



T.J. Moore Law
Professional Corporation

Sent by Email

August 31, 2012

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

Dear Ms. Walli:

**Re: Orangeville Hydro Limited – Application for Service Area Amendment
Board File Number EB-2012-0181**

The purpose of this letter is to request a decision on an interlocutory basis, to be made before September 7th, 2012, as to the validity of Hydro One Networks Inc.'s ("HONI") insistence on a certain standard of burial of cable that is inconsistent with that of a municipality. Although Orangeville Hydro Limited (the "Applicant") recognizes the Board cannot directly referee a dispute between HONI and a municipality, we submit that the Board does have full jurisdiction over HONI, and any conditions to connection that HONI chooses to impose.

Background:

As described in the recent letters submitted by lawyers for Thomasfield Homes Development Inc. (the "developer") and the Municipality of East Luther Grand Valley (the "municipality"), and in HONI's response thereto, the following is a summary of the issue at hand:

- The municipality has a municipal standard for the installation of electrical cable, which requires that buried primary and secondary cable on municipal rights-of-way must be installed in duct. The municipality has indicated that compliance with this standard is mandatory.
- OHL is agreeable to the servicing of the developer's subdivision in accordance with the municipality's standard, whereas HONI is not. HONI has indicated that it will not vary from its current standard of direct burying primary and secondary cable in sand bedding.
- HONI has indicated that it will not finalize its offer to connect until the developer, its engineer, and the municipality provide clearance and acceptance of HONI's design. As

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reflected above, HONI's revised design will not be approved because it does not meet the municipality's policy regarding the burial of electrical cable in ducts.

Reasons:

The Applicant submits that the requested sought below should be granted for the following reasons:

- The direct burial standard of HONI, although one acceptable method, is not the only one that is in widespread use and is not the only one consistent with good engineering practice. HONI has defended its refusal to accept the municipality's cable burial policy by simply stating that HONI's direct burial standard is approved by Ontario's *Electrical Safety Authority* (ESA). However, the ESA also approved the burial of cable in conduit.
- The municipality has provided a valid reason for its preference for burial of cable in ducts. This reason includes the reasonable objective of avoiding unnecessary tearing up of municipal right-of-ways in the event that cable needs to be removed or repaired.
- HONI's insistence on its standard is arbitrary, as the work is neither done by nor paid for by it, but by the developer, and HONI cannot be harmed in any way if the municipality's standard is used.
- HONI's insistence on its standard in this case is merely an anti-competitive stratagem that has no other purpose than to force the developer to contract with it. Once the developer has to finish construction and is unable to comply with the municipal standard it will be unable to proceed, thereby pre-empting, and making the entire Board process moot.
- There is nothing in any of the statutes governing the electricity industry that gives HONI the right to impose a condition to connection with it for this purpose, and the Board has plenary jurisdiction to order HONI not to impose this standard in its offer to connect process.

Relief Sought:

OHL respectfully requests that the Board make the following decisions or orders by September 7, 2012:

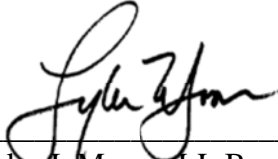
- A finding that the insistence of HONI on its cable burial standard is unreasonable and unnecessary;
- An order that HONI remove the direct cable burial requirement for this particular development in any offer to connect form given to the developer, or any other process leading to connection;
- This order to be without deciding who shall be the distributor serving the proposed development; and

- The process of deciding which distributor shall serve the proposed development should be made on September 7, 2012, and final arguments should be presented orally on September 6th, each party having one hour to do so.

All of which is respectfully submitted.

Yours very truly,

T.J. MOORE LAW PROFESSIONAL CORPORATION

By: 
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