Jay Shepherd
Professional Corporation
2300 Yonge Street
Suite 806, Box 2305
Toronto, ON M4P 1E4

BY EMAIL and RESS

May 28, 2012

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
M4P 1E4

Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2012-0180 – Hydro One Networks Inc. – Incumbent Transmitter Deferral Account – SEC Submission

We are counsel to the School Energy Coalition ("SEC"). Pursuant to Procedural Order #1, these are SEC's submissions.

SEC submits that the Board should deny Hydro One Networks Inc. ("HONI") its request for an accounting order to establish an 'Incumbent Transmitter Deferral Account" (the "Deferral Account) related to the East-West Tie Line, for the reasons set forth below.

General. HONI has not demonstrated that the amounts that could potentially be recorded in the Deferral Account, and their purpose, would meet the test for a Z-Factor. While Z-Factors are a feature of the Board's IRM regime, the Board in its Decision in EB-2010-0193, did not reject the idea of its application for utilities not on IRM.[1] SEC submits that consistent with that prior decision the principle of a Z-Factor equally applies to a transmitter who is on cost-of-service as their rates have been set for the current year.

SEC submits that HONI has not met the test for causation required to establish a Z-Factor event. The amount that could be included in the Deferral Account is not clearly outside the base

[1] *Decision* dated October 29, 2010, EB-2010-0193, at p. 8

from which rates were derived.[2] HONI has a large regulatory affairs department who manage new regulatory projects as they arise. The expenses that may be incurred do not reach the level which can be said to be unmanageable by HONI. Further, HONI is often required to undertake development work for preparation of the construction of transmission lines and various support and interconnection facilities. It has considerable expertise and resources to do so. Those costs are not of the same scope as the ultimate construction costs, or even costs to develop a transmission line, and therefore should be borne by HONI as they are costs in the normal course of business.

While there is no defined materiality threshold for establishment of a deferral account, the Board should not establish a deferral account if the possible amount that would be recorded in it would not meet the materiality level for disposition. With HONI's revenue requirement for 2012 at over $1.6 billion[3], SEC submits that possible expenses that could be included in the Deferral Account will not meet the requirement for materiality under a Z-Factor or general disposition threshold.[4]

OEB Allocated Proceeding Costs and Support Costs for Designation Process. The Board should not approve the Deferral Account to record 'OEB allocated proceeding costs' or 'support costs for the designation process'. SEC submits that those costs are already included in the revenue requirement approved by the Board in EB-2010-0002. In that proceeding, the Board approved rates based on an approved revenue requirement for HONI for 2011 and 2012. The revenue requirement included a prospective OM&A budget for regulatory costs that would be required in those years. SEC submits it is immaterial that HONI could not foresee this proceeding and any resulting expenses that it may have to incur because of it. Many regulatory costs, including Board and intervenor costs through proceedings to be recovered by the Ontario Uniform Transmission Rates, will not be known during a cost of service application. For any utility, there will be specific expenditures that were not foreseen including various regulatory proceedings which involve HONI that are not foreseen at the time of the last cost-of-service application. That does not mean that there should be a deferral account established to capture them. The approved budget takes that into account and is the natural consequence of a future test year cost-of-service. Reciprocally, if certain forecasted expenses don't occur during the test year, ratepayers are not eligible to have that amount refunded to them.

Development Work Associated With Stations and Other Supporting Asset. SEC submits that the Board should not approve the Deferral Account for the purpose of recording the costs of 'development work associated with stations and other supporting expenditures'. While SEC understands that HONI might need to undertake development work before a leave to construct application is filed regarding the construction of the East-West Tie Line, that work won't begin until next year. HONI is expected to file a cost-of-service application for its transmission

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[2] *Report of the Board on 3rd Generation Incentive Regulation for Ontario's Electricity Distributors*, dated July 14, 2008 at p.35. ("*3rd Generation IRM Report*") at Appendix p. V
[3] See EB-2010-0002, Rate Order
[4] *3rd Generation IRM Report* , Appendix at p. V

business for 2013 and 2014, and the proposed development costs should be determined like any other expense at that time.

If the Board does grant HONI its Deferral Account for this purpose, SEC submits that it should only be allowed to record expenses after a designation order has been issued in EB-2011-0140.

Yours very truly,
Jay Shepherd P.C.

Mark Rubenstein

cc: Applicant and Intervenors (by email)