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File No.: 89458

November 15, 2007

COURIER AND E-MAIL

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
PO Box 2319
2300 Yonge Street, 27th Floor
Toronto, Ontario
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Dear Madam Secretary,

**Re: Ontario Power Authority (the "OPA") - Notice of Application for Approval of
the Integrated Power System Plan (the "IPSP") and Procurement Processes
Ontario Energy Board File No. EB - 2007 - 0707**

The First Nations Energy Alliance ("FNEA") was formed for the purpose of enabling capacity-building among First Nations in the area of renewable energy development, and to assist all First Nations seeking to establish energy-based community economic development initiatives. Membership in FNEA currently consists of approximately twenty First Nations, and is constantly expanding. We are writing to provide FNEA's submissions on OPA's proposed issues list.

FNEA has reviewed the joint submission of the Green Energy Coalition ("GEC"), The Pembina Institute ("Pembina"), and the Ontario Sustainable Energy Association ("OSEA"), as well as the submission of Bell & Bernard Limited on behalf of the National Chief's Office, Assembly of First Nations. FNEA agrees generally with and supports the submissions and comments made in both of these submissions.

Our perspective varies from those mentioned above in that many of our member First Nations are actively engaged in developing and planning energy projects as community economic development initiatives. Because of this, FNEA brings a unique and important perspective on the issues which ought to be discussed in the course of the OEB's review of the IPSP. FNEA members encounter and have direct and first-hand experience in meeting the challenges of economic development.

First Nations projects are accountable to communities, the members of which have a complex set of rights and objectives. The promotion of economic stability through the development of renewable energy projects involves risks which are not universally acceptable to individual members of First Nations communities. However, as projects are successfully completed, capacity within First Nations communities grows, and the risks involved are both substantially reduced and better understood by the community at large. As a result of the increased capacity, reduced risk, and improved understanding of the issues, further First

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Nations energy development can be approached in a more focussed manner, similar to that of a board of directors having a responsibility to shareholders with common intent.

General Comments

FNEA agrees with the GEC, Pembina, OSEA Joint Submission that OPA's interpretation of the language in the legislation, regulations, and directives is overly narrow and restrictive. OPA has been consistent in its efforts to frame objectives and goals in clinical linear terms. FNEA is concerned that OPA seems to have encountered obstacles in developing and producing an IPSP which articulates the complexities involved in the task and yet refines the issues into clear policy directions.

For instance, OPA has taken the position that many of the concerns raised by First Nations during OPA's "engagement process" are beyond the scope of its mandate and were therefore not considered in the drafting of the IPSP. This narrow interpretation by OPA of its role and the function and purpose of the IPSP has led to a serious gap in the utility of the IPSP as a planning document, which is of grave concern to First Nations.

The policy and political concerns which arise from this gap in the IPSP are well expressed in the submission made on behalf of the National Chief's Office of the Assembly of First Nations. This submission also identifies some creative solutions to address the gap, and FNEA supports the solutions proposed.

The OEB's December 27, 2006 Report ("OEB Review Report") on the review of the IPSP cites three fundamental themes that direct parameters for the OEB's review. Set out is the text below which elaborates on these themes.

There are three fundamentals themes that underlie the statutory framework that governs the IPSP.

[1] First, it is the Government, and not the Board or the OPA, which is responsible for articulating the goals that the IPSP is to assist in achieving;

[2] Second, those goals go beyond simply ensuring that supply is adequate to meet demand, and the IPSP in that sense is a plan whose scope and purpose is different from that of other, more traditional power system plans.

[3] Third, it is the OPA, and not the Board, that has the statutory role of developing the IPSP.

We share the OEB's views that the IPSP's goals must go beyond a supply/demand document in order to be effective for all stakeholders.

Responsible energy policy should accomplish the primary goals of the IPSP process whilst ensuring that the opportunities provided by the development of energy capacity are spread equally and equitably amongst all participants. Community-based projects, including those in First Nations communities, ought to have an equal footing with larger, corporate-driven projects. Ensuring that equal footing means providing some advantages and assistance to those community-based energy development initiatives to off-set the tremendous power wielded by large energy corporations.



Renewable energy projects offer First Nations an opportunity to create independent revenue streams and capital to promote economic development. Energy development can and should provide opportunities for First Nations economic development, capacity building, and community development.

In this spirit, FNEA believes that the issues list should encourage a dialog much broader than that contemplated by OPA. The issues which FNEA believes should be added to the list centre around the theme of ensuring a level playing field for all those who wish to develop community-based energy projects. The First Nations Energy Alliance requests that the following issues be added to OPA Issues List in order to facilitate and inform the OEB's review of the IPSP:

Does the IPSP adequately encourage the development of community-based sustainable energy development projects and provide appropriate assistance and opportunities for smaller viable energy development initiatives including the right to connect?

Does the IPSP adequately and appropriately address issues of social, economic, political and environmental concern for First Nations as participants in the energy industry and as community members living in Ontario?

Should the IPSP provide guidance and certainty for energy developers seeking to initiate energy projects involving or affecting First Nations lands and communities?

Issue No. 1

Does the IPSP adequately encourage the development of community-based sustainable energy development projects and provide appropriate assistance and opportunities for smaller viable energy development initiatives? Should the IPSP include a guaranteed right to connect for these smaller initiatives?

To say that energy development projects benefit the communities in which they exist seems trite. However, in attempting to frame the issues in narrow, clinical, apolitical language, OPA has neglected to recognise these benefits, and particularly the manner in which smaller community-based sustainable energy development initiatives—an important part of the overall development of capacity in Ontario—can provide solid economic foundations for those smaller communities.

Economic development is crucial to the survival of First Nations communities. Over the years, First Nations have struggled to find geographically and culturally feasible foundations for economic development in order to meet social welfare objectives. Successful economic development leads to overall improved sustainability and health of First Nations communities and renewable energy projects are among the most promising foundations for economic development in many First Nations. Because of the challenges presented by energy development projects in the current climate—challenges which will hopefully be addressed in



the IPSP—many First Nations have yet to consider the opportunities which these projects offer for economic stability.

Among other obstacles to the successful development of these projects is the fact that the capacity set aside for smaller projects in the Standard Offer Program is quickly consumed by projects put forward by large energy developers who, with their sophisticated corporate and administrative structures, are able to submit proposals far more quickly than First Nations or other small communities.

FNEA submits that the discussions should include ways in which the IPSP can be modified to take advantage of the tremendous capacity which these smaller projects can contribute to the system while ensuring that the resulting economic benefits of the projects remains in the communities in which they are built. Among other approaches to this issue, FNEA submits that the IPSP should include a clearly-defined right to connect to the grid for smaller, viable, sustainable energy development projects.

Issue No. 2

Does the IPSP adequately and appropriately address issues of social, economic, political and environmental concern for First Nations as participants in the energy industry and as community members living in Ontario?

Considerable discussion has taken place, and continues to take place, between representatives of OPA and First Nations. Meaningful relationships have grown with representatives of OPA, the Office of the Minister of Energy and other parties such as Hydro One. These relationships have been formed in large part across the meeting table as FNEA members forge ahead with various energy projects.

In the course of the IPSP stakeholder engagement process, FNEA members repeatedly found themselves in the difficult and demanding position of having to balance between project development and assisting OPA to develop the IPSP. The dilemma has been complicated further by the fact that among the more valuable assistance which can be provided to OPA by FNEA members is that which comes from having reflected on obstacles which are encountered only in the course of actual project development.

FNEA is committed to taking the steps necessary to participate in the OEB's review process. This is not because FNEA believes that its struggles and challenges were falling on deaf ears but rather because FNEA believes that a genuine disconnect seems to exist between that which OPA believes its mandate to be, and that which FNEA believes should be encompassed within the IPSP.

OPA's summary of the stakeholder engagement in regards to First Nations demonstrates clearly this disconnect. In the interests of identifying the causes of this disconnect as well as progressive and positive solutions to remedy it, FNEA will make submissions to provide OEB with insight into alternatives that will allow both the OPA and the FNEA to reach its mutual goals.



FNEA brings a unique perspective to the IPSP hearing process, and will make submissions from the perspective of First Nations who have worked to develop viable renewable energy projects, or who have struggled within the existing framework to do so. FNEA is hopeful that this valuable perspective can assist in the creation of meaningful energy development policies which take into account the concerns and positions of First Nations and which involve First Nations as meaningful participants in the energy industry.

Issue No. 3

Should the IPSP provide guidance and certainty for energy developers seeking to initiate energy projects involving or affecting First Nations lands and communities?

Existing frameworks for partnerships or joint ventures with First Nations are problematic in a number of respects both for private companies and for First Nations. Opportunities for energy development on First Nations lands and traditional territories such as Crown Lands abound, and First Nations do not always have the capacity to develop these opportunities into viable projects.

At the same time, private ventures are often hesitant to engage First Nations in discussions with respect to joint ventures, as misinformation or simple lack of understanding about contracting with or extending financing to First Nations leads to uncertainty and erroneous assessments of risk on the part of those private ventures. The legislative limitations imposed with respect to the manner in which First Nations may deal with interests in their land further contribute to this problem.

FNEA believes that the IPSP can be modified to address these obstacles in a manner which provides guidance and certainty for both energy developers and First Nations seeking to work together to develop viable and sustainable energy projects. Discussion frameworks and government standby guarantees for private investors in certain defined projects are two possible options to be discussed for possible inclusion in the IPSP.

Amended Contact Information

First Nations Energy Alliance requests that communications relating to this Notice of Intervention and in regards to the participation of FNEA in the proceeding be sent to:

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Should you require further information, please do not hesitate to contact us. We look forward to hearing from you with respect to this request.

Yours truly,

GARDINER ROBERTS LLP

Cherie Brant

- c. First Nations Energy Alliance
David I Poch, on behalf of Green Energy Coalition, The Pembina Institute and the Ontario Sustainable Energy Association
Michael Fox, on behalf of the Nishwawbe Aski Development Fund
Bell & Bernard Limited, on behalf of National Chief's Office of the Assembly of First Nations
Office of the Grand Chief, Nishnawbe Aski Nation
Metis Nation of Ontario