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November 17, 2008

Ms Kirsten Walli  
Board Secretary  
Ontario Energy Board  
27<sup>th</sup> floor  
2300 Yonge St.  
Toronto, Ontario  
M4P 1E4

Re : Ontario Energy Board  
EB-2008-0272 HONI 2009-2010 Transmission Revenue Requirement Change

Dear Ms Walli,

I am writing to request late intervenor status in this proceeding. APPrO received notice of this proceeding after the deadline for intervenor letters had passed. APPrO has been involved in Hydro One transmission rate cases in the past.

APPrO represents more than 98% of the generation capacity in Ontario. The great majority of APPrO members are customers of HONI, as defined in the Transmission System Code, and APPrO therefore has a major interest in this proceeding.

APPrO expects to participate actively in certain parts of this proceeding. APPrO also intends to seek costs from HONI, based on the following considerations:

1. APPrO represents the interests of a customer group as customer is defined in the Transmission System Code ("TSC"). Generators pay for connection services from HONI and may, under certain circumstances, where connections trigger network upgrades, be responsible for network upgrade costs (TSC 6.3.4, 6.3.5, and 6.3.6). These costs are often significant for them, in part because, unlike transmission service costs, they are paid up front in lump sum.

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2. APPrO has a particular and important interest in the timely and proper construction of transmission facilities in order that its members meet their current obligations pursuant to OPA contracts and otherwise.

3. It is clearly in the public interest that the generators' interest be thoroughly considered in this case. APPrO, a trade association like the Association of Major Power Consumers in Ontario (AMPCO) and the Industrial Gas Users Association (IGUA) does not have the budget to support a strong intervention.

However, APPrO's representation of its members' interest is a much more effective and efficient regulatory approach than having each of its members make their own interventions, with attendant duplication and extra costs.

4. The Board's Practice Direction on Cost Awards does permit the Board to make exceptions to the general rule that electricity generators should not be eligible for costs.

5. In fact, the Board granted APPrO eligibility in the previous HONI Rate hearing, with some conditions, in a letter dated January 16, 2007. It made a similar exception when it ruled that APPrO would be eligible for costs in the NGEIR proceeding.

6. The Board should, in this case, exercise its discretion to allow APPrO an exception from the general rule. The notion that generator-customers shall not be eligible for costs while end-use customers shall, is a carry-over from the historic practice in natural gas cases, but the circumstances are different in electricity. First of all, unlike the case in gas, the generators, as noted above, are customers of the regulated transmission utility in question. Gas producers are almost never customers of the Ontario gas utilities. Second, generators, like end-users of electricity, are companies carrying on business and creating direct employment in Ontario. Third, in electricity, generators and end-users are of all different sizes and financial strength, and are represented by trade associations with an advocacy orientation – end-use customers, by AMPCO together with many other end-use customer groups, e.g. schools, CCC, VECC, et al, and generator-customers by APPrO. Given that the interest of the generator-customers and the end-use customers sometimes diverge markedly it is inappropriate that AMPCO and several other customer groups representing industrial, institutional, commercial and residential end use customers are eligible for costs, while APPrO is not. Virtually, every other participant in this case, including HONI, the OPA, the IESO, sundry end use customer groups and public interest groups are either eligible for costs or are otherwise supported by payments made by customers.

7. This fact has led to an under-representation of the generator-customer interests, which are of course an important contributing stream to the public interest in Ontario, given the need to address investment in generation and transmission capacity in the province.

Yours sincerely,

Jake Brooks  
Executive Director

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Cc

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