File: EB-2007-0050

ONTARIO ENERGY BOARD

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

AND IN THE MATTER OF an Application by Hydro One Networks Inc. pursuant to section 92 of the Act, for an Order or Orders granting leave to construct a transmission reinforcement Project between the Bruce Power Facility and Milton Switching Station, all in the Province of Ontario (the "Leave to Construct Application")

SUBMISSIONS OF THE ONTARIO POWER AUTHORITY (July 4, 2008)

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I. OVERVIEW

1. Current generation capacity in the Bruce area totals approximately 5,000 MW. Between now and 2015, the addition of new wind and nuclear resources is forecast to increase this total to approximately 8,100 MW. This will exceed the present transmission capability out of the Bruce area by more than 3,000 MW. The proposed 500kV Bruce-to-Milton transmission line (the "Project") will solve this transmission limitation and will allow for the delivery of all existing and new wind and nuclear generation.

2. The intervenors who oppose the Project have not proposed any alternatives that will deliver this additional wind and nuclear generation. Instead, they have proposed partial solutions — principally generation rejection and series compensation — to stretch the transmission system (in some cases in contravention of applicable reliability standards and criteria) in order to deliver *some* of the new generation.[1] As well, certain intervenors have argued that it is not appropriate to plan transmission to deliver *all* of the forecast wind and nuclear capacity because some of this capacity (i.e., planned wind and refurbished Bruce B units) is dependent upon future approvals by the Board in the integrated power system plan ("IPSP") proceeding, and also, it is not cost effective to plan to deliver all of this capacity.

3. Hydro One Networks Inc.'s ("Hydro One") has thoroughly addressed the need for the Project, the proposed alternatives, the economic benefits of the Project and the other relevant issues in its written Argument in Chief. The Ontario Power Authority (the "OPA") supports Hydro One's Argument in Chief

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[1] Near-term measures, series compensation and the use of generation rejection as a temporary measure for outages or transmission delays will only deliver approximately 6,300 MW (1,800 MW short of 8,100 MW forecast). Near-term measures, series compensation and the use of generation rejection under normal system conditions (which was proposed by some intervenors, but which violates applicable reliability standards) would deliver approximately 7,100 MW (still 1,000 MW short of the 8,100 forecast). See Exhibit C, Tab 2, Schedule 16, pp. 1-4 and Exhibit C, Tab 1, Schedule 3.2, pp. 1-3.

and will not duplicate it in these submissions. The purpose of the OPA's written submissions is to assist the Panel by specifically addressing the arguments of certain intervenors that: (i) some of the planned wind and refurbished Bruce A nuclear generation should not be included in the OPA's forecast because these resources depend on future approvals by the Board in the IPSP (or outside of the IPSP) and, (ii) it is, in any event, cost effective to plan for some congestion of these resources. As explained in further detail below, this position is premised on a fundamental misunderstanding of the policy and regulatory framework under which the OPA is mandated to plan Ontario's power system.

4. In addition, these submissions briefly clarify the OPA's role and involvement in consulting with First Nations in regards to the Project. As explained below, the OPA is not required to consult and has not undertaken or been involved in any consultation with First Nations relating to this Project.

5. In the course of addressing these points, the OPA will respond to some of the specific issues which Board staff raised and asked parties to comment on its recently filed written submission.

II. ISSUES

A. The need for the Project is not dependent on the Board's approval of the IPSP

(a) The OPA's forecast

6. The OPA is mandated by the *Electricity Act* to perform long-term power system planning for the Province. As part of this mandate, the OPA is required to develop an IPSP to assist the government in meeting its goals, including goals prescribed by government directives, relating to renewable energy, coal replacement, nuclear energy and congestion reduction. The OPA is also required to initiate procurements and enter into procurement contracts as directed by the

government prior to the Board's approval of the IPSP and the OPA's procurement processes.[2]

7. In carrying out its planning mandate, the OPA forecast that current generation of approximately 5,000 MW in the Bruce area would increase to approximately 8,100 MW by 2015 and would thereby exceed the present transmission capability out of the Bruce area by approximately 3,100 MW. Based on this forecast, the OPA, in consultation with others including the Independent Electricity System Operator (the "IESO") and Hydro One, determined that a new 500 kV line was necessary to deliver this additional generation out of the Bruce area. In March 2007, the OPA urged Hydro One to proceed with the current application.[3]

8. The OPA's forecast of additional nuclear and wind generation is made up of the following three components:

- 1,500 MW of refurbished nuclear generation at the Bruce A plant. Bruce A is being refurbished pursuant to a contract between the OPA and Bruce Power which the OPA executed pursuant to a government directive dated October 14, 2005.
- 700 MW of committed wind generation. This 700 MW of committed wind generation was procured by the Government of Ontario under Renewable Energy Supply procurements I and II ("RES I" and "RES II"). These procurements were assumed by the OPA pursuant to government directives dated November 7 and November 16, 2005.
- 1,000 MW of planned wind generation. This 1,000 MW of planned wind is comprised of 300 MW of wind which was subscribed for pursuant to the OPA's Renewable Energy Standard Offer Program ("RESOP"). The OPA initiated RESOP pursuant to government directive dated March 21, 2006. The 700 MW balance of the 1,000 MW of planned wind represents 50% of the approximate 1,400 MW

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[2] *Electricity Act*, S.O. 1998, c. 15, Schedule A, ss. 25.30 and 25.32.
[3] Exhibit B, Tab 1, Schedule 3, p. 1; Exhibit B, Tab 6, Schedule 5, Appendix 1, pp. 5-6 and Appendix 4.

> of potential large wind sites (greater than 10 MW in size) which the OPA identified in the Bruce area. For planning purposes, the OPA only included 50% of the 1,400 MW identified in order to account for development uncertainties.[4]

9. None of the intervenors who opposed the Project took issue with those parts of the OPA's forecast relating to the 1,500 MW of refurbished nuclear generation at Bruce A or the 700 MW of committed wind generation. Nor did any intervenors seriously challenge the 300 MW portion of the 1,000 MW of planned wind which relates to the OPA's RESOP.

10. Some intervenors objected to the inclusion of 700 MW of large wind projects in the 1,000 MW of planned wind on the basis that these wind resources are dependent upon future Board approval in the IPSP or outside of the IPSP. Specifically, Mr. Russell, the expert for the Saugeen Ojibway Nations ("SON") stated in his April 18, 2008 affidavit that the OPA and Hydro One had "misstated the need for transmission capability by including in [their] analysis ... potential wind generation that is identified in the Integrated Power System Plan ("IPSP") that has not yet been approved, committed or developed" and that "accordingly, a decision to construct the proposed Bruce-Milton Line should not be made until there is an approved decision for, and commitment to... substantial new wind generation in the Bruce area".[5] On cross examination, Mr. Russell confirmed that it was his assumption that the OPA's authority to procure and contract for the planned wind resources was subject to further approval, although he conceded that he did not know what that approval was and was not familiar with the process.[6]

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[4] Exhibit B, Tab 6, Schedule 5, Appendix 1, pp. 2-4; Exhibit C, Tab 1, Schedule 2.1.1, pp. 1-2

[5] Russell Affidavit sworn April 18, 2008 ("Russell Affidavit"), p. 2, para. B, p. 4, para. G, p. 10, para. 9 and pp. 14-15, para. 15.

[6] See relevant portion of Russell cross-examination excerpted in Hydro One's Argument in Chief at pp. 12-13.

11. Some intervenors also objected to the OPA assuming in its forecast that nuclear generation in the Bruce area would remain at approximately 6,000 to 7,000 MW either through the refurbishment of Bruce B (starting in approximately 2018) or new-build nuclear generation. SON's expert, Mr. Russell, also suggested that this was dependent on further Board review and approval. Mr. Russell stated in his April 18, 2008 affidavit that the OPA and Hydro One had further "misstated the need for transmission capability... [by assuming] the refurbishment of 4 Bruce B nuclear reactors producing approximately 3,400 MW of generation beginning in 2018 – a decision that will not be made or approved until some time in the future." Mr. Russell therefore cautioned that "a decision to construct the proposed Bruce-Milton Line should not be made until there is an approved decision for, and commitment to, new nuclear generation ... in the Bruce area".[7]

12. As explained below, the OPA's inclusion in its forecast of 1,000 MW of planned wind and continued nuclear generation of 6,000 to 7,000 MW were sound planning assumptions and are not dependent upon future Board approval in the IPSP or outside of the IPSP.

(b) Planned wind

13. A core component of the Ontario government's energy policy is to substantially increase the contribution to Ontario's supply mix of clean renewable resources, including wind. In particular, in its June 13, 2006 Supply Mix Directive (the "Supply Mix Directive"), the government directed the OPA to develop an IPSP to increase the total capacity of renewable energy sources used in Ontario to 15,700 MW by 2025.

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[7] Russell Affidavit, p. 2, para. B, p. 4, para. G, p.10, para. 9.

14. In accordance with the Supply Mix Directive, the OPA developed and filed an IPSP in August 2007 which, *inter alia*, identified approximately 2,000 MW of renewable resources in southern Ontario which could be developed by 2015. A substantial portion of this 2,000 MW, approximately 700 MW, was identified as being located in the Bruce area. As noted above, this 700 MW represents approximately 50% of the Bruce area's large wind potential.[8]

15. On August 27, 2007, the then-Minister of Energy, the Honourable Dwight Duncan, issued a directive to the OPA acknowledging the OPA's identification of 2,000 MW of additional renewable generation that could be developed by 2015 and directing the OPA to take steps prior to the Board's approval of the IPSP and the OPA's procurement processes to procure this generation.[9] Minister Duncan specifically noted that given the required lead-time, these resources needed to be procured by 2011 to bring them into service by 2015 and he therefore directed the OPA to take steps to procure the first 500 MW tranche by the end of 2007. The relevant portions of this directive stated:

> I write in connection with my authority as Minister of Energy in order to exercise the statutory power of ministerial direction that I have in respect of the Ontario Power Authority (the "OPA") under section 25.32 of the *Electricity Act*, 1998 (the "Act").
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> ...
>
> I understand that the OPA has identified that there is a potential for up to 2,000 MW of additional new renewable generation to come into service by 2015 from projects that are greater than 10 MW in size. In light of the required lead time for consultation with First Nation and Métis peoples, environmental and municipal approvals, and construction, the procurement of these resources needs to occur by 2011.

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[8] Transcript Vol. 1, May 1, pp. 84-85; Exhibit C, Tab 1, Schedule 2.1.1, pp. 1-2.
[9] Exhibit C, Tab 11, Schedule 1, Attachment 1.

> Pursuant to section 25.32 of the *Electricity Act*, 1998, and with the objectives of ensuring electricity supply and mitigating the environmental impacts of electricity production, I hereby direct the OPA to assume, effective as of the date of this letter of direction, responsibility for exercising the powers and performing the duties of the Crown in regard to the acquisition of up to 2,000 MW of new renewable electricity supply from projects that are greater than 10 MW in size.
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> ...
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> I request that the OPA work towards commencing consultation on the design of the first procurement for approximately 500 MW of new renewable energy supply by the end of 2007.
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> ...
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> It is expected that, as a consequence of this directions, the OPA will enter into such contacts with suppliers as necessary to implement the initiative.
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> ...
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> This Directive shall be effective and binding as of the date hereof.

16. Contrary to the position advanced by certain intervenors — and specifically the assumptions made and the position taken by SON's expert, Mr. Russell — the OPA's procurement of wind resources in the Bruce area does not require Board approval in the IPSP or otherwise. Sub-sections 25.32(4) and (6) of the *Electricity Act* provide that the government may direct the OPA to procure resources prior to the Board's first approval of the IPSP and the OPA's procurement processes (or to assume the powers of the Crown under any Crown procurements) and in such cases, procurement contracts entered into by the OPA "shall be deemed to be procurement contracts entered into in accordance with any integrated power system plan and procurement processes approved by the Board".

17. The August 27, 2007 directive was issued pursuant to section 25.32 of the *Electricity Act* and is expressly stated to be "effective and binding" on the OPA as of the date of issuance. No further Board approval is required in the IPSP or otherwise for the OPA to procure the 2,000 MW of potential renewable generation it has identified in southern Ontario, including the 700 MW of large wind targeted in the Bruce area.

18. The Board has also confirmed that it will not review as part of the IPSP proceeding those OPA procurements made pursuant to pre-IPSP government directives. In its *IPSP and Procurement Process Filing Guidelines*, the Board stated that:

> The economic prudence or cost effectiveness of "specific generation or conservation projects that were the subject of governmental procurement or OPA procurements prescribed by Ministerial directive issued prior to the date of approval of the IPSP (for example, the OPA's York region demand response process or the existing standard offer program) will not be assessed as part of the IPSP review process, even if these projects are included in the IPSP".[10]

19. Board staff in its written submissions asked parties to address whether there was any uncertainty relating to the development of the planned wind given that the Board's Transmission Connection Cost Responsibility Review proceeding, EB-2008-0003 (the "TCCRR") is ongoing, and that to date "no counterparties have been identified that will actually build wind farms" and "no contracts have been executed, and no formal discussions appear to be underway with potential developers".[11] These factors, it is submitted, do not detract from the reasonableness and certainty of the OPA's forecast.

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[10] Report of the Board on the Review of, and Filing Guidelines Applicable to, the Ontario Power Authority's Integrated Power System Plan and Procurement Process, pp. 9-10

[11] Board Staff Submission, pp. 5 and 6

20. One of the impetuses for the TCCRR was the OPA's statements in the IPSP concerning the need to address cost barriers to the development of transmission necessary to enable renewable resources. In particular the OPA observed that "the existing regulatory framework should be adapted to accord with the *Electricity Act*'s and the Directive's renewable objectives".[12] The fact that the Board acted on this advice and initiated the TCCRR proceeding in advance of the IPSP is a positive development and, in the OPA's submission, increases the likelihood that the regulatory framework (i.e. the *Transmission System Code*) will be appropriately modified to facilitate the development of wind resources and give effect to the government's renewable policy goals as set out in the *Electricity Act* and the various ministerial directives.

21. With respect to the second issue raised by Board staff, the OPA has, as directed by the government in its August 27, 2000 directive, already taken steps to procure the first 500 MW tranche of renewable resources. The OPA issued a Request for Expression of Interest ("RFEI") in November 2007. The results of this RFEI were favourable and on June 5, 2008, the OPA issued a draft Request for Proposal.[13] Furthermore, as noted during this hearing, the OPA has substantially mitigated the development uncertainty associated with wind projects by only including 50% (700 MW) of the 1,400 MW of large wind potential identified in the Bruce area.

(c) Continued 6,000 to 7,000 MW of nuclear generation

22. The OPA's generation forecast assumes that nuclear generation in the Bruce area will remain at approximately 6,000 to 7,000 MW (i.e., eight Bruce units) through refurbishment of Bruce B or new-build at the Bruce Power Complex. The financial evaluation prepared by the OPA demonstrates that the

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[12] TCCRR, Board Staff letter dated January 4, 2008; IPSP, EB-2007-0707, Exhibit E, Tab 2, pp. 13-15.
[13] See "Generation Procurement" at OPA website: powerauthority.on.ca.

benefits of the Project exceed those of the proposed alternatives even if Bruce B is not refurbished and/or there is no new-build. However, leaving the financial evaluation aside, it was nonetheless reasonable and prudent planning for the OPA to assume that nuclear generation in the Bruce area would remain at 6,000 to 7,000 MW; indeed, it would have been unreasonable and imprudent for the OPA to assume, as urged by some intervenors, that nuclear generation in the Bruce area would decline to approximately 3000 MW upon the retirement of Bruce B in the 2018 to 2022 period.

23. The OPA reasonably based its assumption that nuclear generation in the Bruce area would remain at approximately 6,000 to 7,000 MW on the basis, *inter alia*, of: the government's stated intention to continue to rely on nuclear generation to meet base-load requirements; the limited number of nuclear sites available in Ontario for refurbishment or new-build; Bruce Power's indicated intent to refurbish Bruce B and/or to build new nuclear generation at the Bruce Power Complex; and, the community knowledge, experience and support for continued nuclear generation in the Bruce area.[14] Moreover, the OPA's planning assumption in this respect is conservative as it simply assumes refurbishment or new-build, not both.

24. Since Hydro One's application was filed in April 2007, events have confirmed the reasonableness of the OPA's planning assumption. First, in August 2007, the government reinforced its commitment to nuclear generation in the Bruce area by approving an amendment to the OPA's existing contract with Bruce Power to provide for the complete refurbishment of Bruce A, Unit 4, rather than the more limited steam generator replacement program originally planned. This will lengthen the life of Unit 4 by nearly 20 years to 2036.[15]

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[14] Exhibit C, Tab 6, Schedule 6, pp. 1-2
[15] Exhibit B, Tab 6, Schedule 5, Appendix 1, pp. 3-4.

25. More recently, on June 16, 2008, and as noted by Board staff in its submissions, the government announced, as part of its more general announcement to construct new nuclear generation at Darlington, that it intended "to maintain 14,000 MW of nuclear generation capacity" and that "the Bruce Site will continue to provide approximately 6,300 MW of base-load electricity through either the refurbishment of the Bruce B Units or new units at Bruce C". The government's June 16 announcement, a complete copy of which is attached as Schedule "A", specifically stated:

> TORONTO, June 16 /CNW/ - Infrastructure Ontario's Nuclear Procurement Project Request for Proposals (RFP) entered Phase 2 today with a focus on cost of power, on-time delivery and investment in Ontario, as well as the selection of Darlington as the site for the new nuclear plant. The Ontario government also reaffirmed the importance of the Bruce Power nuclear site to Ontario's overall electricity plan.
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> The announcement outlines the latest steps in the process to select and build a two-unit nuclear power plant and maintain Ontario's nuclear generation capacity at 14,000 MW. Maintaining and renewing Ontario's nuclear energy fleet is an important part of the Ontario government's climate change plan and its 20-year plan to bring clean, affordable and reliable electricity to Ontarians.
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> ...
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> As part of Ontario's energy plan to maintain 14,000 MW of nuclear generation capacity, the Bruce Site will continue to provide approximately 6,300 MW of baseload electricity through either the refurbishment of the Bruce B units or new units at Bruce C. A joint assessment will be undertaken to determine which option delivers the best value for Ontarians. (emphasis added)

26. It should be added that the issue of refurbished or new-build nuclear at the Bruce Power Complex is not a matter, as suggested by certain intervenors, that is dependent upon Board approval in the IPSP. As the Board stated in its Issues Decision in the IPSP proceeding:

> The Board recognizes the enormity of the implications of the nuclear decisions that face the province. However, many of the most significant decisions regarding nuclear power have been made, or will be made, outside of this proceeding. .... It is not within the Board's mandate in this proceeding to review general provincial policy regarding nuclear power.[16]

(d) Summary

27. Transmission planning is inherently beset by some uncertainty, however, in this case, there is a high degree of certainty associated with all of the forecast generation resources that underline the need for the Project, including the Bruce B refurbishment/replacement and the planned wind. In summary:

(a) The 1,500 MW of refurbished nuclear generation at the Bruce A plant is not disputed by any party.

(b) The 700 MW of committed wind generation is not disputed by any party.

(c) The forecast continuation of 6,000 to 7,000 MW of nuclear generation in the Bruce area was initially premised on reasonably-based assumptions concerning government policy, Bruce Power's commercial interest and community support. This has now been definitively confirmed by the government's June 16, 2008 announcement.

(d) With regards to the planned wind, no parties seriously challenged the 300 MW relating to the OPA's RESOP. With respect to the 700 MW of large wind, there is a high degree of certainty that it will be developed given that:

- The government issued a directive to the OPA dated August 27, 2007 specifically directing the OPA to take steps prior to approval of the IPSP to procure 2,000 MW of renewable generation that the OPA had identified could be procured by 2015; this 2,000 MW included the 700 MW of large wind potential which

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[16] EB-2007-0707, Decision with Reasons dated March 26, 2008, p. 23.

the OPA had targeted in the Bruce area. This directive is binding on the OPA.

- The OPA has already taken steps to procure the first 500 MW pursuant to the August 27, 2007 directive.
- The OPA is not required to obtain any approval from the Board to procure renewable resources under the August 27, 2007 directive, including the 700 MW of planned wind in the Bruce area. Any procurement contracts entered into by the OPA in this respect are deemed to be approved by the Board.
- The Board initiated the TCCRR proceeding, in part, to address transmission costs barriers to developing wind resources and meeting the government's renewable goals.
- The OPA has substantially mitigated development uncertainties associated with wind development in the Bruce area and elsewhere by only including 50% (700 MW) of the 1,400 MW of the large wind potential identified in the Bruce area.

28. In the circumstances, the OPA's inclusion of Bruce B refurbishment/ replacement and 1,000 MW of planned wind in its generation forecast was reasonable and prudent and it amply supports the need for the proposed Project.

B. Planning for Installed Capacity

29. Certain intervenors, notably Pollution Probe and SON, objected to the OPA's recommendation that transmission be developed to deliver the full installed or nameplate capacity of nuclear and wind resources in the Bruce area. These intervenors argued that wind is an intermittent resource and that it is not economic to size transmission to deliver the full installed capacity of wind and nuclear resources in the Bruce area. Board staff, in its submissions, also asked

parties to comment on whether Hydro One has provided sufficient support for planning transmission based on nameplate capacity.[17]

30. This matter was addressed by Hydro One in its Argument in Chief. In particular, Hydro One referred to the number of days in 2007 when nuclear units at the Bruce Power Complex and wind generators in the Bruce area were operating at or above their maximum continuous ratings and would therefore have had to have been constrained if transmission capability had not been sufficient to deliver the full installed capacity. Hydro One also addressed the OPA's financial evaluation which demonstrates that the Project is preferable from a purely economic perspective. As well, Hydro One referenced established planning practices in Ontario and the policy reasons which support planning transmission to deliver installed capacity. The OPA supports these submissions, though it is the last point which the OPA wishes to emphasize. That is, that irrespective of relative economics, the government has made certain policy decisions and the OPA is bound to adhere to those policy decisions in planning the power system.

31. Simply put, the government of Ontario has, as a cornerstone of its energy policy, made a firm commitment to increasing the capacity and use of environmentally clean renewable resources. The government has mandated the OPA through the Supply Mix Directive and other pre-IPSP directives to procure renewable resources and to plan to strengthen the transmission system to facilitate and enable the achievement of its renewable targets. The government has also committed to the continued use of nuclear energy to meet base-load requirements and in this respect, it directed the OPA to enter into a refurbishment contract with Bruce Power; more recently, it announced its intention to build new nuclear generation at Darlington and to maintain 6,300

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[17] Board Staff Submissions, p. 7.

MW of nuclear generation at Bruce through refurbishment or new build. As well, the government has directed the OPA to strengthen the transmission system to promote "congestion reduction".[18]

32. Although the OPA is mandated to assist the government in meeting its various energy goals in a cost effective manner, the government's goals relating to increasing renewable resources, planning for nuclear to meet base-load requirements and reducing congestion (or for that matter, its goals relating to conservation or coal replacement) are not solely underlined by cost. They are in large part motivated by environmental and social policy goals – e.g., reduced NOx, SOx and CO_2 emissions. Moreover, the cost trade-offs that underline these environmental and social goals have already been made by the government. The OPA is obligated to adhere to these government policy decisions in planning the power system; it is not for the OPA to revisit or second-guess them.

33. In this context, it is not a valid objection for intervenors to argue that the OPA should plan transmission to constrain some wind and nuclear resources in the Bruce area because it would be cost effective to do so; in fact, it would not be as shown by the OPA financial evaluation comparing the project to the proposed alternatives. But, more importantly, to do this would be antithetical to the government policy directives which the OPA is bound to follow in planning Ontario's power system. Specifically, it would contravene the spirit of these policy directives if the OPA were to plan transmission in a manner that would constrain the clean and emission-free wind (and nuclear) resources that the government directed the OPA to procure.

34. In the particular case of the Bruce area – where the supply mix is comprised of nuclear and wind resources – any constraining of wind and/or

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[18] Exhibit B, Tab 6, Schedule 5, Appendix 1, pp. 2-4 and Appendices 7-12; Exhibit C, Tab 11, Schedule 1, Attachment 1.

nuclear energy when the Bruce area output exceeds transmission capability would result in "wasting" clean and emission-free energy (and replacing this energy with less benign gas or coal-fired generation). This is distinct from other areas of the province which have more diverse supply mixes. For instance, northern Ontario has coal, wind and hydro generation and therefore, in the IPSP, the OPA has recommended upgrades to the North-South tie which will not deliver the full installed capacity of all northern generation resources. That is because when the wind is producing at full output, some of the hydro power can be stored to be used at a later time. This may have economic consequences as other higher-cost resources may need to be dispatched, but it will not frustrate the government's policy to increase the use of clean renewable energy. That is not the case in the Bruce area where nuclear units are limited in their ability to ramp-down and where any transmission limitations will therefore result in wasting (and reducing the use of) renewable energy.

C. Consultation with Aboriginal Peoples

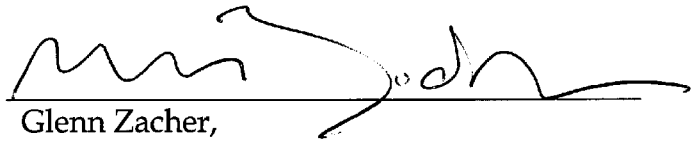
35. The SON suggested that the OPA should have been involved (or should have been more involved) in consultation relating to the Project.

36. As addressed in Hydro One's Argument in Chief, the duty to consult is owed by the Crown, subject to the Crown's delegation of procedural aspects of this duty to third parties. With respect to the Project, no procedural aspects of the duty to consult were delegated to the OPA.

37. Further, as the evidence indicates, the OPA's engagement with the SON and other First Nations has been limited to engagement concerning the IPSP, and the OPA has not been involved in consultation relating to this Project. Mr. Chow of the OPA attended with Hydro One representatives at a meeting with the SON on June 30, 2007. At this meeting, there was discussion concerning the IPSP and Chief Kahgee of the Saugeen First Nation advised that OPA representatives

ought to meet with Saugeen and Nawash regarding IPSP consultation. Mr. Chow agreed that the OPA would follow up with Chief Kahgee on this matter. Hydro One conducted further meetings with First Nations concerning the Project, but the OPA was not involved in any of those meetings.[19]

All of which is respectfully submitted this 4th day of July, 2008



Glenn Zacher,
Counsel for the Ontario Power Authority

[19] Transcript, Vol. 9, pp. 157-162.

Schedule "A"

News Release
Communiqué

Ontario
Infrastructure Ontario

For Immediate Release
June 16, 2008

PHASE 2 OF NUCLEAR RFP LATEST STEP IN ONTARIO'S 20-YEAR PLAN TO BRING CLEAN, AFFORDABLE AND RELIABLE ELECTRICITY TO ONTARIANS

OPG will operate new two-unit plant at Darlington site; Bruce Power to maintain 6300MW through either Bruce B refurbishment or new build

TORONTO – Infrastructure Ontario's Nuclear Procurement Project Request for Proposals (RFP) entered Phase 2 today with a focus on cost of power, on-time delivery and investment in Ontario, as well as the selection of Darlington as the site for the new nuclear plant. The Ontario government also reaffirmed the importance of the Bruce Power nuclear site to Ontario's overall electricity plan.

The announcement outlines the latest steps in the process to select and build a two-unit nuclear power plant and maintain Ontario's nuclear generation capacity at 14,000 MW. Maintaining and renewing Ontario's nuclear energy fleet is an important part of the Ontario government's climate change plan and its 20-year plan to bring clean, affordable and reliable electricity to Ontarians.

AREVA NP, Atomic Energy of Canada Limited and Westinghouse Electric Company are the invited Respondents for Phase 2 of the RFP.

Respondents will be evaluated in three key areas:

- Lifetime cost of power
- Ability to meet Ontario's timetable to bring new supply on line in 2018
- Level of investment in Ontario

The new plant will be operated by Ontario Power Generation and located at its Darlington site. The construction of the new plant is expected to create about 3,500 direct construction and engineering jobs between 2012 and 2018.

As part of Ontario's energy plan to maintain 14,000 MW of nuclear generation capacity, the Bruce Site will continue to provide approximately 6,300 MW of baseload electricity through either the refurbishment of the Bruce B units or new units at Bruce C. A joint assessment will be undertaken to determine which option delivers the best value for Ontarians.

On March 7 the Ontario Government announced a two-phase competitive procurement process to choose a preferred nuclear vendor. A commercial team, led by Infrastructure Ontario is managing the procurement process. Commercial Team members also include Bruce Power, Ontario Power Generation, the Ministry of Energy and the Ministry of Finance. A preferred vendor will be chosen based on the evaluation outcome and bidding process by the end of 2008.

Please visit http://www.infrastructureontario.ca/en/projects/energy/nuclear/profile.asp to learn more about the competitive procurement process.

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