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August 1, 2017

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

Re: EB-2017-0150: Completion of Record – Independent Electricity System Operator 2017 Expenditure and Revenue Requirement Application

Dear Ms. Walli:

Introduction

This letter is written on behalf of the Association of Power Producers of Ontario (“**APPrO**”), an intervenor in this application.

The purpose of this letter is to complete the record on the settlement of the issues list so that the Board has a more complete basis for its decision.

Specifically, OEB staff submissions neglected to refer to OEB authority in its submissions. OEB staff referred to OEB decisions in relation to an OPA procurement contract (EB-2010-0279 and EB-2007-0791) in relation to the distinction between OPA “fees” and “charges”. According to Board staff, “as OEB staff reads the [Electricity] Act, it is not accurate to say that charges ‘relate to the costs of government directed procurement contracts.’”

APPrO does not intend to argue this point. However, in fairness, it brings to the Board’s attention the Board’s Direction to the OPA in the York Region Supply Proceeding (EB-2005-0315, attached) where the Board stated the following with respect to costs incurred under Procurement Contracts:

“these costs are effectively sheltered from regulatory review. This makes the recovery of these costs different than other OPA expenditures because OPA expenditures other

than those incurred from Procurement Contracts require the approval of the Board" (at p. 9).

APPrO trusts that the Board finds this helpful.

A handwritten signature in black ink, appearing to read "George Vegh", with a stylized, cursive script.

George Vegh

cc: David Butters, President & CEO, APPrO
Ms. Miriam Heinz, Senior Regulatory Advisor, IESO
Mr. Fred Cass, Counsel for IESO

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BY PRIORITY POST

July 25, 2005

Mr. Jan Carr
Chair
Ontario Power Authority
175 Bloor Street East
North Tower, Suite 606
Toronto, Ontario
M4W 3R8

Dear Mr. Carr:

Re: York Region Supply

This letter is written pursuant to s. 21 of the *Ontario Energy Board Act, 1998*, which authorizes the OEB to direct parties to file evidence to assist the Board in its determination of an issue and s. 25.27 of the *Electricity Act*, which requires the OPA to provide the Board with such information as the Board may require from time to time.

The issue that the Board is considering is whether and how it may be necessary for the Board to exercise its regulatory authority to address the growing demand for electricity in York Region. The options that the Board will consider in making this determination are directing or authorizing one or more of the following options¹:

- 1. The Transmission Option:** Rebuilding the existing above ground transmission facilities between Parkway TS in Markham and Armitage TS in Newmarket.

¹ All of these options are described in considerable detail in the reports provided to the Board (with a copy to the OPA) on April 15, 2005 and June 29, 2005. These documents are described in greater detail below.

2. **The Buttonville Option:** Building a 230/44 KV transformer station (TS) at the site of Buttonville TS in the Town of Markham and constructing 44 KV feeders to the Aurora/Newmarket/Stouffville area.
3. **The Holland Junction Option:** Building a 230/44kV TS on the Claireville TS to Brown Hill TS right of way at the Holland Marsh Junction.
4. **The Supply/Demand Reduction Option:** A contract between the OPA and a generator or a consumer for new supply, capacity or demand reduction, the costs of which will be recovered from OPA customers if approved by the Board.

The evidence that the Board directs the OPA to provide is as follows:

1. An opinion on the need for new supply in York Region with specific reference to a timeline that sets out an estimate of when demand growth in York Region will cause supply reliability to be adversely impacted and the consequences of such impacts.
2. An opinion on which of the above four options (or, in the alternative to options 1-3, a refined or different transmission and/or distribution option that is acceptable to the implementing transmitter or distributor) is the optimal way to serve this new demand by reference to price and the reliability and quality of electricity service. The opinion should compare the alternatives as proposed by Hydro One and the York Region LDCs and provide reasons why the OPA considers that its proposed option is preferable to the alternatives.

Upon considering the OPA's evidence, the Board may determine that one or more of the options are necessary. If so, there will be a subsequent regulatory process to direct or authorize the preferred option. The Board requests the OPA to provide this evidence by September 30, 2005.

The context for this direction is set out below.

York Region Demand Growth

The IESO Outlooks and the Joint Response

Meeting demand growth in York Region has been identified as a cause for concern by the IESO in its *10-Year Outlooks*. In the 2003 *10-Year Outlook*, the IESO stated that the high rate of load growth in the municipalities of Newmarket, Aurora, Markham, Richmond Hill, and Vaughan requires that “necessary transmission reinforcements be placed in-service as soon as possible beginning no later than April 2005.”² In its 2004 *10-Year Outlook*, the IESO confirmed that “the ability of the existing transmission facilities to supply the rapidly growing load in the Newmarket and Aurora areas” was still an issue of immediate concern.³ More recently, the IESO’s 2005 *10-Year Outlook* stated that “The rapid increases in the load within the Newmarket – Aurora area that have been experienced are taxing the capability of the existing double-circuit line between Claireville TS and Armitage TS.”⁴

The 2004 *10-Year Outlook* noted that, in 2003, the York Region LDCs (Newmarket, Aurora, Markham, Richmond Hill, and Vaughan and Hydro One Networks – Distribution) and Hydro One Networks – Transmission, jointly prepared a report entitled the “York Region Supply Study: Adequacy of Transmission Facilities and Transmission Supply Plan, 2003-2013” (the “Joint York Region Study”). The participants in the Joint York Region Study unanimously concluded that the failure to take steps to increase supply “is not acceptable.” According to the Joint York Region Study, failing to act “will aggravate the existing overload situation. Equipment loading will continue to increase and supply reliability will be adversely impacted in case of a contingency.”⁵

² IESO *10-Year Outlook: An Assessment of the Adequacy of Generation and Transmission Facilities to Meet Future Electricity Needs in Ontario from January 2004 to December 2013*, p. iii.

³ IESO *10-Year Outlook: An Assessment of the Adequacy of Generation and Transmission Facilities to Meet Future Electricity Needs in Ontario from January 2005 to December 2014*, p. 25.

⁴ IESO *10-Year Outlook: An Assessment of the Adequacy of Generation and Transmission Facilities to Meet Future Electricity Needs in Ontario from January 2006 to December 2015*, p. 25.

⁵ York Region Supply Study: Adequacy of Transmission Facilities and Transmission Supply Plan, 2003-2013, p. 22.

To address this, all of the York Region LDCs and Hydro One jointly recommended a transmission solution, namely, to rebuild the existing transmission facilities between Parkway TS in Markham and Armitage TS in Newmarket (the "Transmission Proposal"). The detailed components of the Transmission Proposal are set out in the Joint York Region Study.⁶

On October 21, 2004, Hydro One provided the Minister of the Environment with a Draft Environmental Study Report for the Transmission Proposal (the "Draft EA Report"). The Draft EA Report was prepared in accordance with the Class Environmental Assessment for Minor Transmission Facilities approved under the *Environmental Assessment Act*. Upon receiving this Report, the options for the Minister of the Environment were to (i) grant the authority to proceed with the Transmission Proposal with or without conditions, such as further study on specified areas; or (ii) require Hydro One to proceed to a full environmental assessment. Hydro One requested the Minister of the Environment to proceed with option (i); other parties requested the Minister of the Environment to proceed with option (ii). The decision of which option to order proceed with is entirely at the discretion of the Minister of the Environment in accordance with the *Environmental Assessment Act*.

On March 8, 2005, prior to the Minister exercising her discretion under the *Environmental Assessment Act* to either approve the Transmission Proposal (with or without conditions) or order a full Environmental Assessment, Hydro One withdrew its Draft Environmental Study Report. As a result, the environmental review issues respecting the Transmission Project have not yet been reviewed by the Ministry of Environment.

Given the uncertainty of Hydro One's voluntary pursuit of the Transmission Option, and given the need to address the supply issue identified by the IESO in the forecasts described earlier, the Board determined that it should move forward to ensure that concerns respecting adequacy, reliability and quality of service in York Region are

⁶ A copy of this document is included in the package described at footnote 12.

adequately addressed. The Board's powers and obligations with respect to the price, adequacy, reliability and quality of electricity service are set out in several statutory provisions.

The Board's Responsibility and Authority: Transmission and Distribution

The Board's statutory objectives include protecting "the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service."⁷

Similarly, its statutory grant of power with respect to transmission and distribution licences includes the authority to impose licence conditions requiring a transmitter or distributor "to expand or reinforce its transmission or distribution system in accordance with the market rules in such a manner as the IMO or the Board may determine."⁸

In accordance with these provisions, the licences that the Board issued to Hydro One and the York Region LDCs all include provisions that the Board may require them to "expand or reinforce" their transmission and distribution systems "in order to ensure and maintain system integrity or reliable and adequate capacity and supply of electricity."⁹ Any such expansion or reinforcement must be carried out in accordance with the Act, and the regulations, including the requirement that expansions of transmission lines longer than two kilometres may only be carried out if the Board grants leave to construct.¹⁰ In determining whether leave should be granted, the Act provides that "the Board shall only consider the interests of consumers with respect to prices and the reliability and quality of electricity service."¹¹

The Board therefore has the responsibility and the power to require that expansions and reinforcements are made to protect consumer interests in price, reliability and supply of electricity.

⁷ *Ontario Energy Board Act*, s. 1(1).1

⁸ *Ontario Energy Board Act*, ss. 70 (2)(j)

⁹ See: Hydro One Transmission Licence, s. 12.2 ; and distribution licences, s. 13.2

¹⁰ *Ontario Energy Board Act*, ss. 92 (1)

¹¹ *Ontario Energy Board Act*, ss. 96(1)

Accordingly, on February 18, 2005, the Board directed Hydro One to advise of its plans to address transmission reinforcement requirements in, among other places, York Region. On April 15, 2005, Hydro One responded with a report that identified two potential options: the Transmission Proposal (described above); and an option that involved the use of distribution facilities of the York Region LDCs.

Board Staff met with Hydro One and the York Region LDCs with respect to these proposals and, by letter dated June 8, 2005, the Board directed the York Region LDCs and Hydro One Distribution to identify the optimal distribution solution to the York Region Supply Issue. These LDCs provided a joint response on June 29, 2005. This response provided an assessment of two potential distribution options: "The Buttonville Option" and the "Holland Junction TS Option". The Buttonville Option involves building a 230/44 KV transformer station at the site of Buttonville TS in the Town of Markham and constructing 44 KV feeders to the Aurora/ Newmarket/ Stouffville area. The Holland Junction Option involves building a 230/44kV TS on the Claireville TS to Brown Hill TS right of way at the Holland Marsh Junction.¹²

As a result, there are currently three potential options to address the issue of security and reliability of supply in York Region: Transmission Option, the Buttonville Option and the Holland Junction Option. These options contain a combination of transmission and distribution.

The Board has the power to order that anyone of these options be implemented (subject to any necessary regulatory approvals, including environmental approvals)¹³ if it determines that doing so is in the interests of consumers with respect to prices and the reliability and quality of electricity service.

¹² Copies of the Hydro One and the York Region LDCs' responses, which contain detailed descriptions of all of these options, have been provided to the OPA by the authors, and additional copies are available at the Board.

¹³ The Board does not have the legal authority to review environmental issues in considering the approval of projects. The environmental issues are entirely within the authority of the Ministry of Environment under the *Environmental Assessment Act*. Section 12.2(2) of that *Act* provides that "No person shall issue a document evidencing that an authorization required at law to proceed with the undertaking has been given until the proponent receives approval under this Act to proceed with the undertaking." As a result, any approval granted by the Board does not authorize leave to construct until all necessary environmental approvals have been obtained.

The Board's Responsibility and Authority: Generation and Demand Reduction

The Board recognizes that its statutory mandate in this regard is limited to ordering that solutions to the York Region supply issues be met by distribution and transmission. It does not have the authority to order solutions to the York Region supply issue be met by either generation or demand reduction.

However, the Board believes that the alternatives of generation and demand reduction should also be considered as part of the solution to the York Region supply issue so that the Board may determine and approve an optimal solution in terms of price and reliability and quality of electricity service. The OPA is uniquely positioned to provide the Board assistance in this regard.

First, one of the OPA's statutory objects is "to engage in activities in support of the goal of ensuring adequate, reliable and secure electricity supply and resources in Ontario."¹⁴

Second, in support of this and other objects, the OPA has the statutory power to enter into contracts relating to the "adequacy and reliability of electricity supply", the "procurement of electricity supply and capacity" and the "procurement of reductions in electricity demand and the management of electricity demand".¹⁵

As a consequence, the OPA has both the mandate to support adequacy, reliability and security of supply and the ability to enter into contracts to support new supply or demand reduction.

→ The Board therefore requests the OPA to provide its opinion on the need for new supply in York Region and on the relative merits of the Transmission Option, the Buttonville Option and the Holland Junction Option (or a refined or different transmission and/or distribution option that is endorsed by Hydro One and/or the York Region LDCs) in light

¹⁴ *Electricity Act*, s. 25.2(1).

¹⁵ *Electricity Act*, s. 25.2(5).

of the interests of customers in price, reliability and quality of electricity services.

→ Further, the Board would benefit from the OPA's views on whether the goals would be better served by additional supply, capacity or demand reduction. If the OPA is of the opinion that supply, capacity or demand reduction are preferable solutions, the Board is prepared to entertain an application by the OPA to recover the costs of a contract to provide those solutions. In other words, the OPA may apply for approval of its expenditures in relation to purchasing supply, capacity or demand management if it is of the opinion that this is preferable to any of the options currently considered by the Board. The Board will consider that application by reference to its statutory objectives.

In proceeding in this manner, the Board recognizes that, in the longer term, the Board's role in reviewing the OPA's system planning and procurement will be different than it is today.

Specifically, under Part II.2 of the *Electricity Act*, the Minister of Energy will provide the OPA with directives on the goals to be achieved during a period covered by an integrated power system plan (the "IPSP"). The OPA will develop an IPSP that is designed to achieve the Government's goals relating to, among other things, the adequacy and reliability of electricity supply and demand management.¹⁶ The Board will review the IPSP to ensure that it complies with the Minister's directions and is economically prudent and cost effective.

The OPA will also develop "Procurement Processes" for "managing electricity supply, capacity and demand in accordance with its approved integrated power system plan."¹⁷ The proposed Procurement Processes will also be reviewed by the Board.

After the Board has approved Procurement Processes, the OPA may enter into "Procurement Contracts" in accordance with the approved Procurement Process. Procurement Contracts are contracts for the procurement of electricity capacity, supply

¹⁶ *Electricity Act*, s. 25.30(1), (2).

¹⁷ *Electricity Act*, s. 25.31(1).

and demand management.¹⁸ Costs relating to Procurement Contracts entered into in accordance with the Board approved Procurement Process will be recovered by electricity customers without further review by the Board; these costs are effectively sheltered from regulatory review. This makes the recovery of these costs different than other OPA expenditures because OPA expenditures other than those incurred from Procurement Contracts require approval of the Board.¹⁹ As a result, in the future, after the IPSP and Procurement Processes are considered and approved by the Board, the OPA will have the independent authority to recover the costs of Procurement Contracts without OEB approval. Unless and until the OPA enters into Procurement Contracts in accordance with a Board-approved Procurement Process, the recovery of all OPA expenditures – including those related to contracts for supply, capacity and demand management outside of the Procurement Contract process – require Board approval.

As a result, if the OPA is of the opinion that contracts for electricity supply, capacity or demand reduction are preferable to the transmission and distribution options that have been presented to the Board, then it may apply to the Board for approval to recover the costs of its expenditures for these contracts.

Summary and Conclusion

In light of all of the above, the Board seeks the OPA's assistance in addressing the most preferable way to address the York Region supply situation by providing the Board with evidence for the Board to consider. The evidence that the Board directs the OPA to provide is as follows:

¹⁸ *Electricity Act*, s. 25.32(1)

¹⁹ *Electricity Act*, s. 25.21

1. An opinion on the need for new supply in York Region with specific reference to a timeline that sets out an estimate of when demand growth in York Region will cause supply reliability to be adversely impacted and the consequences of such impacts.
2. An opinion on which of the above four options (or, in the alternative to options 1-3, a refined or different transmission and/or distribution option that is acceptable to the implementing transmitter or distributor) is the optimal way to serve this new demand by reference to price and the reliability and quality of electricity service. The opinion should compare the alternatives as proposed by Hydro One and the York Region LDCs and provide reasons why the OPA considers that its proposed option is preferable to the alternatives.

Upon considering the OPA's evidence, the Board may determine that one or more of the options are necessary. If so, there will be a subsequent regulatory process to direct or authorize the preferred option. The Board requests the OPA to provide this evidence by September 30, 2005.

Thank you for your assistance in this matter.

Yours truly,

Original Signed by

John Zych
Board Secretary

cc: Paula Conboy, PowerStream
Mary Anne Aldred, Hydro One
Joe Toneguzzo, Hydro One
John Sanderson, Aurora Hydro
Gaye-Donna Young, Newmarket Hydro