

**REPLY SUBMISSIONS
HYDRO ONE NETWORKS INC.**

1. Hydro One Networks Inc. (Networks) submits that the position contained in its Outline of Argument submitted to the Board on December 20, 2005, remains valid and un-impugned by submissions of other intervenors. However, Networks would like to make a few brief submissions in response to arguments made to the Board on December 22, 2005.
 - (i) **Should the Board “order an LDC to spend money on CDM programs in an amount that is different from the amount proposed by an LDC in a test year and, if so, under what circumstances.”**

Jurisdiction

2. Although Networks’ Outline of Argument did not analyze in detail the Board’s legal power to order additional CDM spending, it did question the Board’s jurisdiction to do so. Having reviewed the submissions of the intervenors, Networks continues to have serious concerns about the Board’s jurisdiction to so order, even if advisable.
3. Networks agrees with the basic premise of the argument of Board Counsel that the Board’s jurisdiction rests on its rate-making powers under the Act. While the

Board's rate-making ability to **disallow** imprudently incurred costs is unquestioned, no party could point to any statutory provision which clearly empowers the Board to **mandate additional spending** on CDM.

4. The best argument to extend the Board's jurisdiction seems to be based on the "soft power" to establish targets pursuant to Section 83 of the *Ontario Energy Board Act*. However, it is Networks' understanding that the purpose of this provision is to deal with reliability standards, not to empower the Board to mandate additional spending.

5. As Board Counsel has pointed out, the Board's role in CDM spending is "supervisory". The legislature has granted broad powers to the Ontario Power Authority (OPA) and to the Conservation Bureau "to provide leadership in planning and co-ordination of measures for electricity conservation and load management in Ontario".

(Transcript, pages 20 - 22)

(OPA written submission, paragraph 1; paragraph 7)

6. It would seem therefore that the legislature has determined that the OPA has the obligation to develop an integrated power system plan (the IPSP) which will balance the trade-offs between generation, transmission, distribution and

demand management on a province-wide basis.

7. It is therefore submitted that the Board should be cautious before encroaching upon the mandate of the OPA by attempting to expand its rate-making authority so as to assume the responsibility for determining appropriate levels of CDM spending by individual LDCs.

Practical Considerations

8. While it is easy for interest groups to urge the Board to expand its rate-making role to one of mandating additional CDM spending, the Board and LDCs are faced with practical considerations.
9. There is a serious question as to whether additional CDM spending can be effectively organized in the short term, even if funding was made available.
10. The Board is asked to consider why LDCs have generally not proposed CDM spending beyond that already approved. Providing utilities are assured of recovering the additional cost of CDM from their ratepayers, there is no reason to oppose such measures. Mr. Poch on behalf of the Green Energy Coalition (GEC) attributes caution on the part of LDCs to “timidity in the face of uncertainty”. Utilities, however, have a responsibility to their ratepayers to be

cautious in incurring additional costs and they, like the Board, must consider rate impacts. If LDCs were confident that additional CDM spending was practical and cost effective, why would they not propose it?

11. Although some intervenors suggest that effective CDM spending could be implemented quickly without problem, this is not supported by the evidence. Mr. Todd Williams' testimony is that there are concerns about "absorption capacity" of LDCs and the ability to effectively deliver the CDM programs to which they are already committed.

(Mr. T. Williams' Affidavit, paragraphs 15 - 18)

(See also Networks' response to Energy Probe's Interrogatory Number 1)

12. There are serious practical problems involved in considering CDM spending in the 2006 rate applications which have not been addressed by intervenors. At the time of this submission the Board's consideration of Networks' rate proposal will be substantially underway. The Board must also deal with all other LDCs. The Board has an immense task in approving rates for LDCs to go into effect in May of 2006. The Rate Handbook was devised to facilitate and streamline this difficult process. The third tranche CDM approval process was thought by LDCs to be a means of approving CDM plans for 2005 - 2007 in advance of the numerous rate applications with which the Board must deal. It is impractical to

import an additional CDM approval process into these rate cases at this late date and the Board is urged to clearly state that it will not consider mandating additional CDM spending beyond that already approved for 2006.

13. Counsel for GEC has at least recognized the problem with respect to “fitting” additional CDM spending into the 2006 rate applications, and proposes a variance account, albeit for only the top four or five LDCs. Networks has two major issues with this proposal:
 - (i) First, this proceeding was established as a *generic* proceeding. The purpose for convening it was to address issues faced by *all* utilities. By proposing a solution for only the top four or five utilities, GEC is effectively admitting that its proposal is not feasible. Applying an unworkable proposal to a few utilities only does not make it any more correct.
 - (ii) Second, specifically with respect to Networks, its rate case will be long over before any proposed additional CDM spending could be brought before the Board. The position of GEC appears to be:

“ . . . it allows this Board to carry on with its rate cases next month, implant an expectation of what the budget -- how much the budget will go up, without any details, have them go away, back to the drawing board, and come back with their TRC screening later; meanwhile, you can go

ahead and set rates and finalize rates, if you wish, because the variance account will pick up any discrepancy.”

(Transcript, page 120)

14. Networks does not understand how this could work in practice. It seems that a CDM plan would have to be developed and then reviewed with the Board, likely in the late Spring or early Summer of this year. Presuming Board approval a few months later, Networks might be able to begin its 2006 CDM work in September. In short, additional, unplanned expenditures perhaps totalling twice what is already in the current CDM budget for 2006 would have to be spent prudently within the few months which will remain the year.

15. Even if this were plausible, a number of other questions arise including:
 - (i) How is the Board to determine what “expectation” to “implant” for each LDC? (i.e. how can it presently know what level of additional CDM spending, if any, is appropriate?)
 - (ii) How will the Board determine the effect of any additional CDM spending on the demand forecast on which rates are based, without knowing what programs will be proposed?
 - (iii) How will the Board deal with rate impacts which will result from increased CMD spending? In Networks’ case an additional \$20,000,000.00

in spending for example, will increase distribution rates by about 3% on average.

- (iv) If the proposal is that any additional CDM spending will not be included in 2006 rates, but placed in a variance account and collected later, other practical problems arise. Utilities have a natural aversion to variance accounts because there is no certainty that those costs will be recovered. Also, if additional CDM spending is proposed in future, as expected, the rate impacts will be aggravated when costs from the variance account are added to the cost of service.
- (v) In this case, the aversion to variance accounts is exacerbated by further uncertainty respecting the framework within which the CDM programs will be judged. The prudence of the investment may be questioned if the CDM programs thus implemented turn out to be redundant or inconsistent with other CDM initiatives undertaken by other organizations, including the OPA.

- 16. It is submitted that this is not the time to attempt to shoehorn CDM issues into already complicated rate cases. The LDCs are gaining information through existing approved programs which will enable them to design cost effective CDM measures to take effect beyond the 2006 rate year. The OPA is undertaking its legislative responsibility to develop a system plan which balances new

generation, transmission, distribution and demand. The OPA is about to embark on a comprehensive study on the role of LDCs in delivering CDM programs. All of this information will be, and should be, available before the second generation of CDM programs is undertaken.

17. LDCs are responsible for distribution costs only. As Board counsel pointed out at page 23 of the transcript, they cannot balance issues of new transmission, new generation, or demand management which is the responsibility of the OPA. They can only affect the distribution system. As Mr. Poch observed on behalf of GEC, the distribution system costs are a small percentage of the total bill (transcript 112). While LDCs are obviously important participants in delivering CDM programs, they are not equipped alone to make decisions involving the important trade-offs listed above. That is the role of the OPA.

18. Furthermore, as Mr. Adams stated on behalf of Energy Probe, the Board should be cautious in imposing its judgement as to an appropriate level of CDM spending (always assuming it has jurisdiction). Should the Board mandate a level of CDM spending beyond that proposed by an LDC, would it not be required to take "ownership" over the programs and answer ratepayers' concerns about the increase in bills which will inevitably result in the short run? Is this the appropriate role for the Ontario Energy Board?

- (ii) **“Should the Board require LDCs to demonstrate free-ridership levels for all CDM programs on a program by program basis?”**
- (iii) **“Should the Board order that an LDC should only be entitled to claim incremental benefits associated with its participation in a CDM program with a non-rate regulated third party?”**

19. Regarding both questions above, Networks maintains that no compelling argument has been made for the Board to reverse its decision and modify the TRC Guide only four months after its release. If the Board were to implement such changes, it is submitted that the determination must be made prospectively. Developing new, Board-approved methodologies for determining program-specific free-ridership levels and for attribution of benefits will delay the implementation of CDM plans and divert funds from the programs themselves. Finally, Networks believes it is premature to attempt to approve new methodologies in the absence of information which will become available from the programs already committed.

Conclusion

20. Networks submits to the Board that it ought to state clearly that it will not

consider mandating additional CDM spending in the 2006 rate cases. The Board is urged to concentrate on these applications as presently proposed so that new rates can go into effect in May, 2006, four months away. It would be unwise to drain attention and resources away from this daunting task. It is submitted that the proper course is to pause briefly in consideration of additional CDM spending to allow the LDCs to collect needed information from their presently approved programs and to permit the OPA and Conservation Bureau to do its work which will include a detailed consideration of the role of LDCs in providing CDM programs on an integrated basis across the province.

21. Similarly, Networks submits that the Board ought to confirm its September 8, 2005 Decision as issued in the TRC Guide and maintain both the current free-ridership and benefit attribution levels contained within it.

All of which is respectfully submitted

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