ONTARIO ENERGY BOARD

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DATE: **October 10, 2008**

EB-2007-0691

THE ONTARIO ENERGY BOARD

IN THE MATTER OF Sections 25.30 and 25.31 of the Electricity Act, 1998;

AND IN THE MATTER OF a review of a notice of proposal filed by Kruger Energy Inc. under section 81 of the *Ontario Energy Board Act, 1998*.

Hearing held at 2300 Yonge Street,
25th Floor, Toronto, Ontario,
on Friday, October 10, 2008,
commencing at 9:35 a.m.

TECHNICAL CONFERENCE

A P P E A R A N C E S

MAUREEN HELT	Board Counsel
JOANNA ROSSET	
VIOLET BINETTE	Board Staff
EDIK ZWARENSTEIN	
TED ANTONOPOULOS	
CHRISTINE LONG	Kruger Energy Inc.
TRACY ROBILLARD	
MICHAEL ENGELBERG	Hydro One Networks Inc. (HONI)
PHILIP POON	
ODED HUBERT	
JOHN RATTRAY	Independent Electricity System Operator (IESO)
ZIYAAD MIA	Ontario Power Authority
JOE TONEGUZZO	
DAVID KENNEY	Chatham-Kent Hydro

ALSO PRESENT:

JACQUES GAUTHIER	Kruger Energy Inc.
MIKE COOKSON	
GUY PAQUETTE	
CARL BURRELL	Independent Electricity System Operator
NICHOLAS INGMAN	
BARBARA CONSTANTINESCU	

I N D E X O F P R O C E E D I N G S

E X H I B I T S

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NO EXHIBITS WERE FILED DURING THIS PROCEEDING

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NO UNDERTAKINGS WERE FILED DURING THIS PROCEEDING

Friday, October 10, 2008

--- On commencing at 9:35 a.m.

MS. HELT: Good morning, everybody. My name is Maureen Helt. I am counsel to Board Staff for the Ontario Energy Board.

I have with me Violet Binette on my right-hand side. She is with Board Staff. Joanna Rosset to my immediate left, she is also counsel to Board Staff, and Edik Zwarenstein, who is Board Staff, as well.

We are here today for the purpose of the technical conference in the matter of EB-2007-0691 in the matter of the Ontario Energy Board Act and in the review of a notice of proposal filed by Kruger Energy Inc. under section 81 of the Ontario Energy Board Act.

At this time, I would suggest that we go through appearances. Oh, one more thing. We also have to further -- to my further left, Ted Antonopoulos, who is also with Board Staff. So if we could proceed with appearances, perhaps starting to my left?

Oh, yes, one procedural matter. If you are going to be speaking, you will note, for those of you who have not been here before, particularly Kruger, there is a green light on the control of panels in front of you. You need to push that in so that it lights up, and then you will be recorded and you will have use of the microphone.

So I'm sorry about that. Philip, if you could start again?

MR. POON: Philip Poon, Hydro One Networks.

MR. HUBERT: Oded Hubert, Hydro One Networks.

MR. ENGELBERG: Michael Engelberg, Hydro One Networks.

MR. BURRELL: Carl Burrell, IESO.

MR. RATTRAY: John Rattray for the IESO, and with me is Barbara Constantinescu and Mr. Nicholas Ingman.

MR. MIA: Ziyaad Mia, OPA.

MR. TONEGUZZO: Joe Toneguzzo, OPA.

MR. KENNY: Dave Kenney, Hydro.

MS. LONG: I am Christine Long, counsel to Kruger Energy Inc. To my right is my associate, Tracy Robillard; to my left, Mike Cookson from Kruger Energy Inc.; to his left, Guy Paquette, who is the director of legal affairs at Kruger Energy Inc.; and to the far left, Mr. Jacques Gauthier, who is the vice president and chief operating officer of Kruger Energy Inc.

PROCEDURAL MATTERS:

MS. HELT: Thank you. I would like to just review a few points of procedure, the first one being the microphones, and I have already explained that.

I would like to remind everyone that this is a transcribed technical conference. We -- as Board Staff, we are not a panel. We cannot make rulings. If there are objections to particular questions that are asked, then those objections can be made and noted on the record, but the ultimate issue would have to be resolved by a panel, which we are not.

So I wanted to make that clear and on the record that we are not able to make rulings.

The purpose of today's technical conference is set out in various procedural orders, and specifically I would like to just quote from Procedural Order No. 6, which states:

> "The sole issue in this proceeding is whether the impact of the proposal adversely affects the development and maintenance of a competitive market. All evidence, interrogatories and submissions in this proceeding and all questions at the technical conference must be focussed on answering that question. Accordingly the Board expects the participants of the technical conference to address the following issues: (a) the capacity of the 230 kV lines between the Chatham transformer station and the Lauzon transformer station, in particular, whether the proposed substation could, 1, limit future access to the 230 kV lines by other persons; and 2, impose limits on the independent electricity system operator, the IESO, the operation of the lines which could restrict other persons; and (b) the future operation of the proposed substation, in particular, 1, what the process would be for selecting generation projects for connection to the proposed substation, and 2, whether the IESO and Hydro One connection processes could be adversely affected."

I thought what we could do, I understand that Kruger was planning on making a short presentation at the outset

of today's technical conference. But, thereafter, I would propose that Board Staff ask their questions of the parties first, dealing with both issues (a) and (b), to be followed then by questions by the other parties. I would suggest that the IESO perhaps go second and Hydro One proceed after that, and then we could have any further follow-up questions, if required, with respect to issues (a) and (b).

If anyone objects to that order, you can let me know now and we can perhaps discuss that, if required.

All right. Since there are no objections, then, I would ask Kruger to go ahead with the short presentation that they were going to make.

KRUGER ENERGY INC.

PRESENTATION BY MR. COOKSON:

MR. COOKSON: I will begin, and it's going to be a very, very short presentation. I just wanted to clarify what Kruger Energy's objective was and still is when we first issued the notice of proposal.

Kruger Energy had been developing projects in the context of the standard offer program, the RESOP program. We had four projects in the Chatham-Kent area that we were developing, and we had filed applications with the IESO for those -- excuse me, with Hydro One for those projects in the connection impact assessment process.

Those four projects were frustrated in their ability to connect, because of lack of interconnection capacity at the distribution level, and it was in that spirit that we made this application to build the substation in order to

move our projects forward.

QUESTIONS BY BOARD STAFF:

MS. HELT: Thank you. I will proceed with questions from Board Staff. The Board Staff who are with me, Violet Binette and Edik Zwarenstein, may also be asking questions, as well.

So if we seem to be tag teaming a little bit between the three of us, I just waned to give you warning of that, and Ms. Rosset may have a question or two, as well, so be prepared that there may be questions from all of us, but there may not be.

With respect to questions to Kruger Energy Inc., then, on November 5th, 2007, KEI stated that:

> "It has filed its notice of proposal in an effort to ease transformer constraints that have been identified within the OEB licence service territory of Chatham-Kent Hydro Inc.

The following clarifications are being sought from KEI. Firstly, what is the location and nature of the transmission constraints, and, secondly, how does the proposed substation ease transmission constraints?

MR. COOKSON: Okay. Well, I guess Hydro One and/or the IESO could confirm this, because we're working from the information that we have available to us and had available to us at the time of the filings.

But the specific constraints that we were referring to were the interconnection constraints in and around the Kent transformer station. Now, again, I am not exactly sure of

what the constraints were at the time. I think maybe it is a question that either the IESO or HONI could confirm, but those were the ones that we were aware of at the time.

MS. HELT: And the second part of the question is: How does the proposed substation ease those transmission constraints?

MR. COOKSON: The way we saw it was that it would allow certain distribution level generation projects to connect that were prohibited in the current context.

MS. HELT: So can you give an example or be more specific?

MR. COOKSON: Well, we had four projects in the area that were below the -- I guess, the now very familiar red line on the Kent transformer station connection queue, and the construction of the substation that we were proposing, we were envisaging our projects connecting and other projects connecting to that substation.

MS. HELT: Okay.

On November 19th, 2007, KEI stated that:

> "The impact of the substation on the overall system would increase stability and strength in the area."

The Board Staff is seeking clarification from KEI, specifically is requesting that KEI explain, in detail, how the proposed substation increases both the stability and the strength in the area.

MR. COOKSON: Well, that would be -- it would be difficult for me to explain it in detail because I wouldn't

have all of the information necessary, the technical information necessary to explain it in detail.

The statement was intended as a very general statement. It is generally accepted that distributed generation in close proximity to distributed loads increases stability in a system, but it was intended as a general statement.

MS. HELT: Can KEI explain why building a substation with no specific generation project to connect to is consistent with development and maintenance of a competitive market, when other market participants have identified generation projects before sizing and developing distribution and transmission assets?

MR. COOKSON: I can do my best to explain. What KEI had done at the time was identify specific need. At the time of making its notice of proposal, we were aware of – well, obviously our four projects in the area, but several other projects in the area that were frustrated by a lack of interconnection capacity at the distribution level.

Seeing as though the substation or an enabler station would take two to three years to build, we felt as though we -- to move forward with our four projects we felt as though we needed to move forward with the proposed substation.

MS. HELT: Thank you.

Just in keeping with the issue (a) as outlined in the procedural order, Board Staff has a few questions to ask of the IESO at this time.

On November 26th, 2007, the IESO noted:

> "...significant and ever-increasing demand on the transmission system, particularly in the area of the current proposal by Kruger."

Board Staff is seeking the following clarifications from the IESO. I will just go through these one by one, and you can answer as we go through them.

The first question is: What is the capacity of the transmission system in the subject area?

MR. RATTRAY: We will have Ms. Constantinescu respond on behalf of the IESO, and to assist everyone who is present, by way of general background, she is the section head of system capability and market and system operation at the IESO. She is a professional engineer with over 25 years of experience in power system planning and operations. In her current capacity of section head system capability, she specifically manages the connection assessment and approval process and transmission adequacy assessments.

She is responsible for supervising and coordinating work activities related to evaluating the impact on reliability of new or modified connections to the IESO-controlled grid, in accordance with the applicable market rules, relevant technical standards and procedures.

She also supervises periodic assessments of transmission system adequacy with respect to the IESO's outlook reports.

MS. LONG: I'm sorry, just before we start is there

some way to raise the volume? We're having trouble hearing down at this end.

MS. BINETTE: The microphones are on?

MR. RATTRAY: They are.

MS. HELT: I am not sure if there is a way to raise the volume. Ted will just go and ask our technical person. Maybe we can just take a...

MR. RATTRAY: We will endeavour to raise our voice.

MS. HELT: I am glad you raised that. It is important for you to be able to hear the questions and the answers.

I am just going to take us off air for a few minutes while we see what we can do about this issue.

--- Break taken at 9:50 a.m.

--- On resuming at 9:52 a.m.

MS. HELT: Perhaps we can just test this out.

MR. RATTRAY: Is this any better for you, gentlemen?

MR. PAQUETTE: Better, yes. Thank you.

MS. HELT: Okay, we are back on the record, then. Perhaps I can go back to that first question, then, just to remind you of what it was.

On November 26th, 2007, the IESO noted significant and ever-increasing demand on the transmission system, particularly in the area of the current proposal by Kruger.

The Board Staff is seeking certain clarifications. The first clarification sought is: What is the capacity of the transmission system in the subject area?

MS. CONSTANTINESCU: Before I ask -- I answer these questions, I would like to clarify a couple of key points.

MS. HELT: Certainly.

MS. CONSTANTINESCU: When I will be referring -- in my responses, when I will be referring to the subject area, I will be actually talking about the two 230 kV circuits between Chatham and Lauzon that are designated as C23Z and C24Z.

And the second point, with respect to transmission capacity, the focus in my responses will be on the available transmission capacity on these two circuits, or spare transmission capacity on the two circuits.

So with these two points in mind, to answer your question, the current available transmission capacity in the area of the Kruger proposal is 100 megawatts per circuit for a total of 200 megawatts.

These transmission limitations are identified in the transmission constraints matrix that is part of the documentation that was published by the OPA for the renewable energy supply number 3 procurement process, and that was published in August 14th, 2008.

Prior to that, the IESO has been aware of limitations in this area from previous similar transmission matrixes that were published by the OPA from previous -- for previous procurement processes.

Now, in the formulation of these transmission matrixes, the IESO, Hydro One and OPA worked jointly together and arrived to the numbers that are in the -- spelled out and listed in the matrixes, and those numbers were developed in accordance with Hydro One, IESO and the

OPA.

MS. HELT: Thank you.

What IESO-identified system limits or restrictions are there currently in the transmission system in the subject area, as you define subject area?

MS. CONSTANTINESCU: This question was largely answered in the previous response.

MS. HELT: Yes.

MS. CONSTANTINESCU: But the system limitations -- so the available transmission capacity is currently limited to a total of 200 megawatts.

The system limits, which is the maximum power that can be transferred over the transmission lines under certain system conditions, remains unchanged. That will remain unchanged.

The spare capacity, however, that's left on those circuits will be decreasing or will be actually used up by -- if all of the generation proposals connect to those lines.

The particular -- the specific geographical area is very rich in renewable resources, and it is -- a number of developers are competing for the capacity left on these two lines.

And the procurement process that has -- the procurement program that has been initiated by the OPA and is currently under way RES III, we have seen under that -- that initiative, we have seen a lot of competition for those circuits.

MS. HELT: Are there further system limits or restrictions anticipated?

MS. CONSTANTINESCU: As new generation connects to these circuits, it is expected that the available capacity on the circuits will be decreasing.

So from that perspective, the available capacity in the subject area will be reduced.

MS. HELT: If the KEI substation is connected to the transmission system in the subject area, would it limit the future access to the 230 kV lines by other persons, for example, generators, distributors, transmitters or loads by reason of (a) electrical capacity, (b) loading, (c) physical space requirements or location, or (d) for any other reason?

MS. CONSTANTINESCU: The Kruger Energy Inc. substation in itself is essentially electrically neutral, the substation in itself.

So if the substation is connected to the transmission system without any load or generation connection -- attached to the substation, and this means there will be no injection of power or withdrawal of power from the IESO-controlled grid, and given that the IESO does not allow transmission reservations for the substation, the substation will be -- will not affect the connection of other persons to the 230 kV line for reason of electrical capacity or loading.

On the third point in your question, I cannot comment on physical space, because it is outside my area of

expertise.

With respect to the last part of your question, in my professional capacity, I cannot think of any other reasons why the substation, in itself, only the substation, may limit future access to the 230 kV line by others.

MS. HELT: All right. If KEI connects the substation to the transmission system with no generation attached to the substation, would there be an allocation of connection rights and capacity by the IESO? And, if yes, and in the event of limited transmission system capacity in the subject area, how would the IESO meet its obligation to take reasonable steps to ensure non-discriminatory access to the IESO-controlled grid?

MS. CONSTANTINESCU: The answer to the question is "no". There will be no allocation of connection rights or transmission capacity by the IESO, if only the substation connects to the grid with no generation or load attached to the substation.

MS. HELT: Thank you.

Is it possible for the IESO to make the determination in the question asked above -- dealing with the one that I just asked you and that you indicated the answer was no, there would be no allocation, can the IESO make the determination in the absence of generation equipment specifications?

MS. CONSTANTINESCU: As explained in the response we provided to that question before, the substation in itself is essentially electrically neutral.

So in a way, without doing an assessment, this is a determination in itself, the fact that the substation is essentially neutral and there will be no allocation of transmission capacity.

It is, however, reasonable to assume that the substation would be built in the view of connecting generation of load to the IESO-controlled grid, providing access to the IESO-controlled grid for generation or load, and that it is the generation or load that might have an impact on the system.

So in the absence of any technical specifications associated with the generation and the load, the IESO will not be able to carry out a feasibility study.

The least amount of information that the IESO requires to perform a feasibility study is the amount and type of generation attached to the substation, or the amount and type of load attached to the substation.

In that case, the IESO could perform a feasibility study. The outcome of the study will indicate if there is an adverse impact on system reliability and if the generation behind the station, would be contributed to congestion in the general electrical area.

One point I would like to note here is that the completion of the feasibility study will not mean allocation of transmission capacity to the substation.

MS. HELT: Just for clarification. Has the IESO received any information with respect to the generation projects that have already been mentioned previously by

Kruger, and if so, would the IESO have any comment as to whether or not those projects would limit others in their access?

MS. CONSTANTINESCU: We have not received any information from Kruger with respect to the generation projects that they might propose to tie into the substation.

MS. HELT: Thank you.

On November 26th, 2007 the IESO stated that the SIA and CIA:

> "...would be a value to the Board in determining whether such a proposal will in fact have any adverse impacts on the development and maintenance of the IESO administered market."

Board Staff is seeking clarification of this statement from the IESO. Specifically, what are the specific outcomes of the SIA and CIA that would assist the Board in determining whether the proposed substation has an adverse or will have an adverse effect on the development and maintenance of a competitive market?

MS. CONSTANTINESCU: The substation in itself, as I mentioned before, is effectively electrically neutral. If the Board is only interested in assessing the impact of the substation only, in the absence of actual generation or load connected to the substation, and recognizing that the IESO does not grandfather transmission capacity to the substation, an SIA would not provide any value to the Board.

The IESO is not opposed to the substation, subject to confirmation that the substation in itself would be built in accordance with the technical standards, and is going to comply to all of the applicable reliability -- market rules and reliability standards.

It is, however, our understanding that the Board is concerned with the impact of future generation of load that may be connected behind the substation.

In this case, SIA would indicate what is the impact on system reliability, and the possible effect on congestion of the additional generation or load connected behind the substation and that's where we thought that there will be value to the Board in having an SIA completed.

Now, as I mentioned in the previous response, the completion of the SIA is not going to confer any transmission rights, transmission capacity rights, to the substation.

MS. LONG: Madam Chair, if it’s possible, am I able to ask a question of clarification on that point or...

MS. HELT: Certainly.

MS. LONG: So if I understand your position correctly, what you are saying is that the current SIA which has been filed by Kruger Energy Inc., will really not be of benefit as you are saying that it is, in fact, a neutral addition, I guess, to the system and what the impact that you really need is to see the generation that is going to be attached to that substation? Is that a fair characterization?

MS. CONSTANTINESCU: That's correct.

MS. LONG: Okay. So would it be that you would need to know 50 percent of the generation that would be attaching to the substation? Or would it be that you would need to know the full 100 percent of the projects that we're going to connect in order to make an assessment?

MS. CONSTANTINESCU: In order to make an assessment, we would need to know what it proposes, what's the final proposal, what -- all of the generation it proposes to connect to the substation.

It may be that you are choosing to bring that generation in in stages, but we are interested in the impact of the final stage of all of the generation it proposes to connect behind the station.

MS. LONG: It would be the type of project, you know, the type of energy -- I mean the type of source we'd be looking at and the total amount?

MS. CONSTANTINESCU: It would be for the feasibility study. To carry out the feasibility study, we would need at least the type of generation and the size. The total size of generation.

MS. LONG: And just for further clarification. If you already had, let's say, generation applications in front of you that you were assessing on an independent basis that were now in the cue, could that information be transferred, I guess? You're doing an assessment on the actual generation project that then, I mean, is the effect there going to be that cumulatively you could look at those generation projects that you already have in the queue,

knowing that they may attach to this substation and be able to do the assessment.

I guess I am trying to get a sense of timing. If you already have SIA applications in front of you for current generation projects, does that assist you, knowing that they could connect to this substation?

[Ms. Constantinescu confers with Mr. Rattray]

MS. CONSTANTINESCU: It would be difficult, it is impossible to do an SIA in the absence of having the actual information of the facilities that connect to the station.

Based on former SIAs we have done for other projects, we can assess what may be the spare transmission capacity that is available.

So there are a number of SIAs that we have done for the particular area, for this specific area, which indicate what is the -- what's the impact of those particular projects on to the system reliability.

Now, that impact is for that particular proposal and it is specific to that proposal.

MS. LONG: So it is specific to that proposal as I am assuming that it came into the queue and you are making an assessment based on the actual proposal that came in, and I guess what's come before it? Not what's come after it. Is that fair?

MS. CONSTANTINESCU: It came into the queue and the assessment that we did based on certain assumptions about what was before the proposal into the queue, what was in the queue before the proposal.

MS. LONG: Right.

MS. CONSTANTINESCU: So we do identify the impact of the individual project, based on certain assumptions about projects that are already considered to be in service. Committed and/or in service. I am not sure I have answered your question.

MS. LONG: I think you have. We're trying to get a sense of timing from you. I mean, what we're hearing from you is that the assessment of the substation itself is not going to be helpful as an indicator what you need to do is look behind and see the generation that would be connecting to it.

I think what we're trying to get a sense of is, we obviously know there are some projects that want to connect there, so to the extent that the IESO has already done that work, in considering those projects, is that information that can be transferred when making an assessment about generation that could be connected to the substation?

MS. CONSTANTINESCU: We use all of the information that is available to us to do assessments, yes.

MS. HELT: All right, then.

I have one further question for the IESO with respect to issue (a) as outlined in the procedural order.

Does a generation project that will connect through the KEI proposed substation have any more right to transmission capacity than a generation project that will connect through a different but not yet constructed substation?

MR. RATTRAY: Does your question presume the construction of the KEI substation?

MS. HELT: If it were to be constructed, yes.

MS. LONG: I'm sorry, could you repeat the question?

MS. HELT: Sure. Does a generation project that will connect through the KEI proposed substation, presuming it has been constructed, have any more right to transmission capacity than a generation project that will connect through a different but not yet constructed substation?

MS. CONSTANTINESCU: I guess irrespective of the fact that a generation project would be connecting through the KEI station or through a future station, the right to transmission capacity would be allocated based on the commitment of the generation project.

It is not the substation itself that may be -- that would be the trigger for allocation of transmission reservations. It is a committed generation project.

The IESO queue for generation projects is a priority list which gives generation proposals a queue position based on their commitment to be constructed and to connect to the grid.

A generation proposal is considered by the IESO to be committed if they have a power purchase agreement with a retailer, or they have a construction cost recovery agreement with a transmitter.

These are the two -- these are -- one of these two conditions have to be met by a generation proposal for the IESO to be placing the proposal on their queue, on their

generation queue, and for the particular generation proposal to be considered in our assessment of future transmission capacity.

MS. BINETTE: Assuming the KEI proposed substation comes -- is constructed, a generation project connecting to it would need a CCRA, as well; is that your view?

MR. GAUTHIER: It is very difficult to hear. We are missing 25 percent of everything. We have air-conditioning here behind us.

MR. COOKSON: Air-conditioning behind us and --

MR. GAUTHIER: We don't understand 30 percent of what you are saying. We don't understand your question. It is unfortunate. I don't know if you can check this.

MS. HELT: Perhaps we can move -- we will just go off the air for a moment.

--- Recess taken at 10:16 a.m.

--- Resuming at 10:17 a.m.

MS. HELT: I am just going to put us back on air.

Given that Kruger or KEI has indicated they weren't able to hear some of the last questions and responses in their entirety, I am going to ask: Would you like us, for your benefit, to review or go over any of those specific questions and answers, or is it all right to continue with our questioning at this time?

MR. COOKSON: Maybe if Ms. Binette can just repeat the last question?

MS. HELT: Yes, certainly.

MR. COOKSON: That would help a lot.

MS. BINETTE: Ms. Constantinescu, you indicated that the IESO looks at whether a generation project has a power purchase agreement, or whether there is a CCRA in terms of assessing or setting up your queue; correct?

MS. CONSTANTINESCU: That's correct.

MS. BINETTE: So if a project has, I guess, the equivalent of a CCRA with the proposed neutral KEI substation, does that place them in the queue?

MS. CONSTANTINESCU: A CCRA is normally signed with a transmitter, and it's a connection cost recovery agreement by which the transmitter builds the connection from their own transmission system to the borders of the generation facility.

So based on this definition of the CCRA, I am not sure if that's a mechanism that can be applied in this situation with a substation that is proposed by Kruger Energy Inc. It's not clear whether it is a transmission or it's a part of a generation facility. That's where we're not clear.

The CCRA, it's the process that Hydro One uses to perform the work for connection of facilities owned by others and facilities that propose to connect to Hydro One's system.

MS. BINETTE: Assuming there is two generation projects side by side on the queue, both have, assume, power purchase agreements, and one opts to put forward that it would connect through this currently electrically neutral KEI substation, and the other does not, is there any advantage to the one that is proposing to go through

the KEI substation from your queuing process -- from your assessment process?

MS. CONSTANTINESCU: We are looking at impact on system reliability and the effect on congestion.

So as far as we are concerned, there will be no difference of the -- from the three examples that you gave, the comparison, the generator -- that, as I understand correctly, both generators have power purchase agreements. One proposes to connect its own transformer station and hook up to the grid, and the other one proposes to connect through Kruger's transformer station. That's the comparison that you are asking for.

I don't see why we would treat the two generators differently, as long as they are built in accordance with the technical standards, and they meet all of the reliability requirements and the market requirements, and the substations themselves meet these requirements for reliability.

MS. HELT: Those are Board Staff's questions for the IESO with respect to the first issue.

We are going to ask the same question of Hydro One with respect to issue A.

MR. ENGELBERG: Ms. Helt, may I ask a question here that arises out of the --

MS. HELT: One of the IESO responses?

MR. ENGELBERG: The response.

MS. HELT: Unless there is an objection, certainly.

MR. ENGELBERG: Thank you. What I am trying to

understand is whether there is one queue or two queues. In other words, if a generation project comes along and gets to the stage where its impact on the system can be determined and, let's say, there are two such projects, does any choice accrue to the generator between choosing to connect to the Kruger substation or choosing to remain in the normal IESO queue?

I guess a question that would arise out of that is, if there is only one queue, does Kruger have the ability to present to the system proposed generators that wish to connect to Kruger's substation and would they -- would such generators get any time saving in their joining the system, by choosing to connect to Kruger rather than by going through the normal IESO process?

Are these two parallel processes going on all the time? Or will the IESO be telling generators: Connect to Kruger or connect here.

MS. CONSTANTINESCU: We wouldn't tell the generators where to connect. This is, what you described here is very hypothetical because a generator, when they come to the IESO with an application, they present all of the facilities that will allow them to connect and inject power into the grid.

The facilities -- so they present a connection proposal to the existing IESO grid facilities, not to what may be hypothetically future IESO facilities.

From that regard, I would consider Kruger substation as being a hypothetical future connection facility. So if,

for example, a generator would come to us with an application and they would say we're going to connect to Kruger substations, that would not be sufficient for us to perform a system impact assessment because we don't have any certainty on the building and connection of the Kruger substation.

On the other hand, if a generator comes to us with a plan to build a generating facility and the connecting facilities to the existing transmission system, that represents as far, as we're concerned, a complete project and we would be assessing as such.

MR. ENGELBERG: If a generator had completed all of the steps at a moment in time, would that generator then have the ability to choose between connecting to the Kruger station or the IESO system?

MS. CONSTANTINESCU: Again --

MR. ENGELBERG: Wouldn't the generator choose whichever one became -- would give him the faster connection?

MS. CONSTANTINESCU: If the substation would be built, under the assumption that the substation, Kruger substation is built, and connected to the grid, I mean it would be up to the generator, I suspect, to choose a connection.

We would not be in a position to dictate or to advise the generator on which is a better way to connect to the grid.

MR. ENGELBERG: So does it arise out of that that the generators that Kruger may have in mind right now, that

have expressed an interest in coming forward if the station were built, may not be the ones that actually connect to it. It may be people in the IESO queue that will be connecting to the Kruger substation.

MS. CONSTANTINESCU: People in the IESO queue already have system impact assessments done, already have power purchase agreements with the OPA, they are committed projects. When they apply -- and I am going to make just an explanation here.

When a project applies to the OPA to participate in a generation procurement process, the project has to be well-defined, and by -- meaning by "well-defined," they have to indicate the exact point of connection to the existing transmission system.

The OPA goes through their selection process, and they choose the projects, they allow contracts to a number of projects based on the capacity of the system.

Once those projects have a contract with the OPA, they go into the IESO queue. They are more or less considered by the IESO to be committed.

So right now, in the current infrastructure, the way things work right now, I cannot see how a project might have a PPA and not connect to the grid. Unless we're talking about the RESOP projects, the standard offer projects, which they're connecting to the distribution system. There are different rules that govern those projects. They're not allowed to connect to the transmission system.

They have to have a connection to the distribution system. They have to have a contract to the distributor. They have to follow all of the processes that the distributor requires them to, all of the connection processes the distributor requires them to go through.

The IESO does not see the RESOP projects, the standard offer projects, which are 10 megawatts or less and connected to the distribution system. We don't carry out assessments for those individual projects.

So those are a group, they have their own characteristics, the structure is set up in such a way that it is between the project, the OPA, and the distributor.

The IESO and the transmitter. The transmitter, I don't want to speak for Hydro One, but I don't think that the transmitter sometimes may not need to get involved in the connection of the embedded generators.

My counsel here is advising me that I should clarify that a project that is already in the queue, and I guess that is what your question was asking, what you were asking. A project that is already in the queue would not -- could not switch to connect to the Kruger substation because they're already defined project. They already assumed that they are built in a certain fashion, and that is what we approved.

MR. HUBERT: If I may follow up. Ms. Constantinescu stated that for capacity allocation on the IESO queue, the IESO would need to see a CCRA executed.

Just for clarification here. if there were a generation project that were to be connecting to the KEI proposed substation, who would be the parties to such a CCRA, to enable that generation project to gain a queue position?

Is the CCRA between the generator and KEI? Or between KEI and the licensed transmitter or some other permutation?

MS. CONSTANTINESCU: A CCRA is signed between a licensed transmitter and the generator for connection, and that is the type of agreement that we are looking for, to make the determination that the project is committed.

MR. HUBERT: Thank you. I think I will need to follow up on that a little later to understand how such a CCRA will take place, but I will hold my questions, thank you.

MR. ENGELBERG: I will ask one final question arising out of it. We don't have a licensed transmitter here. So how would the CCRA be signed in the IESO's view?

MS. CONSTANTINESCU: I guess I don't have an answer to that. Maybe...

MR. RATTRAY: From our perspective, Mr. Engelberg, it is one of the issues that are directly raised by this proceeding. It is not entirely clear at this point what Kruger has -- is proposing for enabling or facilitating other generation projects to connect through its proposed substation.

But from the application as filed, it appears that they are arguing that they are claiming to be exempt from the requirements to be a licensed transmitter on the basis

that they are a generator, to connect -- to construct a facility to connect ultimately to the Hydro One 230 circuits.

In that regard, you would expect them, as a generator, to have to enter into the appropriate connection agreement with Hydro One, with respect to making the connection of specific generation projects through the substation into the Hydro One circuits.

But I fully agree that it is not entirely clear at this point as to how they're proposing to proceed.

MR. ENGELBERG: Well, I guess we will hear more about that later, from Kruger, but my understanding was -- and I don't want to characterize what it is that Kruger is proposing -- that they are not applying as a generator, but that they are, rather, exempt from the requirement to obtain a licence on the basis that they will be offering access to other generators at a cost basis.

And, therefore, they would be more in the nature of an unlicensed transmitter, if there is such a thing, than a generator. But perhaps we will hear more about that later.

MS. HELT: Yes, I think that is correct.

Just to go back, then, to our questions from Board Staff with respect to issue A, we have asked our questions of KEI and of the IESO. We have a similar -- one question to ask of Hydro One, and it is similar to the last question we asked of the IESO; and that is, specifically, if the SIA and CIA would be of value to the Board in determining whether the proposal will in fact have any adverse impacts

on the development and maintenance of the IESO-administered market.

If Hydro One has any clarification it can provide to the Board on this issue, it would be helpful.

MR. HUBERT: I would assume that an SIA and CIA would provide significant information about what the nature of the proposals are that are connecting to the IESO-controlled grid, and at that point you would be able to establish what is behind the facility that the IESO described as electrically neutral at this time.

However, I think there are also -- I think your question goes to the heart of the matter, the development and maintenance of the competitive market, and I would suggest that there are implications even if there is no CIA or SIA in place yet, because there could be connections being made at any time.

We don't really understand what the proposal is for how generators would be proposing to connect to the facility and whether they would be seen as distribution connected or just transmission connected. If they are distribution-connected generators, the IESO has stated that they would not be involved at the same level, and therefore the distribution assessments would need to take place.

MS. HELT: Thank you.

All right, then, we will move on to issue B, and Board Staff has questions for KEI with respect to the proposed or the future operation of the proposed substation.

There are three questions, with a few parts to each

question, in total. Perhaps after Board Staff finishes asking those questions and if there are any follow-ups, we could take a break, and then we could proceed with questions from the IESO and Hydro One.

On September 11th, 2007, KEI stated that, quote:

> "It will allow other projects unrelated to KEI to access the substation provided those proponents are willing to contribute to the costs KEI incurs in construction and the ongoing reasonable costs of operation, provided KEI is able to connect its contemplated generation project or projects."

We are seeking clarification from KEI on a couple of issues. Firstly, does KEI propose to connect KEI and KEI-affiliated generation facilities before other generation projects?

MR. COOKSON: The short answer is "yes".

MS. HELT: Can you give any further specifics with --

MR. COOKSON: We plan to use 40 percent of the capacity of the substation, which is currently proposed at 100 megawatts, leaving the remainder available for other potential future generation projects.

MS. HELT: Will KEI retain any capacity for itself on the substation in anticipation of future KEI or KEI-affiliated generation projects, rather than making it available to other generation projects that are in a more advanced stage of construction and connection readiness?

MR. COOKSON: The short answer, again, to that one is "no". We expect that the 40 megawatts of generation

projects we are proposing would be ready to connect at the time the substation was complete, and, therefore, interconnection capacity would not be held in waiting.

Projects beyond -- our projects beyond the 40 megawatts would adhere to the same process as other projects proposing to connect at the substation.

MS. HELT: On November 19th of 2007, KEI stated that, quote:

> "The process by which generation customers will be allotted the transformation capacity of the substation will be similar to the queuing process established by Hydro One Networks Inc.; that is, first come, first serve basis."

Board Staff is asking KEI to explain, in more detail, how the proposed process will be similar and/or dissimilar to the Hydro One process.

MR. COOKSON: I am not an expert in the Hydro One process, so I will try to explain to the best of my abilities. It would be on a first come, first serve basis.

However, we would want the queuing process to identify projects with a certain -- that it demonstrated a certain readiness to move forward. So that could include such things as having secured land under option agreements. That could include having access to wind turbine generators through binding letters of intent. That could include demonstration of having moved through various permitting processes.

But, again, KEI is very open to any -- any other ideas

which could facilitate viable, feasible, mature projects moving through that process. We are not experts in this type of process, so we are open to any suggestions.

MR. HUBERT: If I may interject for a moment just to clarify, Hydro One's queuing processes are in accordance with the Distribution System Code, and that is the process Hydro One has implemented. So that falls back to the distribution side.

MS. HELT: Right.

MR. COOKSON: I'm sorry, I missed that over here.

MR. HUBERT: Sorry, Mr. Cookson. I was just clarifying that Hydro One's queuing processes comply with the Distribution System Code, so in terms of the details of what those processes are, that's where you would find the obligations on a distributor.

MR. COOKSON: Okay, thank you.

MS. HELT: And just to follow up on that point, then, what would be the obligations for a transmitter?

MR. HUBERT: That would fall to the IESO queuing process. We would follow the IESO connection process, which Ms. Constantinescu has described earlier.

MS. HELT: Right.

MR. HUBERT: Our role would be primarily the customer impact assessment in that piece and following Hydro One's filed connection procedures in accordance with the Transmission System Code.

MS. HELT: Thank you.

MR. COOKSON: If I could just add that we would be

open to having another body administer that queuing process. It is not something that we are experts in, so we would be open to having that process administered by another body, an independent body.

MS. HELT: Thank you.

One final question. On November 5th, 2007, KEI advised the Board that it is, quote, "in the negotiation process of a memorandum of understanding with Aim PowerGen."

Board Staff is seeking some clarification with respect to that. Specifically, is the negotiation consistent with the proposed queuing process which you mentioned in answer to the previous question?

MR. COOKSON: Just a minute.

That's a good point. Just to clarify, the current situation.

The negotiations with AIM in this case never -- were not conclusive, never ended up in a file memorandum of understanding. That's just to clarify the current situation.

We do believe it is consistent with our proposed queuing process, in that any generators moving forward with us in this initiative and assuming a level of commercial risk in the construction of the substation, we believe could be allocated or should be allocated a certain amount of interconnection capacity, because they're moving forward with us -- and the commercial risk of building the substation as opposed to waiting until it is built and then

queuing for it.

MS. HELT: All right. One further question. How is the negotiation and the proposed memorandum of understanding consistent with the development and maintenance of a competitive market?

MR. COOKSON: I guess that's the fundamental question here.

We see, in our original proposal, connecting less than half of the capacity available on the proposed substation.

We don't have any potential partners right now. We originally started this venture when we met with Chatham-Kent Hydro and it was they, actually, that floated the initial idea of addressing this need of interconnection, this distribution level generation interconnection capacity.

But right now we don't have any partners, so it is difficult for us to answer the question based on a hypothetical situation.

What we know is we have four projects we would like to interconnect, and we are proposing a -- what we think is a potential solution to connect those projects, as well as other projects. So we are taking less than half of the capacity on the proposed substation.

I hope that answers your question.

MS. HELT: Yes. Just a moment, please.

Other than perhaps some follow-up questions that the Board Staff will have after the IESO and Hydro One proceed with their questions, those are the -- that concludes the

bulk of the questions from Board Staff, with respect to issues A and B.

At this time, it is quarter to 11:00, it seems like it would be a good time to take a break and when we return, then, we can start with questions from the IESO, if everyone is in agreement with that? So I would suggest we break for 15 minutes or 20 minutes. Why don't we say 20 minutes and we will come back after five past 11:00.

Thank you.

--- Recess taken at 10:45 a.m.

--- Upon resuming at 11:11 a.m.

MS. HELT: We are back on the record.

With everyone's indulgence, Board Staff would just like to ask Kruger a few questions just to try and clarify a few particular matters which we think might be of benefit on a going-forward basis for the rest of today's questions that will be asked.

Kruger, you stated that you had four SOP projects that weren't able to carry forward or that were frustrated because of a lack of connection capacity on the distribution system.

We haven't really heard much about those four specific projects. Are the 40 megawatt projects -- MW projects that you referred to in your previous answers with respect to capacity and queuing, are those the same projects when you refer to your four projects?

MR. COOKSON: Yes. They're four times 10 megawatt projects.

MS. HELT: All right. And do you still plan to seek SOP contracts for these projects?

MR. COOKSON: Ultimately -- well, with how the rules stand today, yes.

MS. HELT: SOP projects need to be connected to a licensed distributor's distribution system. However, the substation as proposed is not going to be part of a licensed distributor's distribution system.

So, therefore, how does this proposed substation help connect the KEI SOP projects?

MR. COOKSON: That's a very good question. Ultimately, what we were hoping to do and what had been discussed with Chatham-Kent Hydro at the time was transferring the substation to Chatham-Kent Hydro's ownership, and, as a licensed distributor, they would then fit into that -- the definition through -- in the OPA's RESOP rules.

But, again, these are all hypothetical situations which it is difficult to comment on today.

MS. HELT: Okay. All right.

If you are only proposing 40 megawatts, the four times 10 megawatts, why are you proposing to build a 100 megawatt substation? What's the purpose of building a 100 megawatt substation?

MR. COOKSON: The answer to that question actually is sort of found in all of the filings that have been made to date.

We had originally identified -- the first meeting that

we had with Chatham-Kent Hydro included another -- a number of other proponents in the area. Chatham-Kent invited those proponents to the meeting to discuss this need.

It was in the context of that meeting that a specific number of projects, within a certain distance from the proposed location, were identified by the proponents. So that number was a function of that discussion.

MS. HELT: So it is based on -- just so I am clear, on other projects that might amount to the need being 100 megawatt?

MR. COOKSON: The need that we had identified, to the best of our capacity at the time, working -- or in discussions with Chatham-Kent Hydro and other proponents in the area, yes.

MS. BINETTE: Mr. Cookson, if you have detailed information on the four projects that you are proposing, as well as perhaps some information on the projects of the other parties, could you have put that information together in an SIA application so that there was detailed information sufficient for the IESO to carry forward an assessment?

MR. COOKSON: Well, yes, yes. We have the -- obviously the information on our projects.

The information about the other projects, we would have to work in collaboration with these other promoters, but I believe we could.

MS. BINETTE: Now, an application was filed in February. Was that -- at least the information that you

have on your projects, was that provided in that application?

MR. COOKSON: It was not provided. The application we made to the IESO was with respect to just the transformer substation and not the generation projects that would ultimately be connected to it.

The first step we wanted to take was the regulatory step with the OEB with respect to that transformer substation, because our counsel, in fact, at the time advised us that having an affiliate as a generator in the area -- we recently completed construction of the 100 megawatt Port Alma wind farm in the vicinity, you may or may not be aware of.

Our counsel advised us that we needed to file under this section 81 for the transformer substation, because we had this other affiliate as a generator in the area.

MS. HELT: All right. Thank you very much. Mr. Rattray.

QUESTIONS BY MR. RATTRAY:

MR. RATTRAY: Thank you.

I assume you have had an opportunity, Mr. Cookson, to review the questions that the IESO previously filed with your counsel?

MR. COOKSON: Yes.

MR. RATTRAY: Okay.

We will go through that list and I will ask supplemental questions as appropriate, depending upon your response and based on some of the statements you have made

this morning.

Turning to question 1, in your notice of proposal in section 1.5.1, you made a statement that indicated that the project will connect future generation projects, and then in a subsequent section, 1.5.4, you indicated that it may in future connection facilities to the grid.

There is an apparent inconsistency between those statements. Is that simply a poor selection of words, or is there anything that we can take from the change in language?

MR. COOKSON: Well, I guess what I can say is that Kruger expects to connect future generation projects, either of an affiliate of KEI or other generation facilities.

MR. RATTRAY: Okay. Is the statement in section 1.5.4, which is conditional, that it "may" connect generation facilities, an acknowledgement that the approval of the substation will enable KEI to also provide transmission services?

MR. COOKSON: I guess that depends on the definition of "transmission services", but we would -- ultimately, we would plan to transfer the substation to a licensed transmitter.

MR. RATTRAY: So your plan is to transfer it to a licensed transmitter?

MR. COOKSON: Well, in fact our plan is to try to connect our four generation projects. We are not a transmitter and we don't plan to become one.

We just want to connect our four 10 megawatt projects. The substation, in the end, is not our goal. Our goal is to connect our four projects.

MR. RATTRAY: Well, I think we will get into that in greater detail a little bit later when we ask some questions about your proposed value-based transfer.

MR. COOKSON: Sure. If you just give me a moment here?

[Mr. Cookson confers with Mr. Gauthier]

MR. RATTRAY: All right. Now, in section 1.5.4, does this reflect the requirement that any future generation project to be connected to the IESO-controlled grid will be required to comply with a connection assessment and approval process?

I want to understand how you foresee this working.

Assume you are approved to have this substation constructed. Would all future generation projects that are going to connect through your substation -- will they have to go through the IESO connection assessment and approval process?

MR. COOKSON: Well, we understood from this morning's answers -- again, I am not an expert in the interconnection approval process, but we understood this morning that any generation projects would be subject to a process, whether it be at the transmission level or the distribution level.

But again, we would like to connect our four projects. We would like to transfer the substation to Chatham-Kent Hydro and we would like to do so in the most -- in the way

that would best maintain the competitive nature of the market and, again, we are open to any suggestions in that regard.

MR. RATTRAY: Okay. So can I take it, then, that you are acknowledging that the requested approval of the substation, in and of itself, would not grant any entitlement to connect specific generation projects to the IESO-controlled grid through that substation?

MR. COOKSON: That would be up to the IESO. We heard from Barbara earlier that it would take a -- I think it was a CCRA, and/or a PPA to allocate transmission capacity.

So that's not really a question that I can answer.

MR. RATTRAY: Well, no. I want to be clear on what it is you are seeking, in terms of an approval for this substation.

Specifically, do you agree that if you are granted the opportunity to construct this substation, that approval does not grant an entitlement for any specific generation projects to be connected through that substation?

MR. COOKSON: Again, that is what I under understood from Barbara's answer this morning.

MR. RATTRAY: You don't dispute that?

MR. COOKSON: Well, I mean ... yes, I can't really answer that question.

Obviously we are not building the substation for nothing. We are building it because we think we would like to connect our projects to it and we would like to open up some interconnection capacity for other developers in this,

as was mentioned before, wind resource-rich area.

But I mean, that is a question for the IESO to answer.

I believe Barbara answered it this morning. We would -- we recognize the commercial risk moving forward with this venture that you are highlighting here. But I can't answer a question that is really the jurisdiction of the IESO.

MR. RATTRAY: All right.

MR. GAUTHIER: Just a second, please.

[Mr. Gauthier and Mr. Cookson confer]

MR. COOKSON: My colleague makes...

My colleague raises a good point, that we are not there yet in terms of our reflection. What we proposed here was with respect to the substation and with respect to the projects that we would like to bring on line.

So we don't really -- I guess we don't know the rules that would apply in that particular case. And I guess it is not really for us to comment on rules we don't have a full understanding of.

MR. RATTRAY: All right. That's a good segue to the next question.

You stated that the proposal will not adversely affect the development and maintenance of a competitive market.

Is this based on your limited understanding of the rules and connection procedures?

MR. COOKSON: No. I think, in fact, that we expect that our generation projects would be connected to the substation and that other generation projects would be --

would ultimately be connected, as well. So we would be taking less than half of the capacity on the facility that we are proposing.

MR. RATTRAY: So what is the competitive market you have in mind when you say it will not be adversely affected? Is it the IESO-administered market?

Is it a competitive market to obtain access to the transmission system?

MR. COOKSON: Again, I don't think it is our -- a generator's role to define what the competitive market is.

I think it is our role to say that we're open to whatever mechanism would provide the most competitive access to the balance of the megawatt capacity on the station.

I think there are other people in this room that are far better positioned to answer what it would take to maintain that competitive market.

We just, again, we would like to connect our four projects to the grid, and are open to the most -- the most fair and equitable and competitive way to connect the additional projects to the grid.

MR. RATTRAY: All right. On that point, would you accept that there is commercial risk associated with the construction of the substation, given the IESO's position that construction of the substation in and of itself would not grant any grandfathering or reservation of capacity on the transmission system?

MR. COOKSON: Yes, we understand that.

MR. RATTRAY: Now, in answer to Board Staff Interrogatory No. 5, which was a question in relation to whether or not a transformer licence would be required, KEI advised that it takes the position that it is exempt under the OEB Act under regulation 161/99.

I would appreciate if you could clarify and elaborate on the basis of the requested exemption.

MS. LONG: With the panel's -- I am hoping, John, I can comment on this from a legal aspect and my client is happy to add to it if you have any specific questions.

MR. RATTRAY: Certainly. We would like to have some clarity as to what is the basis that you are claiming to be exempt.

MS. LONG: Right. I think from a general overview from what Mike said this morning, just to understand the project. I mean, this is a project that KEI had a discussion with Chatham-Kent about, decided that there was a need, saw a need that could be fulfilled and, you know, was hoping to partner with other people in order to do it.

I think what Mike said is that they do not intend to operate the substation or become a transmitter.

So, you know, with that in mind, when we filed this notice of proposal back in July of 2007, we also wrote to the chief compliance officer at the OEB and said, We are concerned that we may have to take on the obligations for being a transmitter, or a distributor, because at that point we were generally thinking about the project. Here's how we think we are exempt because of the small amount of

activity that we are going to take on as a transmitter. And we think we should be exempt.

I am happy to go through the exemption with you - as to why we think we are exempt - but you know ultimately it will be up to the chief compliance officer to decide whether or not we are taking on activities that don't fall within that exemption. So do we not own land in which we're constructing the transmission asset? Are we not just conveying into the IESO electricity grid?

Ultimately that will be their determination, and we are happy to have further discussions down the road about this, but I think we are still at the initial stages of, Is this a project that is viable and that we are going to be allowed to do?

The ultimate goal of KEI is not to become a transmitter and not to operate the substation, but to transfer it.

So I mean, to the limited extent that before it can transfer it, it is taking on any type of transmission activities, then we run into the issue where we do think we should be exempt. But the ultimate goal here is not to be a transmitter, that is taking on these responsibilities. And that's the basis for our request for an exemption.

MR. RATTRAY: All right. We understand you ultimately do not want to be a transmitter. But can you come back to the specific question and provide some clarification.

Are you claiming that you are a generator in transmitting electricity only for the purpose of conveying

it to the IMO-controlled grid?

MS. LONG: That's what we expect that we will be doing, or that we would fall under 4.0.21(a) that we would own or operate a transmission system entirely or partially located on land where an industrial or commercial building is located.

I mean, I think, you know, in discussions with the chief compliance officer on whether or not we fit, we will look at the specifics of what the project actually materializes into being.

I think the parties around this table have to decide what their concerns are and we are willing to address them, instead of, you know, focussing on whether or not we fit into a regulation.

As you know, there is discretion to create other regulations in order to meet specific circumstances. We are not saying that that is where we want to go. We think we are going to be doing very limited transmission activity.

MR. RATTRAY: Can I take it, then, that it is KEI's position that in order to be eligible under this claimed exemption, KEI would be required to comply with all applicable generator, regulatory and licensing requirements?

MS. LONG: As a generator, they will obviously have to adhere to their licence conditions, and, you know, their plan is to apply to become a generator and be licensed, and, as such, will be required to follow the rules and

regulations that any generator must.

MR. RATTRAY: In response to Board Staff Interrogatory 15, which was a question with respect to whether construction of the substation would limit the access of other parties, KEI responded with its estimates of available capacity.

Can you provide an update to the answer you provided in November of 2007?

MR. COOKSON: Sorry, can you repeat the question?

MR. RATTRAY: Well, in response to Board Staff interrogatory 15, I didn't see an answer to the specific question as to whether the construction would limit access of other parties to the 230 kV transmission lines.

MR. COOKSON: Okay, I understand.

At the time of the filings, we had had discussions with both HONI and the IESO with respect to the capacity available on the lines. In fact, it was the OEB that asked us to -- for clarity on these questions. So we had discussions with IESO and HONI with respect to the capacity on those lines.

At the time, we were led -- I would say led to understand that there was approximately 400 megawatts of capacity available on the lines, which would correspond to the transmission constraints matrix from RFP 2.

MR. RATTRAY: All right. It's little repetitive perhaps to some of the earlier questions, but I do want to be clear. Is it KEI's position that approval of the project reserves capacity on the transmission lines

notwithstanding the lack of specific committed generation projects?

MR. COOKSON: I think I have answered that question a couple of times now.

MR. RATTRAY: Well, I have yet to have a definitive answer from KEI that you either accept that you cannot reserve capacity by virtue of having the substation approved, or not.

I think that really is one of the key issues for this proceeding, and it is necessary that we know what KEI's position on this is.

MR. COOKSON: I have to say that I don't -- I provided, to the best of my abilities, the answers to that question that was previously stated. And I can't -- I can't answer it any more clearly.

I don't -- the question was answered, I believe, by Barbara earlier as to how the IESO allocates transmission capacity. And, again, I don't even have an understanding of all of the rules to properly answer that question.

I think the IESO has a better understanding.

MR. RATTRAY: So you would accept the IESO's position on this?

MR. COOKSON: I think we would have to -- maybe Mr. Gauthier can answer. I don't think I have anything else to add.

MR. RATTRAY: Turning now to the future operation of the proposed substation, in your response to Allus Power's interrogatory, or in response to Allus Power, KEI stated

that your objective is to make a value-based transfer of the substation back to Chatham-Kent Hydro, if Chatham-Kent Hydro is amenable.

It also said that you will allow other unrelated projects to access the substation provided they contribute to the construction costs, ongoing reasonable costs, and provided KEI is able to connect its contemplated generation projects.

I would appreciate your clarification of what you mean by a value-based transfer in relation to the reasonable costs of constructing the substation.

MR. COOKSON: That term there was first introduced when we considered the ongoing costs of the substation itself, so we were actually thinking of the leased parcel of land, so whatever the lease costs would be for the period of time that the substation was in operation.

MR. RATTRAY: So by that, is it all to be based on the costs associated with the development of the substation?

MR. COOKSON: Again, the value-based transfer was with respect to the transfer to C-K Hydro, and we figured if we were transferring, giving the substation to Chatham-Kent Hydro, that they could assume the costs of the land lease under -- the minimal costs associated with the land lease for which the station sits.

MR. RATTRAY: Okay. And the distinction I am drawing is costs are obviously one aspect of it, and, by your response, it sounds like you're talking about Chatham-Kent assuming the costs associated with the lease of the land.

When you use the term "value-based", it suggests that there is a market rate that you are looking for.

MR. PAQUETTE: If I may intervene, I think you are at the level of detail that we are not ourselves. I think the whole intent of that concept was to ensure that as we are acquiring some significant costs in the establishment of the building of the substation, we have a means of being able to recuperate those costs.

Now, how will that be done? I don't think we have defined the details of it at this stage. We want to get an understanding if this is doable or not, and then we will get into that level of detail, basically.

MR. RATTRAY: But to come back to my concern, is there any distinction, then, between it being based on costs and going for a value-based transfer, which I interpret as being looking for a market rate of return?

I mean, if you bought the land for $1 million, are you looking to sell it for current market rate of 2 million or are you simply looking to recover your costs of 1 million?

MR. PAQUETTE: I think we have answered on that that we want to recuperate costs, period.

MR. RATTRAY: Has KEI also considered transferring the substation to Hydro One?

MR. COOKSON: At the time -- we initially had discussions with Chatham-Kent Hydro. We have not had any discussions with Hydro One regarding the transfer of the substation.

MR. RATTRAY: Okay. Why not?

MR. COOKSON: Why not? Because the discussions we had were with Chatham-Kent Hydro.

MR. RATTRAY: So it's nothing other than you first discussed it with Chatham-Kent?

MR. COOKSON: Well, initially it was in a meeting with Chatham-Kent Hydro that the idea was floated and that was -- those constitute the discussions that we have had to date.

MR. RATTRAY: So you wouldn't be opposed to discussing it with Hydro One?

MR. COOKSON: I can't see any reason why we would be opposed. Again, our goal is to connect our projects to the...

MR. RATTRAY: Certainly. Towards that, have you considered transferring ownership and operation of the substation to a transmission affiliate?

MR. COOKSON: We have not considered transferring ownership of the substation to a transmission affiliate.

MR. RATTRAY: Why not?

MS. LONG: Can I be clear. When you say a transformer affiliate, do you mean a KEI transmission affiliate?

MR. RATTRAY: A Kruger.

MS. LONG: Just so we are clear on that.

MR. COOKSON: No, we have not considered that. Our intent is not to become a transmitter.

MR. RATTRAY: Is it fair to say that the construction costs that would be recovered from other participants in the project are restricted to reasonable costs?

MR. COOKSON: Yes.

MR. RATTRAY: And is it intended that KEI projects have priority access to the substation?

MR. COOKSON: I think we have already answered that question; that we would reserve 40 megawatts or 40 percent of the proposed capacity.

MR. RATTRAY: Then you would be required to make application for the approval of the IESO to connect those projects to the IESO-controlled grid.

MR. COOKSON: Again, we would follow whatever rules are in place.

MR. RATTRAY: What disclosure have you contemplated to provide to proponents of other projects in order to allow them to assess the reasonableness of the construction and operating costs?

MR. COOKSON: As Mr. Paquette mentioned, we haven't gone into that level of detail at this stage. We are -- we would like to have the substation approved, but clearly the most transparent mechanism.

MR. RATTRAY: You wouldn't be opposed to a completely transparent mechanism that allowed --

MR. COOKSON: Not at all.

MR. RATTRAY: -- the project proponents to make that assessment as to whether the costs are reasonable and assess the option of perhaps contracting directly with Hydro One?

MR. PAQUETTE: Definitely. These are very good questions but obviously if I may say candidly, we are not

there. We want to see if this project is doable on a regulatory standpoint, and then we would get into those levels of details which I think need to be answered. But, the answer is yes to your question.

We would be reasonable in all of these costs.

MR. RATTRAY: Have you contemplated a role for the OEB in relation to determining the value-based transfer and reasonable costs?

MR. PAQUETTE: Well, again, you are a step ahead of us. Whatever needs to be done in terms of the regulatory process, we will follow it. But we are not there yet.

MR. RATTRAY: All right.

In the absence of the substation being transferred in the short term, what agreements, if any, do you propose to enter into with Hydro One and/or the IESO in relation to the operation of the substation?

MR. PAQUETTE: Again, the same answer. I would have to defer to our counsel, if we can give you more information about that. But...

MS. LONG: Again, I think that we're talking at the level of what agreements are you going to enter into in order to operate this, and we said it is not our intent to actually operate the substation but to have it constructed, and pass that responsibility on to the most appropriate body.

So you know, at this stage for us to hypothetically say we are going to enter into a connection agreement with someone to operate it, I mean, we are open to suggestions

here as to who is interested in operating this project, if it even gets off the ground and up and running.

That being said, we understand that there is, you know, there's obviously a need for agreement so that everyone is under a complete understanding about how this thing is going to be operated but it is a bit premature at this point for us to say what exact agreements we are going to enter into.

I don't think that we could give you an accurate response looking that far ahead.

MR. RATTRAY: But you would agree that the substation cannot be permitted to be in a regulatory or operational gap?

MS. LONG: No, absolutely. And no one is suggesting that. And by us not committing to the exact agreements that we are going to enter into, you know, we understand that bodies are going to be looking at us to make sure the system reliability is there. That's the whole purpose. Or one of the whole purposes of us building this substation in order to get generation on and not to do anything that would adversely impact the system. So to the extent that there would be any type of "gap" in place as to how it would be operated would be completely unacceptable to everyone sitting around this table, including KEI.

MR. RATTRAY: In answer to Board Staff Interrogatory No. 3, KEI said the queuing process that it adopts will be similar to the process established by Hydro One.

MS. LONG: Again, if I can just comment on that

because I think the evidence that we have heard this morning is that KEI is open to a different type of queuing process.

I mean I think we started off by saying we would follow the queuing process that is in place, but I think the evidence this morning has been, other than the 40 megawatts of projects that my client is interested in connecting, they do not want to be the arbiter of what generation projects get hooked on to that substation.

So to the extent that, you know Chatham-Kent or Hydro One or the IESO is interested in providing us with solutions as to how they think a queuing process should work, how it could be the most fair and efficient, that is certainly something that KEI is willing and actually would probably be very glad to consider.

I think a lot of the discussion in this whole application has been with respect to competition and, you know, that's why we're here today. And we want to allay people's concerns that we want to be in charge of the queuing process in determining what generation projects come on line, other than ours.

So I don't really want to discuss the material differences between our queuing system and Hydro One's queuing system, because I'm not sure that that is helpful.

We are open to a queuing process that works, that will get projects that are ready to go on the substation, and we are willing to hear from anyone here who has ideas as to how they think that would work.

MR. RATTRAY: So it is fair to say you have no detail, other than the general statement that you are prepared to consider a third party administering the connection process?

MS. LONG: We are absolutely committed to a third party running the process.

MR. GAUTHIER: Yes, that's fair.

MR. RATTRAY: Are you proposing to file updated evidence that reflects this?

MS. LONG: Other than this not being sufficient on the record you would like us to file something?

MR. RATTRAY: No, no. It sounded like an idea that was very recent, in terms of suggesting that there would be a third party and it wasn't clear to me whether you are going to pursue that with discussions with potential third parties and to consider, in detail, the queuing process that will be used or is proposed to be used for this project.

MS. LONG: Well, it is certainly something that we are willing to consider.

I mean, obviously we are here to collaborate with parties with respect to the concerns that they have and if anyone wants to raise anything now, we are happy to hear it. We are always happy to have off-line conversations after this technical conference is over as to how parties around this table think that the queuing system could work. Absolutely.

To the extent that we get any details, we are happy to

provide them to the Board and circulate among the intervenors for comments.

I mean our goal is here is to have this be an open process, so absolutely.

MR. RATTRAY: All right. If a proponent's project had a higher state of readiness than a contemplated KEI project, would the proponent be able to secure access to the capacity of the substation in priority to KEI?

MR. COOKSON: I mentioned before that we are moving forward with this proposal which has a certain degree of commercial risk associated with it. On the basis that we would be able to connect our four 10 megawatt projects to it.

MR. RATTRAY: Yes.

And if you were faced with a situation that your four projects ran into various hurdles that delayed them to some degree, and you had other projects who were prepared to connect through the substation, pay the reasonable costs associated with doing so, would they be permitted to connect to the substation? Or would that capacity at the substation be reserved for KEI?

MR. COOKSON: We have been developing these projects for some time now.

We have got -- we have a certain degree of advancement in all of these projects and we are very confident that these projects would be built at the time that the substation was commissioned.

MR. RATTRAY: Yes. I put a question to you, sir, that

contemplated there could be delays. You will admit that delays can occur in project development?

MR. COOKSON: Yes.

MR. RATTRAY: Notwithstanding your hard work and your best efforts?

MR. COOKSON: That's the reality. Yes, that's a reality of project development.

Again, the -- what we are talking about is putting 40 megawatts of our project on to this substation and leaving more than half of the capacity available for future projects.

MR. RATTRAY: So you are -- to summarize, in effect, KEI wants to reserve 40 megawatts on the substation for its own projects?

MR. COOKSON: I think -- we have been very clear on what we would like to do, which is connect our 40 megawatts and projects to the IESO-controlled grid.

MR. RATTRAY: Yes. Well, we have already dealt with the fact that connecting to the substation, from the IESO's perspective, does not guarantee or confer any entitlement to connect to the IESO-controlled grid. So I am focussing on connecting to the proposed KEI substation.

Just to be clear, you are proposing to develop this substation, and I understand you have four projects under development that total 40 megawatts.

If those projects were delayed and you had, say, 80 megawatts of projects being proposed by other developers that are in a more advanced state and are ready to connect,

would they be permitted to do so, or not?

MR. GAUTHIER: Sir, I think that we answered your question many times. We are very confident to be ready to get our project. In the meantime, the substation will be built, period.

MR. RATTRAY: Well, we will take it as a refusal to answer the question.

MR. BURRELL: May I follow up? As a condition of turning over the assets, because Kruger indicated that it does not want to be a transmitter, so we assume that the assets would be turned over, as a condition of turning over the asset to whomever this third party is, whether this third party will own or operate or do both of the substation -- for the substation, sir, would that be a condition for Kruger turning those assets over to someone else, in that they have -- Kruger will have first access to that substation? I guess that is the point that we are trying to clarify.

So when you turn the assets over, is a condition of turning the asset over -- would that be based on Kruger having access, first access, to the capacity of that substation?

MR. COOKSON: The short answer is yes.

I mean, we planned to have the four projects built at about the same time as the substation, plan to connect our generation assets to the substation at that time.

MR. RATTRAY: All right. We will come back to it and my colleague raised a good point.

Let's go back to the proposal that you would transfer to a third party responsibility for the administration of the queuing process.

Are you turning over to that third party administration of the queuing process for 60 megawatts or 100 megawatts?

MR. COOKSON: I guess it would be sixty.

MR. PAQUETTE: Sixty megawatts.

MR. RATTRAY: Thank you.

Can you elaborate for us today the rationale for bringing forward the current proposal without detailing specific generation projects which are to be connected to these facilities?

MS. LONG: Well, I mean, I think when we filed the application over a year ago, it was based on a general discussion with Chatham-Kent about a need in the area.

I think, you know, we are here today, having spent a lot of time thinking about this project, answering interrogatories, listening to concerns, and while I think the parties had thought about the RESOP projects when they addressed this, I don't think that it was confirmed in their mind absolutely that that would be the only purpose for the substation.

I think they have come a ways in that, and, you know, we are here today with what the proposal is, and it has evolved from the time it was filed in June 2007 -- July 2007, rather.

MR. RATTRAY: All right. Can you explain the

difference in approach between this application and the recent Kruger Energy, Port Alma application, which did detail specific generation facilities to be connected?

MS. LONG: Well, I think they're two completely separate projects.

I think that, you know, we filed this application not appreciating -- I think maybe even the IESO said -- how innovative this approach would be.

And, you know, at the time, we filed it with the best information that we had to see whether or not section 81 precluded us from owning -- as a generator, owning a transmission or a distribution asset, and, you know, I think the process, we have added more detail.

But I think the two projects are completely different and the approach was different, in that we applied for section 81, a leave to construct. It was a bigger project. I think they're different and we took a different approach.

I think we have been clear today on what our purpose is with respect to the generation assets that we are looking at, and, you know, I don't know that I can say anything else.

MR. RATTRAY: Thank you. Those are our questions.

MS. HELT: Thank you.

Mr. Engelberg.

MR. ENGELBERG: Thank you.

QUESTIONS BY MR. ENGELBERG:

MR. ENGELBERG: Hydro One is really trying to understand more details of Kruger's proposal, with the goal

of understanding what the impacts would be on the development and maintenance of a competitive market, which is one of the prerequisites that needs to be satisfied for section 81.

So the first thing I really need to ask is something that I believe was stated by Ms. Long in her submissions following up to a question by Mr. Rattray, and that is: Which exemption in regulation 161 of '99 under the OEB Act is Kruger stating that it is relying on in support of its belief that it does not require a licence in order to carry on transmission activity?

What I heard was that the transmitter activity that Kruger would be carrying on is very limited, but I looked through regulation 161/99, and there is no exemption for parties who propose to carry on only limited transmitter activity.

So perhaps we could be told which of the exemptions under 161/99 Kruger maintains that it is relying on.

MS. LONG: When I spoke of limited activity, I didn't mean that as a defined term, but, rather, that the exemptions set out in O. Reg. 161/99 deal with specific situations which we think that we fall under.

We are claiming relief under 4.0.2(1)(a) and (d).

MR. ENGELBERG: All right. If I look at 4.0.2(1)(a), is it Kruger's position that when the section states:

> "...transmission system entirely or partially located on land on which one or more of the types of buildings or facilities described in section

4.0.1(1) is also located..."
is not limited to lands that are owned by Kruger?
MS. LONG: That's our position.
MR. ENGELBERG: So then your position --
MS. LONG: That being said, though, I think that the -- as we have talked about, the land where the substation is going to be located, KEI will be -- will be leasing that land.
MR. ENGELBERG: How about the wires that would join that substation to all of the transmitters, to all of the generators? Will they be located on land that Kruger would be the lessee of?
MR. COOKSON: Excuse me, can you repeat the question, please?
MR. ENGELBERG: Well, the transmission system, I assume, would be made up not only of the substation, but also the wires that would get to the various generators.
So is it Kruger's position that it would be the lessee or owner of all of the lands over which those wires go?
MR. COOKSON: Well, that's – again, we are getting into a level of detail that we haven't contemplated, but my initial response -- subject to any comments my colleagues have -- is that the lines from the specific generation project would be the property of those generation projects.
MR. ENGELBERG: I'm sorry.
MR. COOKSON: It would connect to the bus bar of the medium voltage bus bar of the transformer substation.
MR. ENGELBERG: So then the wires would not be

entirely located on lands that are owned or leased by Kruger?

MR. COOKSON: Again, those wires would not be part of the facility we are proposing. Just the medium voltage bus bar would be. That would be the limitation between the facility we are proposing and the potential generation projects that would connect to it.

Again, this is, I am trying to, to the best of my ability, answer your questions, but as we stated we have not gone to that level of detail.

MR. ENGELBERG: Okay. Just based on what your understanding is now the wires that would go to the bus bar would be part of what system? If they're not part of this particular transmission system?

MR. COOKSON: Well, they would be part of the generation projects that would eventually connect to this facility.

We have, for example, at the project we just connected, the Port Alma project, we have four collector lines that connect our project to the IESO-controlled grid.

So I would imagine a scenario similar to that, where the generators would build their collector lines to connect ultimately to the bus bar of the transformer substation.

MR. ENGELBERG: Are the lands of all of these proposed generators adjacent to each other, so that there is no need to go over anyone else’s property?

MS. LONG: You know, in fairness I don't know that we can answer that question, because we are not sure who the

generators are going to be. You know, we have just talked about a queuing process where we pick generators that are ready, that are in the right distance, that we would not be making the decisions about. So it is a bit difficult for Mr. Cookson to opine on where these generation facilities would be located.

MR. ENGELBERG: Well, I appreciate that and I wouldn't want it to be thought that Hydro One is asking the questions out of curiosity.

It is just that if we need to determine, or if we need to help the Board to determine, what the impact would be on the competitive marketplace, and there is an application under section 81 that is dependent, in large part, upon -- as Kruger stated -- no transmitter's licence being required -- we really need to get a better understanding of whether the exemptions that Kruger seeks to rely on are, in fact, sections that would enable Kruger not to acquire a transmitter's licence.

So we at least need to know enough detail in order to be able to tell whether that threshold has been met.

Well, let me move on to the next question, then. We have heard that it is proposed that Kruger would never operate this facility and that it would be transferred to Chatham-Kent Hydro.

What would happen if that did not occur? Whether Chatham-Kent Hydro was not interested in it, or Chatham-Kent Hydro was not interested in paying what Kruger feels to be a value-based transfer, what would happen if that did

not occur?

MS. LONG: Well, again, I think you have asked a hypothetical question, in that, I think what KEI stated on the record is it is not their intent to operate the substation. If KEI was not interested in taking on that role, then I think what Mr. Cookson has said is he is open to discussions with other parties, such as Hydro One.

I think, you know, you and I can disagree on the interpretation of these regulations and you are highlighting this obviously in the context of this proceeding for the Board and Staff to consider, and you have raised the issue, and you know KEI understands that if they did not fall within the exemptions sets out, then they would be required, if they were operating, to be a licensed transmitter.

So I think you and I probably can both agree on that, that if the exemptions don't apply, then what is a transmitter if they're operating a transmission system. That is not the goal of KEI to operate, and if, you know, CK Hydro was not an option, they would look for another one.

MR. ENGELBERG: Did I understand you then to state that if it does fall upon Kruger to operate the facility, that Kruger would be required, under the OEB Act, to obtain a transmitter's licence?

MS. LONG: No. I said provided they did not fall within one of the exemptions set out for exemption from transmitter licensing, then they would be required to. I

think that is an important distinction.

MR. ENGELBERG: Well, I would like to proceed with that.

Hydro One asked a question on May 30th in its list of questions: If Kruger were entitled to an exemption as an unlicensed transmitter, is it Kruger's position that it would still be subject to all of the same technical and regulatory and competitive marketplace obligations as a licensed transmitter would be under the Transmission System Code?

That's Hydro One's first question on May 30th.

MS. LONG: Sorry, can you repeat the question now that I have it in front of me.

MR. ENGELBERG: If Kruger were able to satisfy the Board that it is entitled and qualifies for one of the exemptions under regulation 161/99 so as not to require a transmitter's licence in operating this facility, would Kruger still be subject to all of the same obligations that a licensed transmitter would have to meet under the Transmission System Code and the OEB Act?

MS. LONG: Well, I mean, our response would be that the responsibilities of a licensed transmitter and unlicensed transmitter are different.

MR. ENGELBERG: Well, I am not sure what the obligations of an unlicensed transmitter are, but I assume that Kruger has looked at this, because Kruger must have prepared for all scenarios, including the scenario that Kruger will be, at least for a period of time, required to

operate the facility either because no distributor, such as Chatham-Kent or Hydro One, is interested in purchasing the facility, or there is a time gap between the time such a transaction would take place and your facility would be built.

So I would like to know which of the obligations that other transmitters in the province have to meet when they are operating their facilities that Kruger believes it would not have to meet, if, in fact, there are any.

Maybe Kruger believes that it, as an unlicensed transmitter, would have to fulfil all of the requirements of a licensed transmitter.

MS. LONG: Well, I'm not going to go through the Transmission System Code with you. I think the two things that you are probably interested in highlighting are rates that they would charge if they found themselves subject in any way to having to do that, and the issue of open access.

Our position is that they would not be required to provide open access, because they would exempt, not licensed, and therefore not required to do so.

If they met the exemption regulation, the requirement is they're only allowed to charge any reasonable costs.

So, you know, again, I am trying to be helpful here, but we really did submit this letter over a year ago hoping that we would get some feedback on whether or not our exemptions, based on what we were contemplating doing, fell within the exemption requirements, and, you know, that is really where the extent of our discussions are.

So I appreciate that you want to highlight these issues for the panel and for the Board, and I am sure this is something that the chief compliance officer, with our letter and materials in front of him, is also considering.

MR. ENGELBERG: Well, following up from your answer, if Kruger would not have to comply with open access as an unlicensed transmitter, how can the Board ensure that there will be an open and competitive market for this facility as it is required to do when considering an application under section 81?

MS. LONG: Well, I would hope that the Board would take a look at the specific circumstances that this application poses to it. It has an identified need in an area where you have someone who has come forward in order to bring more generation to the system. So I think that addresses an issue with respect to competition, in that there will actually be more generation entering into the market because of this.

I think that we have addressed some of the concerns that the parties have brought up with respect to competition by saying we are open to there being a different type of queuing system.

So if you are concerned that the open access issue is an issue and that we will be picking and choosing what generators connect to the substation, I think we have offered up an option today that we would hope would be acceptable to other people, that we would not be making that decision.

MR. ENGELBERG: Well, I think it is fair to say that not just Hydro One, but everybody, is concerned about open access.

So if Kruger is proposing that there be a fair, open and transparent queuing system, then why is Kruger opposed to saying that it is required to meet the requirements of open access the way other transmitters would who have a licence?

MS. LONG: Because I think Kruger has been clear that they do expect that their projects are going to connect to the substation.

MR. ENGELBERG: When you say "their projects", are you referring to all of the other parties with whom Kruger has been having these discussions as Kruger projects?

MS. LONG: No. I want to be clear on the discussions, and, you know, anyone who was part of the discussions can step in here.

But this was a situation where proponents in the Chatham-Kent area had got together with Chatham-Kent to try and address an issue and see how they could resolve it. There were other developers there. It was discussed. KEI decided that perhaps this is something that they could move forward with and hope to partner with other people in putting their projects -- in accessing the substation.

So they're open to other people. I think they have expressed that many times. And it is not that they're, you know, looking for other people, that they're going to take over their projects and somehow take up the substation.

They're open to people that are interested in helping to construct this infrastructure.

So just to be clear, it is not those people that they spoke to a year ago, their projects. They have been open all along to people wanting to connect to the substation and partnering with them in building this.

MR. ENGELBERG: So it is those other people that you are referring to when you use the word "their projects"? That's what I'm trying to understand. When you say Kruger is talking about "their projects", are these --

MS. LONG: They're talking about their four distinct 10 megawatt projects.

MR. ENGELBERG: And does Kruger have an interest in those projects?

MS. LONG: Does KEI -- I'm not understanding you.

MR. ENGELBERG: Are those other projects by companies affiliated with Kruger, corporate affiliates of Kruger?

MR. COOKSON: I don't really understand the question. The four projects we have talked about are the four projects --

MR. GAUTHIER: The four projects are the four SOP projects, the four 10 megawatt projects, period.

MR. COOKSON: I can give you the names of the projects.

MR. GAUTHIER: But they're talking about, um..., subcompanies under Kruger, but it is -- in fact, it is just the four projects, SOP; that's it.

MS. HELT: If I could just ask if you speak up just

for the sake of the court reporter, as well, please.

MR. GAUTHIER: I said we're talking about the four SOP projects, only, that's it, not any more by sub companies or whatever of Kruger.

MR. ENGELBERG: I'm sorry, I didn't hear that.

MR. GAUTHIER: Just the four SOP.

MR. ENGELBERG: Are those projects by companies that are unaffiliated with Kruger, unrelated companies?

MR. GAUTHIER: No. These are the companies under Kruger.

MR. PAQUETTE: The four projects are in limited partnerships fully controlled by Kruger.

MR. ENGELBERG: Thank you. That's all I was trying to find out.

Now, because it is a requirement under the exemption section of regulation 161/99, how will Kruger ensure and demonstrate to the Board that it will charge a price that is no greater than that required to recover all reasonable costs?

MS. LONG: The exemption does not set out and specifically state reasonable costs, and we have had discussions with Board Staff with respect to what reasonable costs are.

So what KEI proposes is that obviously under the exemption, those who were charged reasonable costs would, in fact, keep it on its toes so that it knows it is subject to charging reasonable costs, or it loses the exemption, quite frankly.

So with that said, it would be a discussion amongst those as to what information they required, and, again, you know, we favour open disclosure in doing that.

If you are asking me specifically what documents we would provide, I don't think we are there yet, but the general concept is we obviously understand what reasonable costs are, what the ramifications of not charging reasonable costs are, and, you know, short of there being some prescribed edict from the Board that is really all we can do.

MR. ENGELBERG: I wasn't referring so much to documents as what kind of system does Kruger envision that would show the Board that it is charging only reasonable costs and no more than that.

MS. LONG: Well, I mean, again, I think we are open to parties coming to us and saying what they would want to see as part of reasonable costs.

MR. COOKSON: Maybe I can just say. Whatever system is required. Open book. Invoices. Whatever system is required.

MR. ENGELBERG: Now, would that be for the operation of the facility once it gets up and operating? Or would that also be the same test for the contribution to the construction development of the project?

MR. COOKSON: Any time. I mean, there are tools to evaluate as a percentage of the capital costs what long-term operating costs are. Various utilities have used those in their formulations.

We could use something like that.

MR. GAUTHIER: Let me add something about this. We are not intending to make any profit with this substation. We just want - and we said many times - we just tried to recuperate our costs, and open book means every invoice, all of the details of the construction, and the procurement, that's it. And any time when it would be required.

MR. ENGELBERG: Well then did Kruger consider building the facility just for the four 10-megawatt projects?

MR. GAUTHIER: At this moment, yes.

MR. ENGELBERG: I mean limiting its capacity to 40 megawatts instead of 100?

MR. GAUTHIER: Hmm-hmm.

[Kruger panel confers]

MR. COOKSON: Maybe I can say, the 100 megawatts that we proposed for the size of this facility was done originally as a result of discussions that were held with Chatham-Kent Hydro, and other proponents with identified projects within a certain distance of the proposed location.

So that is where the 100 megawatts comes from. But I think we have been very clear in saying that our objective in this is bringing our ten megawatts of renewable energy to the market. That's our objective.

So your question is, again, a hypothetical one. The reality of our application is it was based on our understanding of what projects in the area were frustrated

by the current cueing system and RESOP program results, and we were trying to propose a solution.

MR. ENGELBERG: Would one of those possible...

I'm sorry. Would one of those possible solutions be building the station only to handle the four Kruger projects totalling 40 megawatts?

MR. COOKSON: It's not something we have considered at this stage, to be perfectly frank. We never -- that was never an option discussed internally.

Our discussions were transparent with Chatham-Kent Hydro, the other proponents in our filings.

The idea was always to do this, but, again, you raise an interesting question. I mean, it could be. It could be just to bring our 40 megawatts.

MR. ENGELBERG: Does Kruger have any kind of agreement with Chatham-Kent Hydro that there would be a transfer by Kruger and a purchase by Chatham-Kent if Kruger obtained the necessary approvals to acquire this interest.

MR. GAUTHIER: No. It is just discussion that we had.

MR. ENGELBERG: Thank you. If I could just have a moment.

[Counsel confer]

MR. ENGELBERG: Ms. Helt, Hydro One has no further questions. I would like to make a short closing statement, but I assume there will be an opportunity for that later.

MS. HELT: Certainly. I believe the OPA has a couple of questions to ask at this time.

I don't know if parties want to break at this time, or

just let's go through with it and I don't know how much longer we will be, but if we do carry on past, much past one o'clock then we can reconsider the question. But I take it from all of the heads nodding people want to keep going right now?

MR. ENGELBERG: If we could keep going, yes, please.

MS. HELT: All right then leave it to the OPA.

QUESTIONS BY MR. MIA:

MR. MIA: Thank you, Madam Chair. We will be brief, I believe. With your indulgence, our questions are really hopefully to add some clarity and not to -- they're not addressing the specific questions in the procedural order. So if you will indulge us.

Just questions for the applicant. In terms of our own standard offer programs, as you know, those programs, the renewable energy standard offer program is currently under review. We are just fine tuning some things there.

So we would just like to put it on the record and get your response as to how your proposal would be affected if one of our requirements was to connect to an existing distributor or an OEB-licensed distributor. I will put them all on the table and you can discuss them amongst yourselves if you want and then give us an answer.

Restrictions on contract eligibility for multiple 10 megawatt projects under the effective control of a proponent, and the possible unavailability of standard offer for any other proponents that may want to connect to this facility.

So I just wanted to have your thoughts on how that might affect your project. I mean, you are free to answer that question, if you want, but really, it is to give clarity that we are under review of those programs and the outcome isn't clear yet where we will go with those. And you should be aware of these potential outcomes.

MR. COOKSON: I think we are very aware of all of the RESOP program -- the RESOP rules -- as well as the changes that have been, well, proposed and not completely finalized.

It is one of the reasons why we asked for this particular technical conference to be adjourned -- or not adjourned, but postponed on a couple of occasions, was to understand what the RESOP program rules would be.

We are still seeking some clarity on that.

I think I addressed the point with respect to the license, existing licensed distributor beforehand saying that that is not a role that we saw for ourselves, but for Chatham-Kent Hydro or another party ultimately.

I am not exactly sure what your questions are with respect to contract eligibility and access to other RESOP proponents, exactly. Maybe you could clarify.

MR. MIA: I can clarify. On that second one it is really, if the rules are restructured such that the ten megawatt restriction is not per project but really per proponent under your effective control, so -- and I am not saying this is the way we are going, but arguably you have 40 megawatts under your control and that may trigger a

restriction on you applying there.

Really, the logic behind that sort of restriction as it has been kicked around is that RESOP is really meant for a different type of ball game, and we have competitive processes to encourage renewables that are much bigger, that will drive pricing differently.

MR. COOKSON: We would have to address that -- that particular question once we understood the final position of the OPA on eligibility, number of projects.

MR. MIA: Fair enough. We are trying to get that sorted out so that we can issue the rules so that there is some clarity for everyone, but I wanted to put that out there.

The last one was really probably a similar type of circumstance where other proponents that -- not KEI controlled would seek to connect to your facility, and they would -- again, may not be eligible, for similar reasons or other reasons, for standard offer, and how that might that affect the feasibility of this project.

MR. COOKSON: I will have to give you the same response. We have to consider that at that time.

We are looking anxiously to the time at which the OPA clarifies the rules on RESOP.

MR. MIA: A lot of people are looking at us anxiously.

Those are our questions. Joe, do you have anything else?

Thank you.

MR. COOKSON: Thank you.

MS. HELT: Are there any further questions from any of the parties? Yes?

MR. KENNEY: Can I just make a comment?

MS. HELT: Certainly.

MR. KENNEY: Thank you. I just want to say there have been several references to a meeting that Chatham-Kent Hydro initiated with the developers in Chatham-Kent, and I just want to clarify something, that this was done -- this meeting was held in early 2007, and it was done and supported and attended by Hydro One, also.

It was just to respond to these generators who were having difficulty with the situation of the constraints and the fact that their position on the grid was below the red line, as it has been called several times.

So we did initiate this meeting, but we were supported and Hydro One also attended that meeting to try to come up with solutions to help them.

So as you know, the developers are frustrated with the situation -- especially in Chatham-Kent and southern Ontario, with the situation. They are not being able to get connected.

So the result of that meeting was that we all felt that an additional transmission infrastructure was required to facilitate these connections.

So Hydro One and Chatham-Kent Hydro both discussed this situation, and Hydro One basically said there was nothing they could do, and we offered to explore the potential opportunity to construct something.

Very quickly, in our exploration and studying the standard offer rules, as these all fell under those standard offer rules, we realized that it wasn't a position we could take to build a transformer station and construct one for those purposes. It would be an expansion of our existing distribution system.

So having said that, we did then inform the developers, all of them, in a letter that just stated to them that we were in no position to assist them at this time.

So that's just to clear up any questions about what that meeting was about, and I will leave it at that.

MS. HELT: Thank you, Mr. Kenney.

Mr. Engelberg, you wanted to make some closing submissions. I don't know, Mr. Rattray, if you have any closing comments you would like to make?

MR. RATTRAY: No.

MS. HELT: No. Go ahead then, Mr. Engelberg.

SUBMISSIONS BY MR. ENGELBERG:

MR. ENGELBERG: Thank you. As Ms. Constantinescu has stated, the electrical area in question is not rich in renewable resources -- excuse me, is rich, which is why the number of applications that Kent TS exceeds the technical limits at that station.

Hydro One's concern is that in constructing the proposed substation, KEI would become a transmission service provider.

The development and maintenance of a competitive

market hinges on transmission service providers providing open access, non-discriminatory access, to their facilities, and transmitters complying with the transmission system code, the market rules and the IESO connection processes.

It is very unclear, even after today's technical conference, how KEI, as a provider of transmission services, would fit into the existing processes and requirements.

We didn't really hear anything that gave us any comfort regarding the answers to those questions.

If section 81 didn't refer to the requirement for the Board to look into how a proposed project or a proposed acquisition affects the development and maintenance of a competitive market, perhaps it could be argued that this is -- that we are looking at these matters too early, but the fact is that requirement does exist under sections 81 and 82 regarding the review of an acquisition.

So it is Hydro One's submission that we need to look now at what would happen, rather than simply granting an approval now and saying that we can look -- take a look, later on, at how the development and maintenance of a competitive market might be affected by the approval of a project that, by its own admission, would not grant open access, or certainly not pursuant to the existing rules required of other transmitters under the Code and the market rules.

Those are Hydro One's submissions.

MS. HELT: Thank you, Mr. Engelberg. Are there any other comments from any of the parties?

SUBMISSIONS BY MS. LONG:

MS. LONG: If I just might make a brief statement on behalf of KEI to say that we appreciate the opportunity to come today and try and answer questions that people have had about the project and to say that, you know, we recognize this is a unique project which does raise questions for people.

But I don't think that that should deter us from working cooperatively to try and reach the end result, which is addition of interconnection capacity.

I think that very recently the minister has made very clear a renewed interest in getting connection projects connected in areas where there are transmission constraints.

KEI met with Chatham-Kent and other developers, identified a need, and has come forward with a proposal.

They have listened to what people have said. They have tried to address issues that people had with respect to the queuing process and with respect to them becoming an operator, and they have been open to suggestions that people have had as to how to make this process work.

So, in summary, we would like to say that we are open to what people have -- what their comments are, but, you know, KEI also does need to reach some kind of decision as to whether or not they can move forward with this substation, and they would like to move forward with it.

So to the extent that quick discussions can happen and the Panel can make some recommendations and we can identify what the real issues are that the parties have, it would be helpful.

MS. HELT: Thank you, Ms. Long.

That, then, concludes today's technical conference. I would like to thank everyone for their questions and answers today.

And I believe the transcript will be available shortly. Thank you.

MR. GAUTHIER: Thank you.

MR. COOKSON: Thank you.

--- Whereupon hearing adjourned at 12:42 p.m.