24/3/09

To: ONTARIO ENERGY BOARD

Fax #: 1-416-440-7656

Re: Hydro One Network's.Application for an Electricity Transmission Revenue Requirement Change.

Date: March 21, 2009

Pages: Nine (9), including this cover sheet.

File No.: EB-2008-0272

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ONTARIO ENERGY BOARD
OFFICE OF THE BOARD SECRETARY

Attention:, Ms KIRSTEN WALLI, BOARD SECRETARY ONTARIO ENERGY BOARD.

Dear Ms WALLY;

Attached hereto is my Final Argument and covering letter, respecting the above-referenced proceeding.
I regret that I have to use the fax for the delivery of this document, but technical problems with my ISP prevents the filing it by e-mail

Yours truly,

OEB BOARD SECRETARY	
File No EB-2008-0272	Sub File: 16
Panel	C.C./P.V./K.Q.
Licensing	
Other	E.Z./N.Mc/H.T./M.M.
	N.M./V.B./M.D/C.C.
00/04	

Lewis J. Balogh.

Lewis J. Balogh

LB./ attachments

From the desk of...

Lewis Balogh
Owner
Balogh Farms & Vineyard
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519-875-4825
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BALOGH FARM & VINEYARD
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March 21, 2009

Via Fax

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

Dear Ms Walli:

Subject: EB-2008-0272-Hydro One Networks' Inc.-2009 and 2010 Electricity Transmission Rates Application. Final Argument: Lewis Balogh Intervenor.

Attached to this letter are the six pages of the Argument I prepared dealing with the above-captioned Application and the proceeding involved in it.

I thank you for the opportunity of having taken a part in it.

Yours truly,

Lewis J. Balogh

Lewis J. Balogh.

cc: Glen MacDonald, Hydro One Networks Inc. **Via fax**

EB-2008-0272

Ontario Energy Board

IN THE MATTER OF *the Ontario Energy Board Act,1998;*
S.O. 1998, c. 15. Schedule B.

IN THE MATTER OF a review of an application filed by Hydro One Networks Inc. under section 78 of the *Ontario Energy Board Act, 1998,* seeking changes to the uniform provincial transmission rates.

Final Argument
By

Lewis J. Balogh, Intervenor.

March 21, 2009.

1. BACKGROUND.

1,1 What preceeded this Argument.

On September 30, 2008, Hydro One Networks Inc. (the"Applicant")filed an application with the Ontario Energy Board (the Board) under section 78 of the *Ontario Energy Board Act, 1998.* This application seeks approval for changes to the uniform provincial transmisson rates that Hydro One Networks Inc, charges for the transmission of electricity, to be effective and implemented on July 1,2009. The Board has assigned the file number of EB-2008-0272 to this application.

The Board received 21 requests for intervenor status, which the Board subsequently approved. The intervenors obtained copies of the pre-filed evidence in either hard copy form or in electronic transcription format.
The undersigned Lewis J Balogh applied for and received intervenor status, and took active part in all of the the proceedings.

On November14, 2008 the Board issued Procedural Order No.1 that contained a proposed list of issues that could impact the approval or disapproval of this application of Hydro One Networks Inc.

A number of Intervenors submitted interrogatories to the Board and to Hydro One seeking clarification or additional data that may support the application referenced by file number EB-2008_0272.

By the same Procedural Order No. 1 the Board also ordered that a Settlement Conference be held at the Board`s offices on Tuesday, February 3, 2009 and continue to February 5, if needed with Mr. K. Rosenberg acting as facilitator.

The oral hearings began on Monday February 23, 2009 and continued until March 6, 2009. At these hearings the intervenors had the opportunity to cross-examine the witnesses that the applicant, Hydro One provided.
During these cross-examinations there were numerous challenges made to the reliability of the data contained in the pre-filed evidence and to the explanation offered by the applicant`s witnesses.

As the closing argument by the Counsel of the Applicant made it clear that Hydro One`s position did not change respecting the substantial increases they are seeking, this Final Argument is made to show this intervenor`s opposition to these new, higher transmission rates Hydro One is applying for during these times of the continually deteriorating economy of Ontario.

1.2 Summary of the Arguments.

The grouping of the Arguments follows the order in which the issues were dealt with by the witness panels during the hearings.
As this intervenor was present during and took part in the cross examination of all witness panels except the one dealing with AMPCO`s submission, the following arguments are intended to show that there were neither compelling nor succesfully defendable evidence offered by Hydro One to make the rate increases it seeks acceptable.

In general terms, these Arguments will focus on:

- The reliability of load forecasts;
- The cost of Operations,Maintenance& Administration(OM&A);
- The the need for replacing assets;
- The productivity and cost-effectiveness of Hydro One;
- The high wages of Hydro One`s hourly rated employees;
- The possible legislative changes that could eliminate the dire consequences of a strike by Hydro One`s labour force.

2. Argument by Issues.

Issue 2.1 Load Forecast.

The forecast 12 month average peak is 21,391 MW for 2009.
(Exhibit A Tab 4 S.3 Table 1.)
As this component plays a significant role in supporting the Applicant`s revenue requirement, on account oft he latest data reported by Statistics Canada (March 16, 2009), in which it states that canadian industry operated only at 74.4 per cent of its capacity, the load forecasts and energy demand need to be re-evaluated.

Issue 3.1 Spending Levels of Sustaining and development OM&A in 2009 and 2010 Including System Reliability and Asset Condition.

Sustaining and Development.

The proposed spending levels for the Sustaining and Development segment of OM&A in 2009 is $240.4 million as opposed to $207.9million in 2008. This represents a 15.6% increase year-over-year, (Exhibit C2 Tab2 Sc 1).
at the time when the four year average CPI is about 1.8% and the rate of inflation is approximately 2.5%.
During the time of economic expansion in 2006, this line item was $170

million, which is 30 percent lower than the 2009 budget calls for.
Again, a revision of the Sustaining and development is highly desirable on account of the current economic climate.

Respecting the category of Operations expense, in 2008 it was $47.6 million whereas the budget calls for $52.3 million in 2009. This indicates a 9.9% increase. **(Ref:Hydro One Transmission 2007 Benchmark)**
The same reasoning applies to the cost of Operations as it did in the case of Sustaining and Development: the amount needs to be revised downward for 2009 and 2010.

Asset Condition.

In response to an interrogatory by the Board`s staff, (Exhibit I Tab1, Sc.10), Hydro One states that "OM&A capital spending is largely driven by the needs of an aging asset base."

In the August 16, 2007 Decisions with Reasons, the Board directed the Applicant to "develop format and data reflecting asset condition" in order to determine the need of their replacement.(EB-2006-0501.)
To this end, the Applicant retained Hatch International Ltd. to undertake a detailed, thorough study of its assets` condition.
Hatch International presented its report titled "2008 Asset Condition Audit" (Exhibit D1 Tab1 Sc.1), on September 16, 2008.
This report analysed all available data collected on the Applicant`s assets and rendered judgement on their "health" to serve as a guide and basis for their replacement.

The evaluation of the Applicant`s 640 transformers yielded the result which showed that **96 per cent were in very good or goodcondition, needing no replacement in the near future,** and only **four per cent of them required replacement in the next five years**. (Figure 5 , page 21 of the Hatch study.)

As Hydro One accepted the engineers` report as presented, its contents have to be assumed to be accurate as of September 2008.
From that, one can draw the conclusion that the need of replacing four per cent of these assets cannot be reasonably classified as a principal reason for increased capital spending within the OM&A budget.

Issue 1.1 Has Hydro One responded to all relevant Board directions from previous proceedings?

Productivity and cost-efficiency

In its Decision with Reasons (EB-2006-0501), the Board expressed its concern of Hydro One`s the lack of meaningful yardsticks by which its cost-effectivenes and productivity can be measured. The Board directed it to put in place a management tool that will allow the monotoring of productivity and cost-effectiveness.
Hydro One retained FIRST QUARTILE Consultants to study productivity within Hydro One and among similar electric utilities and to make recommendations as to what methology may be suitable for that purpose.
The consultant recommended 13 productivity metrics to be adopted by Hydro One.
Although during the hearings Hydro One did not state if all, or any of these metrics will be implemented in this or the next fiscal year, it would be highly desirable.

One example, which may illustrate the declining cost efficiency is Hydro One`s utilization of its fleet of vehicles.
The size of the fleet Hydro One operated in 2005 was 4522, in 2006, 5185 and in 2007 it was 5421, (Exhibit C1, Tab4, Sc.1 page 13.), which shows a steady increase in size. The cost of fleet management services for the corresponding period was $94.6million in 2005, $99.9million in 2006 and $106 million in the year of 2007.(Table 2,Exhibit C1, Tab 4, Sc.1 page 14)
While the size of the Applicant`s fleet and its operating cost increased, from $94.6 millon in 2005, to $106million in 2007, the percentage of utilization decreased from 82% in 2005 to 80% in 2007.
This cannot be viewed as supporting evidence as efforts made by the Applicant to improve cost efficiency of its operations.

Compensation.

The high labour rates of Hydro One have been a long standing issue.
In the Board`s Decision with Reasons of August 16, 2007, it said:

"The Board is particularily concerned about the apparently high labour rates. In this respect, the Board expects Hydro One to identify what steps the company has taken or will take to reduce labour costs." (EB-2006-0501)
The panel hearing the application of Hydro One also required the Utility:

"to demonstrate in the future that lower compensation costs per employee have been achieved or demonstrate in the future that lower compensation costs per employee have been achieved, or demonstrate concrete initiatives whereby compensation costs will be brought more in line with other utilities" ibid.

The applicant hired the consulting firm of Mercer-Wyman to comply with these directions. In its report titled "Compensation Benchmarking Study" dated September 23, 2008, the consultants reinforced the long held view of the labour cost of the Applicant were well above the rates of the 14 comparable companies Mercer-Wyman examined.(Exhibit A, Tab16, Sc.2)

In particular, while the revenue of Hydro One was \$4.655 billion versus \$5.234 billion, that is about 11% below the average of the 14 peer companies, the weighted average compensation levels of the power workers in Hydro One`s employ were 21% higher then the average rates of the full sample group.(Exhibit A, Tab16, Sc.2 , Table 7 page 19 of the study.)
In fact, 122 of these employees salaries were more than 40% higher than the comparable averages of the sample group, the highest disparity being 43% and the lowest 5%.
These numbers do not provide an indication that the directions of the Board were fully complied with.

During the cross examinations the Applicant`s witness expressed the limitations imposed on Hydro One by the fact that its staff is heavily unionized and it is bound by union contracts, some of which were not short term.
The witnesses also pointed out the dire consequences of a possible strike by the Power Workers Union in the event of a labour dispute.Ref:(Volume 4, page of the hearing February 27,2009)
It was acknowledged however, that at the time of the next contract negociations, the Applicant will stress the need for lower expectations by the unions due to the conditions in which many factories close doors, downsize, initiate large scale layoffs or cancel shifts.

During these difficult times when all small businesses have to do more with less, Hydro One cannot take the position that these conditions do not apply to the Applicant or to its staff.

The Applicant also indicated that up to 21% of its hourly employees could retire in the next two years. The replacement of these retirees could then be re-hired at reduced hourly rates, which will reduce the operating cost of Hydro One in future years by as much as 12-15%

3. Conclusions and recommendations.

The study and analyses of the data presented in the pre-filed evidence and in the responses provided by the Applicant to interrogatories submitted by the intervenors including the undersigned, seem to indicate that the revenue

requirement of Hydro One Networks Inc. is higher than warranted by the economic indicators and the data rendered in support of it.
Therefore, this intervenor urges the Board to approve only 85% of the Applicant`s revised revenue requirement of $1209.8 million for 2009 that being $1028.3 million and 85% of the revenue it seeks for 2010, that being $1090 million.

In addition to the above, this intervenor asks the Board to explore the possibility of having declare the work of operating and maintaining electric transmission networks in Ontario an essential service, by an act of parliament, making a strike action illegal, punishable by severe penalties.

It is also recommended that the Board direct Hydro One to implement all the "Productivity Metrics" devised by FIRST QUARTILE CONSULTING that will ensure the close monitoring of productivity during all activities that may have the result of lowering transmission rates.

It is further recommended that Hydro One investigate the procedure that some of the utilities in the United States succesfully employ to replace their assets, by establishing a "reserve" line item in their budget.

All of which is respecfully submitted to the Board, Dated March 21, 2009.

Lewis J. Balogh, Interevnor.