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Our File No.: 57790.12

September 12, 2008

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario M4P 1E4

Dear Ms. Walli:

**Re: Hydro One Networks Inc. ("Hydro One") - Interim Exemption from Certain Provisions
of the Distribution System Code ("Application")
Board File Number EB-2007-0930
Notice of Late Intervention and Request for Costs – SkyPower Corp.**

We are writing this letter on behalf of SkyPower Corp. ("SkyPower") to seek leave of the Ontario Energy Board ("OEB" or "Board") for late intervenor status pursuant to Rule 23.05 of the *Rules of Practice and Procedure* in relation to the above-noted proceeding. SkyPower also seeks to be eligible for costs with respect to its participation in this proceeding. The Notice of Intervention is attached.

SkyPower apologizes for seeking to participate after the expiration of the deadline for requests for intervenor status. There are a number of reasons for this late filing. First, although notice of Hydro One's Application was received by certain members of the SkyPower team prior to the deadline, its in-house legal counsel and financial affairs team members only recently became aware of the Application. Furthermore, even though SkyPower is a member of certain industry associations participating in the proceedings related to the Application, including the Canadian Wind Energy Association ("CanWEA"), SkyPower considers it necessary to seek intervenor status on its own behalf because of its significant and unique investments in renewable energy projects in Ontario. In SkyPower's view, its position in the market raises additional issues that are distinct from those expressed by CanWEA. If intervenor status is granted, SkyPower will endeavor to ensure that there is no duplication of effort with CanWEA.

Based on the foregoing, we request that the Board allow SkyPower's late invention, and find that it is eligible for costs. In this regard, please note that SkyPower is willing to accept the record as it stands on this date.

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Finally, in the event that intervenor status is granted, SkyPower wishes to submit the attached interrogatories to Hydro One. Despite the limited timeframe, SkyPower has used its best efforts to review the material and prepare the attached interrogatories. However, as a result of the compressed time for preparation, SkyPower seeks the Board's indulgence with respect to a modest extension of the September 12, 2008 deadline for the purposes of submitting additional interrogatories. In light of the fact that Hydro One's deadline for filing responses is September 29, 2008, SkyPower would greatly appreciate an extension in the range of two to three business days. If the Board does not consider it appropriate to submit the attached interrogatories and/or grant an extension for additional interrogatories, please note that SkyPower wishes to continue to participate in the remainder of the proceeding. Consequently, if the request to submit the attached interrogatories and/or additional interrogatories is denied, SkyPower's request for intervenor status remains.

All of which is respectfully submitted.

Yours truly,

A handwritten signature in black ink, appearing to read "Eric R. Hoaken", written over a horizontal line.

Eric R. Hoaken

cc: Richard Guttman, Vice-President and General Counsel of SkyPower Corp.

ERH/knb
Enclosures

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

**AND IN THE MATTER OF Hydro One's Application for
An Interim Exemption from Certain Provisions of the
Distribution System Code**

NOTICE OF INTERVENTION

OF

SKYPOWER CORP.

1. SkyPower Corp. ("SkyPower") hereby seeks to intervene in this matter.

General Interest of the Intervenor

2. SkyPower is a leading developer of renewable energy projects (in particular, wind and solar). SkyPower drives all phases of project development, including exploration, construction and operation (generation). Currently, SkyPower is developing (as a joint venture operation) North America's largest solar photovoltaic energy park, which is located on approximately 300 acres of land in Lennox and Addington County, Ontario. This 19-megawatt solar park (which is scheduled for completion in 2009) will generate clean renewable energy sufficient to power more than 2,000 homes annually in the local community area. In addition, SkyPower intends to develop significant other renewable energy projects in Canada, including Ontario, over the foreseeable future.
3. As a generator of renewable energy in Ontario, SkyPower has a significant interest in the activities of electric distribution utilities in terms of the availability, timing, location and cost of connection to the Ontario electric system. In this regard, SkyPower notes that one of the most significant considerations in relation to the development of renewable energy projects is, in its view, the issues relating to the connection of the project to the IESO controlled electricity system.

Issues to be Addressed

4. SkyPower is intervening:
 - a. to gain a better understanding of the impacts of Hydro One's requested exemption on current and/or contemplated renewable energy projects;

- b. to present its views on such impacts so that the Board can take these into its consideration in making any ruling on Hydro One's Application.
5. The foregoing summary is intended to be illustrative, but not exhaustive. SkyPower will review the evidence on the record (as it continues to develop) and will advise parties of any further areas of interest/concern.

The Intervenor's Intended Participation

6. If the Board provides the two to three business day extension requested, SkyPower intends to submit interrogatories to Hydro One (as outlined in the OEB's Procedural Order No. 4, dated August 27, 2008). SkyPower wishes to reserve the right to file evidence. SkyPower also intends to participate in the hearing and present/file argument.

Counsel/Representative

7. SkyPower requests that a copy of all documents filed with the Board by each party to this proceeding be served on the following individuals:

a. SkyPower

Mr. Richard Guttman
Vice-President and General Counsel
SkyPower Corp.
250 Yonge St., Suite 1602
Toronto, ON M5B 2L7

Office: 416-363-4136
Cell: 416-399-1648
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richardg@skypower.com

b. SkyPower's Legal Counsel

Mr. Eric Hoaken
Bennett Jones LLP
3400 One First Canadian Place
P.O. Box 130
Toronto, Ontario M5X 1A4

Phone: 416-777-5780
Fax: 416-863-1716
hoakene@bennettjones.ca

Costs

8. SkyPower requests that it be found eligible for costs in this proceeding. SkyPower further requests the Board to determine SkyPower's cost eligibility prior to the conclusion of Hydro One's Application. In support of these two requests, SkyPower notes the following comments by the Board in its letter, dated August 27, 2008, to OWA:

... OWA has applied for cost award eligibility. OWA's letter of intervention indicates that some of its members may be generators. As general rule, generators, and groups of generators, are explicitly excluded from eligibility for costs under section 3.05 of the Board's Practice Direction on Cost Awards (the "Practice Direction"). However, under section 3.07 of the Practice Direction, the Board may, in special circumstances, find an otherwise ineligible party to be eligible for a cost award. The issue is whether there are special circumstances in the current case which would warrant a departure from the specific exclusion in the Practice Direction.

This proceeding is in relation to a request by Hydro One for exemptions from certain sections of the Distribution System Code, namely to be exempt from required timelines in connection process for certain generation facilities. On April 3, 2008, the Board allowed two other parties in this proceeding, the Canadian Wind Energy Association and the Ontario Sustainable Energy Association, to be eligible for cost awards in this proceeding. The Board granted cost eligibility to these two parties under the special circumstances clause of the Practice Direction because of the impact that the Board's decision in this proceeding may have on prospective generators and because these generators will bring a unique perspective to this proceeding.

Since that time, the Practice Direction has been amended. The changes took effect on August 14, 2008. Prior to the amendments, parties would be told at the outset of the proceeding whether or not they were eligible for a cost award. Under section 4.03 of the revised Practice Direction, the Board makes the eligibility determination at the end of the proceeding. More detailed information regarding cost eligibility and the cost claims process is found under sections 4 and 10 of the Practice Direction. The Board has decided to depart from the rules in the revised Practice Direction and determine cost eligibility at this time as opposed to waiting until the end of the proceeding. The Board is departing from its new practice only for this specific case for the following reasons. In this particular case, OWA applied for cost eligibility on August 1, 2008, which is before the amendments to the Practice Direction were publicized and took effect. Furthermore, two other parties in this proceeding were found eligible for a cost award under the very same circumstances as OWA and that decision was made at the beginning of the proceeding. Lastly, as was stated above, generators bring a unique perspective to this proceeding and the Board feels that in this particular case, the generators should know upfront if they will be eligible for cost awards. Therefore, the Board finds that OWA is eligible for a cost award under the special circumstances clause of the Practice Direction... [Emphasis added.]

Even though SkyPower is applying for intervenor status pursuant to the revised Practice Direction, the fact that the proceeding was commenced prior to the amendments supports an early determination of cost eligibility. Similarly, the application of the principles of fairness also supports an early determination of cost eligibility in light of the fact that the Board has done so for OWA and

the other parties referred to in the above passage. Moreover, SkyPower notes that the Board's comments in relation to generators remains applicable.

Respectfully submitted on behalf of SkyPower this 12th day of September, 2008.

BENNETT JONES LLP

Per:


Eric R. Hoaken

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

**AND IN THE MATTER OF Hydro One's Application for
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Distribution System Code**

SKYPOWER CORP. INTERROGATORIES

1. Ref: Hydro One's letter, dated July 28, 2008, and attached Distributed Generation Connections Monthly Program Status & Monitoring Report (Revised); page 4

At page 4 of the Distributed Generation Connections Monthly Program Status & Monitoring Report (Revised), Hydro One states:

"... As a result, the average turnaround time for applications received in May and thereafter has increased. If CIA completion levels were to remain at 25/month, as they were in June, turnaround times for CIAs received since May would be about 10 months. Hydro One is developing and will implement process improvements which are expected to increase the number of CIAs we can process per month, but we have not fully evaluated the impact of these changes on our capacity to process CIAs."

- (a) Please outline, in detail, the nature of the "process improvements" that Hydro One is developing.
- (b) As of now, has Hydro One had an opportunity to fully evaluate the impact of the process improvements on its capacity to process CIAs? If not, why? If yes, please provide detail on the expected results.

2. Ref: Hydro One Application; page 2

In its Application, Hydro One states that:

"Even before the launch of the Renewable Energy Standard Offer Program ("RESOP") on November 1, 2006, Hydro One had received a wave of increased applications for generator connections....."

- (a) Please indicate the percent of Form A Applications (request for preliminary meeting pursuant to section 6.2.9 of the Distribution System Code) versus

Form B Applications (request for formal CIA pursuant to section 6.2.13 of the Distribution System Code) that Hydro One received prior to the launch of the RESOP.

- (b) Please indicate the percent of Form A Applications versus Form B Applications that Hydro One received after the launch of the RESOP.

3. Ref: Hydro One's Application; page 4

In its Application at page 4, Hydro One states that:

"... The level of staffing dedicated to embedded generation connections has increased from 2.5 staff in early 2006 to 27 staff at this time to increase the Company's ability to complete CIA studies and respond to other proponent needs, including IFAs, cost estimates, technical enquiries and reworks. Hydro One has used a combination of permanent and contract staff. It is difficult, and likely imprudent, to make a business case for hiring all permanent staff in work programs that fluctuate on a monthly basis and may not require long-term staff levels to manage the work load..."

- (a) Please indicate the percentage of permanent versus contract staff that are assigned to the Generation Connections unit.
- (b) In Hydro One's view, in the current market, is it possible to significantly increase the number of contract staff (to provide short-term assistance to the Generation Connections unit)?

4. Ref: Hydro One Response to OEB (Board Staff) Interrogatory #4 List 1

In its response, Hydro One states that:

"... Since the application was filed Hydro One has continued to add additional management and technical staff in the Generation Connections area. We have added 3 more fulltime staff, two more students and we currently have job ads posted for 4 more fulltime staff. Hydro One now has 32 staff in total assigned to the Generation Connections unit and 4 more being recruited."

- (a) As of now, has Hydro One filled the four posted fulltime staff positions? If not, why?
- (b) Please indicate the level of experience (number of years) for each staff member assigned to the Generation Connections unit. For example, indicate the number of staff that have: (a) less than 1 year experience; (b) 1 to 3 years experience; (c) 4 to 10 years; and (d) 10+ years experience.

- (c) What percentage of the total number of staff assigned to the Generation Connections are full time?

5. Ref: Hydro One Response to OEB (Board Staff) Interrogatory #5 List 1

In its response, Hydro One states that:

"... The following steps are involved in undertaking a CIA:

- 1. Validate customer information and eligibility for CIA assessment of the project*
- 2. Assign an identification number (ID #) to the project and include it in the Hydro One Project Tracking Sheet/Database*
- 3. Obtain feeder model and relevant data for the CIA study. This step is not required for an Expedited CIA*
- 4. Perform CIA study. This is to ensure that the project will meet technical criteria. The study complexity is less for an Expedited CIA than for a Detailed CIA...."*

- (a) At what stage in the process is Hydro One able to accurately determine whether the proposed project is above the red line (*i.e.*, sufficient room for connection) or below the red line (*i.e.*, insufficient room for connection)?
- (b) How many Form B CIA applications have been completed and submitted to Hydro One (*i.e.*, not those that have been granted, but those that are pending)?
- (c) If an Expedited CIA and/or Detailed CIA must be completed in order to determine if a proposed project is above or below the red line, please indicate the number of CIAs completed wherein Hydro One concluded that the proposed project was below the red line.
- (d) In terms of the total number of pending Form B CIA Applications, please indicate whether Hydro One is able to determine the percent of these Applications that are below the red line.
- (e) Since filing the Application, has Hydro One developed a methodology to ensure that a proponent receives timely notification that its proposed project is below the red line?

6. Ref: Hydro One Response to OEB (Board Staff) Interrogatory #5 List 1

In its response, Hydro One states that:

"... The following steps are involved in undertaking a CIA:

- 1. Validate customer information and eligibility for CIA assessment of the project*
- 2. Assign an identification number (ID #) to the project and include it in the Hydro One Project Tracking Sheet/Database*

3. *Obtain feeder model and relevant data for the CIA study. This step is not required for an Expedited CIA*
4. *Perform CIA study. This is to ensure that the project will meet technical criteria. The study complexity is less for an Expedited CIA than for a Detailed CIA...."*

- (a) At what stage in the process is Hydro One able to accurately determine whether the proposed project is situated on a feeder that is at capacity?
- (b) Since filing the Application, has Hydro One developed a methodology to ensure that a proponent receives timely notification that its proposed project is situated on a feeder that is at capacity?

7. Ref: Hydro One Response to OEB (Board Staff) Interrogatory #10 List 1

In its response, Hydro One states that:

"... In spite of the very high priority Hydro One has put on generation connections, as well as the significant increase in resources, Hydro One simply can not keep up with the level of CIA requests that it continues to receive. In fact, depending on the rate of new applications, Hydro One may need to seek an extension to this exemption for longer than 12 months."

- (a) In Hydro One's view, it is possible to outsource any portion of the process relating to generation connection (to assist in alleviating the backlog)?
- (b) If outsourcing is possible, please indicate whether Hydro One has considered this option. If not, why?