had to do it anyway in order to harmonize
13 the rates. They had to first figure out where they were
14 starting from.

15 Secondly, as was part of the same thing, you know
16 somebody is going to ask that interrogatory so that they
17 know how much of the rate impact is revenue requirement and
18 how much of the rate impact is harmonization. You know
19 it's going to be the first interrogatory that somebody
20 asks.

21 So because the logical part of the process is step 1,
22 you find the plain vanilla rates, step two you harmonize,
23 there is no reason why the harmonization and step 1 have to
24 be done together. They're going to be sequential in any
25 case, it is just a question of: Do we do them all together
26 at once or do we do this and then this?

27 MR. SOMMERVILLE: Mr. White, do you have any
28 perspective on this? Your client is a coalition of

1 utilities.

2 **SUBMISSIONS BY MR. WHITE:**

3 MR. WHITE: Yes, it is Roger White. Rate impacts are
4 always a sensitive issue for distributors. Individual
5 customer rate impacts are a sensitive issue, particularly
6 when you are talking about smaller communities where an
7 individual's impact may be disproportionate, an individual
8 customer's impact may be disproportionate.

9 A long time ago, in a former life, we looked at there
10 being reasonable fixed dollar impacts and reasonable
11 percentage impacts as a way of mitigating and managing
12 transition issues which are similar to the ones which Hydro
13 One is facing, although Hydro One may be facing some
14 greater magnitudes than we faced with my clients at the
15 time.

16 It is something that is best understood from the local
17 perspective. It is hard for Hydro One to, as a
18 corporation, to actually do a bill impact per customer for
19 each of the thousands of customers that would be involved
20 in this type of a change, and advise them individually.
21 That's a huge issue for a company like Hydro One. It's a
22 huge issue for any utilities.

23 But I can tell you that I have been involved with some
24 utilities that have had rate structure changes where they
25 actually did the individual customer assessment, and
26 actually worked out the numbers and said: All right, above
27 this level they clearly have to be managed. And I assume
28 Hydro's done some of that, at least a significant amount of

1 that in terms of preparing the plan that they have come up
2 with. To the extent that they have I really can't comment
3 on it.

4 MR. SOMMERVILLE: Have your clients done any of it?

5 MR. WHITE: We have, but prior to the unbundling
6 process. As part of the unbundling process, we were also
7 concerned and we dealt with individual customer impacts.

8 MR. SOMMERVILLE: I am referring to the details of
9 this application, and the implications that this
10 application may have for -- do you have any clients who are
11 going to be directly affected by the harmonization program?

12 MR. WHITE: No.

13 MR. SOMMERVILLE: Okay. So that is not an issue for
14 your clients.

15 MR. WHITE: Right.

16 MR. KAISER: There are cases I can think of, Mr.
17 Rogers, where the Board, in the course of the process, has
18 become concerned that there might have been a constituency
19 that wasn't aware of what was going on I am sure you will
20 recall some of those cases.

21 MR. ROGERS: Yes.

22 MR. KAISER: I mean it seems to me there are two
23 issues, whether there has been adequate notice to some
24 groups who might be particularly, more than the -- might be
25 particularly harmed or adversely affected by the increase.
26 Then secondly, how they participate in the process or get
27 represented.

28 Do you have any thoughts on that?

1 **FURTHER SUBMISSIONS BY MR. ROGERS:**

2 MR. ROGERS: No. That's a good point. I hadn't
3 thought about that aspect of it, about possibly appointing
4 someone to represent these people. But I have several
5 comments to make.

6 First of all, the applicant opposes truncating this
7 hearing. My client would like to get on with this process,
8 the cost allocation and rate design and harmonization and
9 start the process.

10 I would point out as well my client is revenue neutral
11 about this or it should be. It shouldn't gain or lose by
12 this. And it is trying to construct a proposal which
13 reflects the Board's concern about moving rates to -- on a
14 cost basis as soon as reasonably possible. Now I have a
15 couple of comments to make.

16 First of all, the point about representation. There
17 is always this problem when you deal with cost allocation
18 and rate design of a group of customers represented by the
19 various interests here having conflicts within that group.
20 AMPCO will have the same problem. There will be winners
21 and losers through this process. That's always the case
22 when you are dealing with cost allocation and rate design.

23 We have got -- your process is such that the public is
24 represented through the intervenors who have access to
25 various groups, but also by Board Counsel and the competent
26 staff to deal with the public interest.

27 So I would submit to you that all of the public is
28 well represented at this proceeding, either by the

1 intervenors who are funded by the applicant, by the
2 applicant itself which has no axe to grind here and has
3 tried to present a balanced, fair proposition, and moreover
4 by Board Counsel and the Staff who have a responsibility to
5 see that the public interest is protected here. So I don't
6 agree that there are unrepresented constituents in this
7 case.

8 Now, I would like to assure the Board concerning the
9 notice that occurred in this case. The company advertised
10 in accordance with the Board's order, in a system in all
11 other cases, I believe in 105 newspapers across the
12 province. Not only that, though, the company went beyond
13 that in this particular case, to initiate its own notice
14 provisions and they had a plan, a program in place to
15 ensure that people were aware or were given notice of what
16 was coming.

17 I am told that the company published, in addition to
18 the Board's order, in an additional 75 newspapers, targeted
19 to bill impacts and residential and general service
20 customers in acquired communities, so that is an additional
21 75 newspapers in which they advertised.

22 It also undertook a plan of communication with local
23 officials, mayors, and MPPs with an emphasis on acquired
24 municipalities to ensure that they should be aware of
25 what's coming and to become involved.

26 There were e-mails and phone calls to clerks and chief
27 accounting officers in acquired communities to notify them
28 of the application and the ad in their local paper, and

1 they were asked to forward the information to the mayor and
2 to the local councils. There were e-mails to large
3 customers on subtransmission, on the subtransmission system
4 to notify them of the proposed subtransmission rate class
5 and stilled bill impacts. About 88 of those customers were
6 notified that way. There were e-mails to LDCs to notify
7 them of the proposed subtransmission rate class and the
8 estimated bill impacts.

9 There was a toll free number put in place that was
10 used in conjunction with the ads, and customers had the
11 option of listening to prerecorded messages with
12 information on the distribution rate application and how
13 they could request to speak to an agent to get further
14 information. In addition, there was background information
15 provided on the website, estimating bill impacts for
16 acquired communities, sample ads and frequently asked
17 questions.

18 So this extraordinary effort was undertaken by the
19 applicant, in addition to the Board-mandated notice. I
20 don't know what else one could do, even if you delayed
21 this, I don't know what else you could do to bring this to
22 the public's attention.

23 Now, the system is working because Mr. Shepherd is
24 here. I mean, his clients may not have been totally aware
25 of what was being involved, but he's here representing them
26 and I have no doubt they will be force -- their interests
27 will be forcefully defended by him in this case. And we
28 still have some time to go before the hearing. So if there

1 is any deficiency in the notice, and I submit there is not,
2 the Board has gone -- has been exemplary, in that notice
3 has been given and the public should be aware of this, but
4 that can be corrected. We have -- I don't know when the
5 hearing will start, but I am assuming, I hope, within the
6 next two months. There is still some time to correct any
7 deficiencies, if my friends think there are any.

8 I would also like to draw your attention, though, to
9 some practical problems here. First of all, this whole
10 question is one of equity and fairness, this cost
11 allocation and rate design and harmonization.

12 For customers who are disadvantaged, there are
13 customers who are going to be advantaged and cross-
14 subsidies which are presently in place will cease.

15 Now, a delay simply delays justice to these people, to
16 have the cost subsidies reduced and ultimately eliminated.
17 Now, I don't know -- if the Board were to decide to hive
18 off phase 2, I don't know when you would fit it into your
19 busy schedule, and that is of great concern to my client as
20 to how we would do this at some future time.

21 But let's look at some of the practical problems here.
22 If the Board did what Mr. Shepherd suggested and have a
23 phase 1 where the revenue requirement was set, and then
24 some interim rates were put in place presumably on a
25 percentage increase basis - I think the proposal of the
26 company calls for an average increase of about 2-1/2
27 percent if it is fully successful - those rates would go
28 into effect hopefully fairly soon.

1 Then you would have a phase 2, hopefully soon
2 thereafter, although I would be very concerned about that.
3 I don't know how you would fit it in. Then you would have
4 to readjust the rates again a short time later. So you
5 would have this yo-yo effect once again that we talked
6 about this morning, and the very thing that the Board
7 mentioned in its last distribution case that mitigated
8 against going to this rate harmonization at that time.

9 It presents terrific problems of confusion and
10 multiple rate changes in a short period of time in opposite
11 directions, quite apart from the unfairness to those who
12 are now providing the cross subsidy.

13 There are some other issues that I would like the
14 Board to be aware of, just from the applicant's point of
15 view; practical problems.

16 The present plan is that this rate harmonization will
17 take place over four years, I believe, and so by the end of
18 four years it will be complete. It's being phased in.

19 The company has a new information system program going
20 into place over the next, I think, three years, the
21 Cornerstone project, the fourth phase of which deals with
22 billing.

23 If this harmonization plan is further delayed, we have
24 great concern that it will not be completed before new
25 billing systems are put in place at Hydro One, and that
26 will cause terrific complications.

27 Furthermore, time-of-use rates are anticipated to come
28 into place in, I believe, 2011 or so, and if the

1 harmonization plan is delayed, it will not be completed or
2 substantially completed before time-of-use rates start to
3 be implemented.

4 Currently, I believe the company has something like
5 280 separate rates in place. If those are not consolidated
6 to the 12 rate classes or some smaller amount - 12 is what
7 is proposed, but some smaller amount - and time-of-use
8 rates are implemented, then the number of rates could
9 multiply to 600 or so, I am told. So it is important that
10 we get on with this process, from everybody's standpoint.

11 Well, I would also draw your attention there is going
12 to be another rate adjustment in November of 2008 for the
13 RPP, regulated price plan commodity adjustment. So if we
14 had an interim rate for the distribution, and then the
15 commodity charge rate change, and then the phase 2 and a
16 further adjustment, you might have three rate changes in a
17 period of several months, which is not a good idea, I
18 submit to you.

19 The other thing I would like to say to you is this.
20 Mr. Shepherd talks about the big increases that his clients
21 may encounter, and that may be so. I don't know. That
22 needs to be tested. But, of course, there are mitigation
23 measures in the company's proposal. I mean, there is a 10
24 percent ceiling on impact in each year. This is in
25 accordance with the Board's policy.

26 So the whole plan of the applicant has taken into
27 account rate impacts, and it has a mitigation plan before
28 you for consideration to ameliorate those impacts. You are

1 free, in the case, to adjust that, to modify that
2 mitigation plan if you think it is not appropriate in terms
3 of protecting people against undue increases or too sudden
4 increases. That is what you do. That is part of your
5 responsibility. And the public is well protected through
6 that process.

7 I submit that the process that is in place now is an
8 appropriate one. It is -- actually unprecedented notice
9 has been given to the public, and that between the people
10 in this room and Board Counsel and Board Staff and the
11 Board, the public interest in all of its aspects will be
12 protected in this process.

13 I urge you not to delay the beginning of rate
14 harmonization in a movement to cost-based rates. Thank
15 you.

16 MR. KAISER: I wonder if you could assist us, Mr.
17 Rogers, and just file a written summary, if you would, with
18 a little more detail than you have presented today of the
19 additional notices. I am referring to the 75 newspapers.

20 MR. ROGERS: Yes. I would be glad to do that.

21 MR. KAISER: And e-mails to LDCs, and so on, just so
22 we have it on the record.

23 MR. ROGERS: Yes, I will indeed.

24 MR. VLAHOS: Mr. Rogers, on that, there is nothing in
25 the evidence itself in terms of the additional
26 communication initiatives?

27 MR. ROGERS: I don't think so, Mr. Vlahos. I don't
28 believe there is. What is in the evidence is the fact that

1 they also did stakeholdering, of course, which I neglected
2 to mention. They had three separate stakeholdering
3 meetings to explain these proposals to those who were
4 interested. But I don't believe the extraordinary
5 notification is in the evidence, and I will see that the
6 Board is informed in writing as to what was done.

7 MR. VLAHOS: Okay.

8 MR. KAISER: Thank you.

9 **SUBMISSIONS BY MR. MILLAR:**

10 MR. MILLAR: Mr. Chair, if I may, Board Staff have
11 some very brief comments on this. In fact, I think my
12 questions have largely already been answered. The first
13 one related to the legality of the notice.

14 As I understand Mr. Shepherd, he wasn't suggesting in
15 his letter, or I don't think he was, that there is a legal
16 problem with notice. In fact, I heard him confirm that
17 earlier, so I don't have a question on that.

18 Just a second comment to relate to, I guess, the
19 proposed road show, as I will call it. Maybe it just
20 requires a little bit of clarification from Mr. Shepherd,
21 and that is simply this: The Board has, on a few occasions
22 at least, done sort of public comment nights or days, or
23 something like that, and it seems to me that is more or
24 less what Mr. Shepherd has in mind here.

25 I just wanted to confirm with him that he is not
26 proposing, for example, that witness testimony, for
27 example, from the company would be held out in various
28 communities. My assumption is that if the Board were to

1 accept his proposal, we would still do most of the cross-
2 examinations and whatnot here at the Board, rather than go
3 to the communities for that. But if Mr. Shepherd has a
4 different view on that, perhaps he could let the Board know
5 that. Thank you.

6 **FURTHER SUBMISSIONS BY MR. SHEPHERD:**

7 MR. SHEPHERD: Mr. Chairman, I have a couple of
8 comments in reply, but let me first deal with Mr. Millar's
9 comments.

10 Yes, we are not objecting to the legality of the
11 notice. We think that not only was the notice a good
12 notice and very thorough, but that it is sufficiently broad
13 to cover a two-phase hearing as opposed to a one-phase
14 hearing already. That's number one.

15 Number two, no, what we are proposing in the road show
16 is nothing much different than the Board has done in the
17 past when it felt the need to ensure that people in
18 affected communities had an opportunity to be heard. You
19 go into the community. You advertise the meeting, so that
20 people understand there is something happening, and they
21 talk about it and they come and they express their views to
22 you.

23 It gives the Board a perspective it can't get hearing
24 a bunch of lawyers in an office tower in Toronto. It is
25 reality.

26 I want to deal with my friend Mr. Rogers' submissions
27 briefly. I want to start by saying that we think they have
28 done an exemplary job in trying to get notice out on this.

1 We have no objection to what they have done. They have
2 done a great job. It just hasn't worked.

3 So, yes, the School Energy Coalition is here, as we
4 always are -- we aren't here because of these notices. We
5 are here because, when things like this happen, we show up
6 like a bad penny. And, in fact, I want to go on to say
7 that there is an impact on schools that may be
8 disproportionate.

9 I was going to talk about this later, but I might as
10 well get it on the record now, and then we can dispense
11 with it later.

12 We have actually had discussions with Hydro One about
13 ensuring that we do a rigorous calculation of the impact of
14 the harmonization proposal on school boards across the
15 province, and Hydro One and School Energy Coalition have
16 agreed that we will get account numbers of affected schools
17 and consents from those boards and provide them to Hydro
18 One, who will then do a detailed impact analysis for the
19 affected schools, which we will then jointly file to the
20 Board so that you will have detailed and agreed information
21 on proposed impacts.

22 Mr. Rogers is quite right, that it is important that
23 you know the facts before you make decisions. So we have
24 agreed that we are going to put that set of facts together
25 and provide them to you.

26 My friend's basic argument is that they want to get on
27 with it. They don't want to put off harmonization any
28 longer, they've put it off long enough. It's got to get

1 done. Show time. Let's go.

2 There is several components to that. I should add
3 that, of course, Hydro One was directed to file their
4 application last August and filed it without harmonization
5 and didn't file the harmonization information until a lot
6 later. One of the reasons why we are talking about this
7 hearing happening not in time to get May 1st rates is
8 because their application was not filed with harmonization
9 in a timely fashion.

10 I am not trying to be critical; don't misunderstand
11 me. It is a hard reality that Hydro One's busy too, and it
12 is hard to get all of this stuff done.

13 But it is true that the delays we are talking about
14 now are not because Upper Canada District School Board
15 tried to put things off. That's not the reason.

16 My friend talks about the potential yo-yo effect, and
17 I guess that's a potential problem. But we're fairly
18 confident that the Board, in a phase 2, once it determines
19 how harmonization should be done, can also consider the
20 timing issue, can consider: Should it be retroactive to
21 the time that the rates were already set? Would that be
22 appropriate? Or is it appropriate to time it for November
23 1st, when there are already rate changes happening, bill
24 changes happen? Is it appropriate to defer it to May 1st,
25 2009 when there are going to be rate changes anyway. There
26 is a lot of choices you have at that time, regardless of
27 whether you do this phased or unphased, you have a myriad
28 of options to make sure that the bill impacts are done in

1 an intelligent way.

2 My friend talks about their CIS system, which -- trust
3 me, I agree. They have a CIS system that is tottering
4 towards old age. There is no question about that.
5 Tottering more than most of the people in this room, I
6 should say but -- I said "most". But it doesn't turn into
7 a pumpkin in 2012.

8 It, in fact, is getting worse and worse and it has to
9 be replaced as soon as possible. If you could replace it
10 next year it would be great. But they proposed four years
11 of changes so that they replace it in 2012. If you replace
12 it in 2013, is it going to -- is the world going to come to
13 an end? No, of course not. It would be better if it was
14 2010 or 11. They said 2012. No magic in that year.

15 They have also talked -- they also talked about the
16 introduction of time-of-use rates in 2011. Well, in fact,
17 their own proposal says that all of these rates will still
18 be in place in 2011. It's not until 2012 that they're
19 proposing to have the smaller number of rate classes. So
20 again, that is not magical.

21 I guess I should emphasize that one of the reasons why
22 we're proposing this, it's not just the question of making
23 sure people get heard although that is the most important
24 reason, but also a question of hearing efficiency.

25 We have currently one application, which has revenue
26 requirement stuff which certainly will take a week or two.
27 You know, that is fairly predictable, and some smart meter
28 stuff which will probably take a few days. But the

1 harmonization stuff is much more complex and could take a
2 great deal longer.

3 If we have that off, the first phase becomes a much
4 more efficient phase. So for example, you don't have to
5 build or you may not have to build into your procedural
6 order intervenor evidence, because, as far as we know right
7 now, except for harmonization, I haven't heard any
8 proposals of intervenors wanting to file evidence on the
9 revenue requirement component. It may be true, but so far
10 we don't know of any. But you can be sure that there will
11 be evidence on the harmonization component. And by
12 shifting it to a second phase, you have an opportunity to
13 consider that, without delaying the primary job.

14 The last comment I am going to make is with respect to
15 the cross subsidies, because -- and my friend is correct.
16 Hydro One is neutral on this. It's a zero sum game for
17 them. It is also true that there are some of these
18 communities where the rates are so low that you want to
19 move there, just to save the money. But many of these
20 communities the rates are not actually so low that they're
21 shocking.

22 So for example, I asked the people in Brockville,
23 well, you know, aren't you being subsidised right now and
24 they said no, we're actually already paying more than the
25 people in Belleville who are looked after by Veridian or
26 Gravenhurst or other small communities. We're already
27 paying more than them. This is an increase that is above
28 and beyond that. So there is an issue about whether, in

1 fact, the subsidies that Mr. Rogers is talking about, in
2 fact, are there. They may not be. It may in fact be that
3 the real costs to serve these communities is lower than
4 what my friends are proposing.

5 By phasing this, you have an opportunity to consider
6 this in a fuller way, in a more nuanced way. This is a
7 permanent change. There is no magic in doing it tomorrow
8 or next week. Yes, it has to be done, but it is more
9 important to get it right than to get it done by June 1st.

10 Those are our submissions.

11 MR. VLAHOS: Mr. Shepherd, sorry can I just follow up.

12 Based on your proposal, are you suggesting that we
13 have to wait for the revenue requirement of phase 1
14 decision before we proceed with a phase 2? Or are you
15 suggesting that we could have the phase 2 right after
16 phase 1, but not necessarily wait for the decision on
17 revenue requirement?

18 MR. SHEPHERD: Well, we actually did a little chart
19 which I didn't file because I thought it was a bit
20 presumptuous. But we did a chart of what happens in an
21 individual phase, and during the period after the oral
22 hearing in phase 1, you have a period of time when you do a
23 decision. But during that time, we're doing
24 interrogatories, filing evidence, et cetera, in phase 2.
25 The Board is not blind to that, but it doesn't engage the
26 Board in the same way as a hearing does.

27 So by the time you actually get to the point where you
28 are actively involved in phase 2, you have already had four

1 weeks, six weeks, eight weeks, whatever, a period of time
2 during which we're busy, but you are not, on phase 2.
3 That's how we think it would play out.

4 MR. VLAHOS: Right. So the interrogatories can
5 proceed based on your plan, your proposed plan.

6 MR. SHEPHERD: Sure.

7 MR. VLAHOS: The evidence can be filed, if evidence is
8 to be led by intervenors. That can be filed.
9 Interrogatories can be asked. And that can go on without
10 revenue requirement decision. Are you suggesting by the
11 time we get to the actual oral hearing on those matters,
12 the rate design matters, then we may have a Board decision,
13 or may not?

14 MR. SHEPHERD: I would guess -- well, the schedule we
15 had, and forgive me, but the schedule we envisioned would
16 have the hearing ending sometime in April. Argument ending
17 some time in relatively early May. And we would then start
18 doing interrogatories and preparing evidence for phase 2
19 while the Board was working on its decision.

20 We expect that the decision on phase 1 is likely to be
21 done by the end of June. It -- maybe it's early July but
22 it is not likely to be a lot longer than that because the
23 issues are fairly straightforward and they're hard. But
24 they're quite well defined.

25 So we would expect that the interrogatories and
26 evidence process would easily be done, would easily take
27 longer than the Board's decision on phase 1.

28 Now, obviously, you have other demands on your time,

1 so that's why I said it's a little bit presumptuous to
2 assume the schedule. But that is how we thought it might
3 work out.

4 So then we would be in the process of filing our
5 evidence at the time that you would, in July, say, go out
6 to a few communities to talk to them and see what they had
7 to say. That would be, in effect, your kick-off of the
8 phase 2 oral hearing. You would go and hear what they have
9 to say, and then come back to Toronto and hear the
10 evidence.

11 MR. VLAHOS: All right. Thank you for that.

12 MR. KAISER: Thank you.

13 **FURTHER SUBMISSIONS BY MR. ROGERS:**

14 MR. ROGERS: I'm sorry, Mr. Chairman, I know I don't
15 really have the technical right to reply, but can I just
16 make a couple of comments before you leave? Because I am
17 concerned about this and the practical implications for the
18 Board.

19 MR. KAISER: Sure.

20 MR. ROGERS: First of all, my friend said that the
21 harmonization would be -- would not be completed until
22 2012. I believe that the proposal is it will be all done
23 in 2011, to the extent that that is important, and these
24 other issues.

25 Secondly, what I just ask the Board to be cognizant of
26 is there is no evidence before you now about this new rate
27 proposal that Mr. Shepherd is proposing. I mean, there
28 isn't any evidence as to what that would look like or how

1 it would be done, or -- we would have to amend -- we would
2 have to file new evidence and maybe even have to amend the
3 application, because there is no request at the moment for
4 interim rates.

5 So there are some serious practical problems here
6 conceding to Mr. Shepherd's suggestion.

7 The last point I would like to make: Although he was
8 careful to say he wasn't being critical, perhaps I am being
9 a little overly sensitive here, but the company was
10 prepared to file its revenue material in August. It did
11 not have the cost allocation and rate design in a -- it was
12 not prepared to file it then. One of the reasons was
13 because they wanted to be sure that the public interest and
14 the impacts were properly addressed before doing so.

15 So that is why that second piece was late or was filed
16 after the first piece. Had the Board wanted to do it in
17 two phases, we could have been through with the revenue
18 requirement by now, because the applicant could have filed
19 that -- in fact, did file it in August. Thank you.

20 MR. KAISER: Thank you. We will come back in half an
21 hour.

22 --- Recess taken at 11:23 a.m.

23 --- On resuming at 11:54 a.m.

24 MR. KAISER: Please be seated.

25 **DECISION:**

26 MR. KAISER: The Board heard submissions this morning
27 in connection with the Procedural Order that the Board
28 issued in this matter back on February 6th. This is with

1 respect, of course, to the application of Hydro One
2 Networks of December 18th, 2007 for new distribution rates.

3 I am going to go through the issues in the order in
4 which they arose. I will deal first with what was really a
5 motion by the Applicant, that the Board take this
6 opportunity to determine that certain issues on the issues
7 list, and I am referring to the issues in Appendix A to the
8 Procedural Order of February 6th, that certain of them be
9 dealt with by way of writing and others orally.

10 The Board agrees with the submissions of a number of
11 the intervenors that were opposed to this, and virtually
12 all of the intervenors were opposed to this, that it is
13 premature to make that determination at this point. If it
14 is to be made, it should be made after interrogatories and
15 possibly after an ADR.

16 That, then, takes us to the issues list itself. At
17 the end of the day, this was a relatively straightforward
18 matter. There are four issues that are contested to
19 varying degrees. The first two were issues 3.4 and 3.7.
20 In both cases, Schools requested that certain language be
21 excluded. The language is in the transcript and the
22 excluded language is identified in the Exhibit filed with
23 respect to this. The Board agrees that that language
24 should be excluded. I am referring to both 3.4 and 3.7.
25 Issue 3.4 Issue 3.5 in the original Appendix A in the
26 Procedural Order. Those changes will be made as requested
27 by Schools.

28 We have two additional issues that relate to Smart

1 Meters. These were Issues 8.4 and 8.5. These were new
2 issues introduced by the Consumers Council of Canada. They
3 were opposed initially by the applicant, but in the end,
4 the applicant conceded that they could go on the issues
5 list. Accordingly, they will be added to the issues list.

6 That, then, brings us to the letters that the
7 applicant filed on December 20th and 21st. This matter
8 relates to requests by the Applicant for the continuation,
9 on an interim basis of the existing regulatory asset rate
10 riders on the one hand and continuation of the existing
11 time-of-use rates on the other hand, until such time as new
12 distribution rates in this proceeding are approved. The
13 second one related only to three customers, with \$150,000
14 in issue. Both of those new rates are set to expire at
15 either April 30th of this year or April 1st of this year.
16 The Board accepts the submissions of the Applicant. They
17 should continue until the distribution rates in this
18 proceeding are set. No one opposed that request by the
19 Applicant.

20 That brings us, then, to what was perhaps the more
21 contentious issue of the day. This was a proposal by
22 Schools as set out in their letter of February 13th that
23 this proceeding be divided into two phases. It was Schools
24 position that the Application should be divided into two
25 phases. In phase one, the Board would consider the revenue
26 requirement and the resulting 2008 rates without
27 harmonization. Harmonization would not be included in the
28 interrogatories, ADR or oral hearing in this phase. At the

1 end of phase one, the Board would issue a rate order
2 implementing new non-harmonized rates. In phase two the
3 Board would consider the proposed harmonization plan as
4 part of a separate process. As part of that, the Board
5 would hold might be called "regional hearings" or as some
6 referred to it, the "road show."

7 I should clarify, as the parties and Board Counsel
8 did, this is not a question of notice. Schools is not
9 attempting to set aside or quash the notice on grounds of
10 deficiency. It relates the to their concern that there are
11 parties that do not realize the full rate impact. And
12 related to that, that these parties might not be
13 represented adequately in these proceedings.

14 I would add that the Applicant has agreed to file
15 further evidence as to how they went beyond the notice
16 requirements, as set out by the Board in the Board's
17 direction of January 14th. I want to make it clear that we
18 are not concerned with a deficiency of notice, but that
19 does bring us to the second question, whether there are
20 parties who are not adequately represented in these
21 proceedings. And whether there is some unfairness as a
22 result.

23 These proceedings, as are all of the parties here are
24 aware, involve a number of intervenor groups. There is
25 substantial intervenor funding in the Board's processes.
26 It currently runs to about three million dollars a year.
27 In this proceeding we have different ratepayers
28 represented. We have Energy Probe, Pollution Probe, AMPCO,

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1 the Consumers Council of Canada, Vulnerable Energy
2 Consumers Coalition, SEC and others. So there is
3 widespread representation of consumer groups through the
4 Board's usual process.

5 There are situations -- and this was conceded by Mr.
6 Warren -- in any of these organizations there are customers
7 with existing cross subsidies. The application attempts
8 through harmonization to remove those cross subsidies.
9 There will be, within a given group, some winners and some
10 losers. In one sense, that might present a difficulty
11 because it appears to create some client conflict. But in
12 another sense it does not. Ultimately, the intervenors'
13 objective is to support a fair allocation process. There
14 will be inevitably some winners and losers. The Applicant,
15 in fact, is neutral in this process. It has every interest
16 in having a fair process. In the end, the Applicant is
17 kept whole regardless of how the allocation proceeds. We
18 have experienced counsel here and we are convinced that
19 they will do their best to recommend a fair process. At
20 the end of the day, that is what the Board is looking for,
21 as well.

22 Mr. Rogers pointed out and he will recall a long time
23 ago when both of us wore different hats, that it was the
24 function of Board Counsel to represent the public interest,
25 particularly if there was any interest that was not
26 represented. It is the job of Board Counsel to step
27 forward and represent those interests. We are confident
28 that Mr. Millar can do that.

1 I should also add that, and the applicant points this
2 out, there is a 10 percent mitigation proposal as part of
3 the application. That will assist the Board in dealing
4 with the concerns advanced by Mr. Shepherd.

5 In addition, there are problems that would result from
6 delays. There are time-of-use rates coming and that is an
7 important issue. It is important that this rate-setting
8 process proceed expeditiously. It would also not be in the
9 interests of consumers to have too many rate changes, to
10 have rates jumping up or down. In the end, the Board is
11 not convinced that creating a two-phase process would
12 result in a better decision or a higher quality decision.
13 Rather, we conclude that it would work against that result.
14 Accordingly, we have denied Mr. Shepherd's motion in this
15 regard.

16 Any questions? Thank you, gentlemen.

17 --- Whereupon the hearing adjourned at 12:05 p.m.

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