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Susan Frank

Vice President and Chief Regulatory Officer
Regulatory Affairs

BY COURIER

December 6, 2007

Ms. Kirsten Walli
Secretary
Ontario Energy Board
Suite 2700, 2300 Yonge Street
P.O. Box 2319
Toronto, ON.
M4P 1E4

Dear Ms. Walli:

EB-2007-0920 – Hydro One Networks' Section 98 Early Access Application re: Bruce – Milton Transmission Reinforcement – Camp Creek and Halton Hills Refinement Area – Application

I am attaching ten (10) copies of the Hydro One Networks' Application pursuant to Section 98 of the Ontario Energy Board Act for authority providing early access to land related to an application for leave to construct a new 500 kV transmission line between Bruce and Milton, filed with the OEB on March 29, 2007 (docket number EB-2007-0050), and as amended on November 30, 2007. More specifically, this Application seeks authority for early access to lands in the Camp Creek and Halton Hills refinement areas as shown on the map provided with the Application.

An electronic copy (text searchable Acrobat format on CD) has been submitted to the Board using the Regulatory Electronic Submission System.

Hydro One Networks' contacts for service of documents associated with this Application are listed in Exhibit A, Tab 1, Schedule 1.

Sincerely,

ORIGINAL SIGNED BY SUSAN FRANK

Susan Frank

Attach.

c. EB-2007-0050 Intervenors (by email except for intervenors without email addresses)

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ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*;

AND IN THE MATTER of an Application by Hydro One Networks Inc. (“Hydro One”), pursuant to subsection 98(1.1)(a) of the *Ontario Energy Board Act, 1998*, (the “Act”) for an Interim Order granting access to land in connection with the Applicant’s request for leave to construct a new transmission line in southwestern Ontario and the Greater Toronto Area, from the Bruce Power Complex on Lake Huron to the town of Milton (the “Project”).

1.0 BACKGROUND

1.1 Hydro One is an Ontario corporation with its head office in the City of Toronto. Hydro One carries on the business of owning and operating transmission facilities within Ontario.

1.2 On March 29, 2007 Hydro One applied pursuant to section 92 of the Act for leave of the Ontario Energy Board to construct and operate a new 500 kV transmission line between the Bruce area and Milton, Ontario (“Leave to Construct Application”). The Leave to Construct Application is presently under consideration by the Ontario Energy Board and has been assigned docket number EB-2007-0050. The general location of the route of the new transmission line, as shown in the map found at Exhibit B, Tab 2, Schedule 2 of that Application, was originally proposed to be immediately adjacent to the existing transmission corridor for its approximately 180 kilometre length between Bruce and Milton, on the north and east side (the “Reference Route”).

1.3 The new transmission line is required to meet the need identified by the Ontario Power Authority (OPA) to increase the transmission transfer capability from the

1 Bruce to the Greater Toronto Area. That need is related to an expected shortfall
2 between transmission capability and the forecasted available generating capacity in
3 the Bruce area. The OPA's analysis is filed in EB-2007-0050 at Exhibit B, Tab 6,
4 Schedule 5, Appendix 1.

5
6 1.4 In a letter dated March 23, 2007, the OPA advised Hydro One to initiate the
7 activities necessary to construct the new line and further indicated that it is crucial
8 that implementation work on the line proceed as quickly as possible, in order to
9 meet the earliest possible in-service date of December, 2011. The OPA's letter is
10 included in EB-2007-0050 at Exhibit B, Tab 6, Schedule 5, Appendix 4. A
11 schedule of the key activities for the new line required to achieve the target in-
12 service date is provided at Exhibit B, Tab 5, Schedule 2 of EB-2007-0050.

13
14 1.5 On August 20, 2007, Hydro One obtained interim Ontario Energy Board ("Board")
15 approval in EB-2007-0051 to carry out specific "early access" activities along the
16 Reference Route. The need for and purpose of carrying out early access activities is
17 to enable Hydro One to fully assess engineering, environmental and land
18 requirements for the Project. The Interim Order obtained is conditional upon
19 specific terms and conditions which, among other things, govern the manner in
20 which Hydro One may obtain access to specific lands and the manner in which
21 early access activities may be carried out on these lands.

22
23 1.6 As a result of ongoing consultation activities with interested parties and landowners
24 as well as further environmental investigation, Hydro One is now considering three
25 potential local refinements to the originally applied-for Reference Route. These
26 occur in the Halton Hills, Camp Creek and Brockton/Hanover/West Grey areas and
27 are shown in the map included at Exhibit B, Tab 3, Schedule 2, Appendix 1 of EB-
28 2007-0050. Based on these consultations, and the clarification that routing options,

1 as they relate to the price, reliability and quality of electricity service, are matters to
2 be considered during the public hearing into the Leave to Construct Application,
3 Hydro One amended its Leave to Construct Application on November 30, 2007 so
4 that the general location of the applied-for facilities is shown to include the areas
5 comprising the three potential route refinements.

6

7 1.7 Hydro One has not yet made detailed route decisions for the Project, including for
8 example, the selection of a route within the potential route refinement areas in place
9 of the Reference Route. Detailed route decisions will be made only after the
10 environmental assessment of the Project has been successfully completed.

11

12 1.8 At the present time, route alternatives within the Halton Hills and Camp Creek
13 areas, but not the Brockton/Hanover/West Grey area, have been identified. As
14 more particularly shown in the attached map (Attachment A), the route alternative
15 in Halton Hills is situated on the opposite and adjacent side of the existing
16 transmission corridor, as compared to the original Reference Route, and the route
17 alternative in Camp Creek diverges from the Reference Route to follow a nearby
18 transmission corridor that avoids an environmentally sensitive area.

19

20 **2.0 APPLICATION**

21

22 2.1 Hydro One is now applying pursuant to subsection 98(1.1)(a) of the Act for an
23 Interim Order to allow its personnel and agents early access to those lands affected
24 by the potential route alternatives in the area of Camp Creek, in the Township of
25 West Grey, and in the area of Halton Hills, in the Regional Municipality of Halton.
26 The early access to land now being sought is for the same limited purpose as in the
27 previous application for early access to lands on the Reference Route, namely:
28 conducting legal and engineering surveys, soil testing, property appraisals,

1 biological and archaeological surveys, and environmental investigations
2 (collectively, the “Early Access Activities”). The information to be obtained is
3 necessary for fixing the site of the work of the new transmission line in the Camp
4 Creek and Halton Hills areas, should either or both of the route refinements in those
5 areas be selected in place of the proposed Reference Route. The information
6 obtained through the Early Access Activities will be used in the approvals processes
7 associated with the new line, including proceedings under the *OEB Act*,
8 *Environmental Assessment Act* and *Expropriations Act*. Access prior to obtaining
9 leave to construct is required to enable the Early Access Activities to commence as
10 soon as possible in order to meet the target in-service date for the new line of
11 December, 2011.

12

13 2.2 The Early Access Activities are in part for the purposes of conducting seasonal
14 environmental observations. These activities require personnel to attend, observe
15 and record existing environmental conditions. Activities relating to engineering
16 study may include some soil testing in specific locations. Soil testing may be
17 necessary in order to determine whether lands are suitable for the fixing and
18 placement of transmission towers. Tests may require the use of vehicles and
19 machinery and result in some location-specific ground disturbances. In all
20 circumstances, Hydro One will consult with affected landowners to minimize the
21 potential for any damages to the lands caused by the Early Access Activities and
22 will compensate for any damage incurred.

23

24 2.3 The potential route refinements in the Camp Creek and Halton Hills areas, if
25 selected, will require a 53m (175 ft) widening of an existing transmission corridor
26 in those areas. There are approximately 6 privately-held parcels of land affected by
27 the potential route refinement in the Camp Creek area and approximately 30
28 privately-held parcels of land affected by the potential route refinement in the

1 Halton Hills area. Detailed maps of the affected properties are included in Exhibit
2 B, Tab 3, Schedule 2, Appendix 3 of EB-2007-0050, filed on November 30, 2007.
3 A template of the temporary access agreement to be made with landowners, in the
4 event that the rights to construct and/or use temporary access routes on their lands
5 in order to access the proposed widened corridor are required, is included in that
6 application in Exhibit B, Tab 6, Schedule 10, Appendix 7.

7

8 2.4 Many of the Early Access Activities, including for example, archaeological and
9 biological surveys, are needed as inputs for the Applicant's Environmental
10 Assessment (EA) process, which will be ongoing in 2008. If the Applicant were to
11 wait to begin collecting EA field data on the affected properties in the Camp Creek
12 and Halton Hills areas until after receiving a decision regarding its Leave to
13 Construct Application, which Hydro One does not consider likely to occur before
14 September 2008, much of the 2008 field data-gathering season would be lost. This
15 would lead to a delay in providing the needed inputs to the EA process and could
16 delay EA approval to potentially well beyond the early winter 2009. In order for
17 the Project's target in-service date of late December 2011 to be met, EA approval is
18 required by early 2009 so that construction activities can commence soon thereafter.
19 Accordingly, early access to land in the Camp Creek and Halton Hills areas is
20 required in a timely manner in order to meet the timelines for the EA approval
21 process and, ultimately, the Project's in-service date, should the potential route
22 refinements in those areas be selected in place of the reference route.

23

24 2.5 If the potential route refinements in the Camp Creek and Halton Hills areas are
25 selected, the Early Access Activities relating to property appraisals and legal
26 surveying will be required for the negotiation of land interests with landowners, for
27 land agreements to be completed and, as necessary, for an expropriation plan to be
28 developed and filed. The expropriation plan must then be approved and registered

1 under the *OEB Act, 1998* and *Expropriations Act*, respectively, prior to possession
2 being obtained and construction of the line on private land commencing. Given the
3 scale of the land assembly, involving approximately 400 properties, including those
4 properties affected by the potential route refinements in the Camp Creek and Halton
5 Hills areas (should they be selected), waiting to commence the legal surveys and
6 property appraisals until after the Board makes a decision into the Leave to
7 Construct Application, which as noted above is not expected before September
8 2008, would provide insufficient time to complete the additional steps leading to
9 acquisition and possession of the required lands by the scheduled date of December,
10 2009. This would put at risk the construction and in-service dates for the new
11 transmission line.

12

13 2.6 As noted above, early access to Reference Route properties was previously granted
14 by the Board in its August 20, 2007, Decision re: EB-2007-0051. The access
15 requested in this application is similar in nature and purpose to the previous
16 application, and the previously-approved Conditions of Approval were the product
17 of extensive consultation and testing with landowner groups, their legal
18 representatives, Board staff and the Board in the EB-2007-0051 proceeding.
19 Therefore, Hydro One submits that those conditions remain appropriate for use in
20 the present circumstances, and Hydro One proposes that the Conditions of Approval
21 found in Decision EB-2007-0051 also apply to any approval granted in respect of
22 this application. A copy of these Conditions is attached in Attachment B.

23

24 2.7 In a letter to Hydro One dated December 22, 2006, and filed as Exhibit B, Tab 6,
25 Schedule 5, Appendix 2 in EB-2007-0050, the OPA noted that, subject to a
26 technical viability study, the use of series compensation as a stop-gap measure may
27 be considered if approvals for the new line are unduly delayed. The cost of series
28 compensation is currently estimated at approximately \$100 million (see OPA

1 Transmission Discussion Paper #5, p. 51 filed as Exhibit B, Tab 6, Schedule 5,
2 Appendix 5 in EB-2007-0050). Waiting to commence the Early Access Activities
3 until the Board grants leave to construct could accordingly have a significant
4 financial consequence for electricity ratepayers in the Province, if delays to the
5 approvals processes were to lead to a decision by the OPA to request or to
6 accelerate the request for installation of series compensation.

7

8 2.8 For the reasons advanced above, Hydro One submits that is in the public interest for
9 the requested Interim Order for access to land to be granted and respectfully
10 requests the Board to do so.

11

12 2.9 Hydro One requests a written hearing for this proceeding.

13

14 2.10 Hydro One requests that a copy of all the documents filed with the Board be served
15 on the Applicant and the Applicant's counsel, as follows:

16

17 a) The Applicant:

18

19 Mr. Glen MacDonald
20 Senior Advisor - Regulatory Research and Administration
21 Hydro One Networks Inc.

22

23 Mailing Address: 8th Floor, South Tower

24 483 Bay Street

25 Toronto, Ontario M5G 2P5

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Filed: December 6, 2007

EB-2007-0920

Exhibit A

Tab 1

Schedule 1

Page 8 of 15

1 b) The Applicant's counsel:

2

3 Mr. Gord Nettleton

4 Osler, Hoskin and Harcourt LLP

5

6 Mailing Address: Suite 2500, TransCanada Tower

7 450 First Street S.W.

8 Calgary, Alberta

9 T2P 5H1

10 Telephone: (403) 260-7047

11 Fax: (403) 260-7024

12 Electronic access: gnettleton@osler.com

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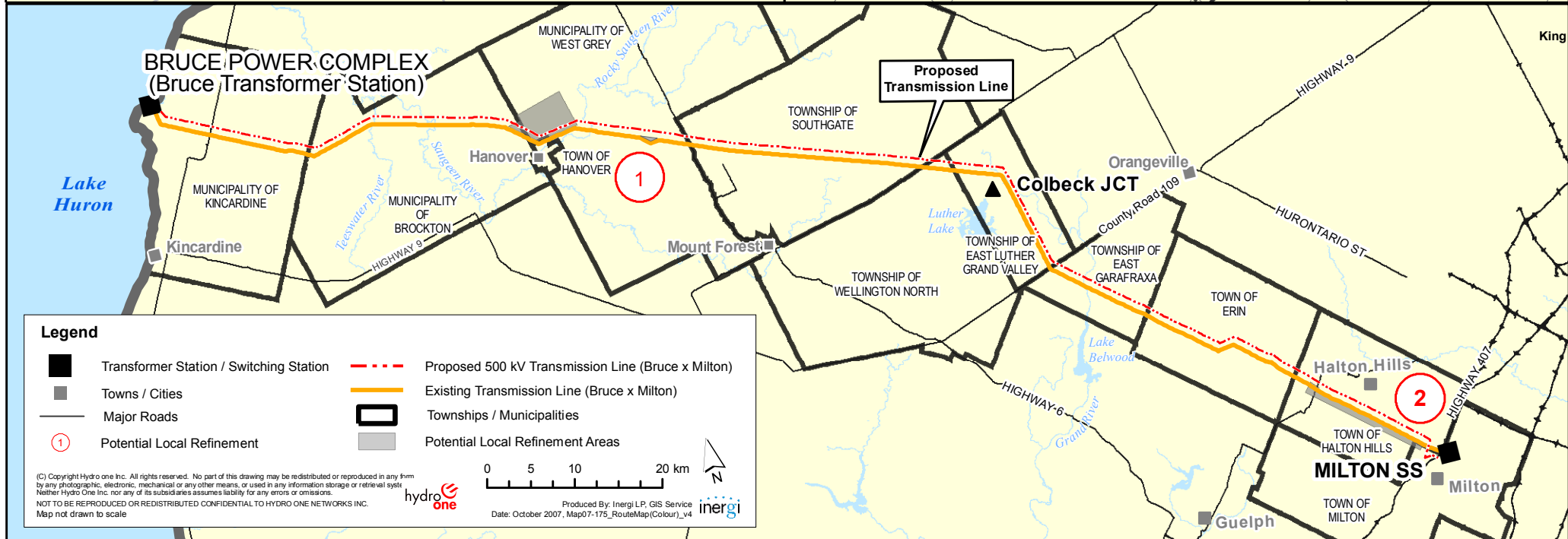
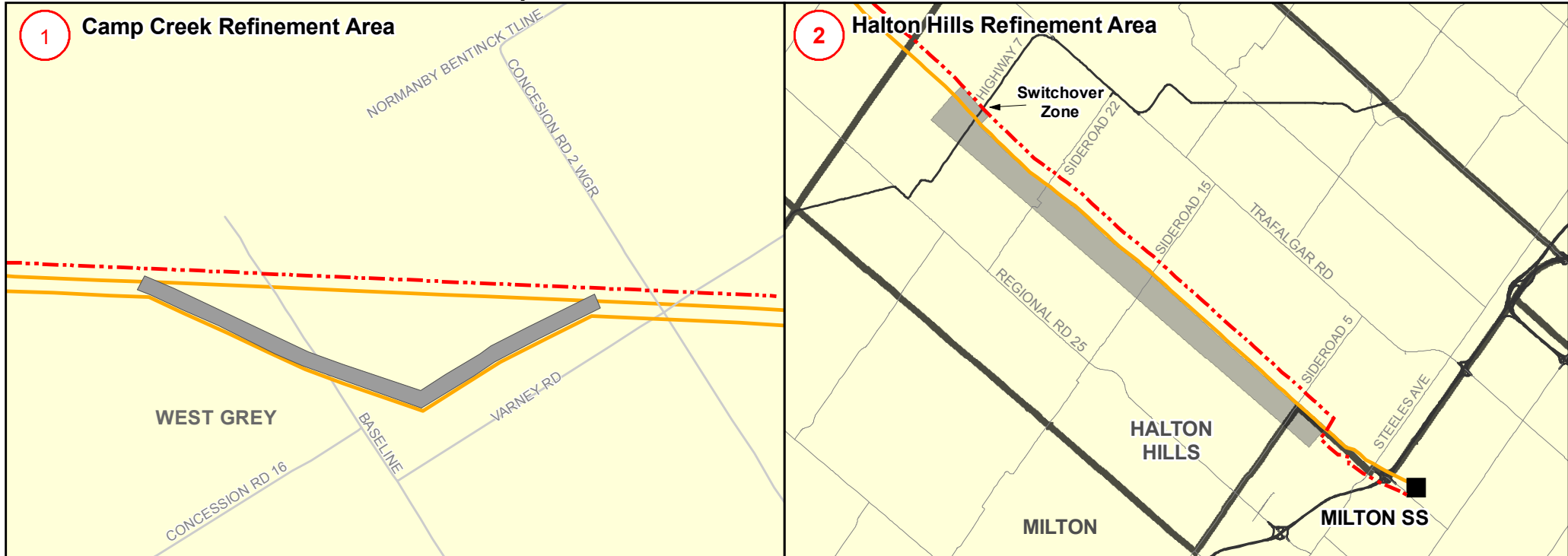
ATTACHMENT A

Map of Proposed 500 kv Line and Potential Route Refinement Areas in Camp Creek and
Halton Hills

Bruce to Milton Transmission Reinforcement Project

Camp Creek and Halton Hills Route Refinements

Filed: December 6, 2007
 EB-2007-0920
 Exhibit A-1-1, Attachment A



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 NOT TO BE REPRODUCED OR REDISTRIBUTED CONFIDENTIAL TO HYDRO ONE NETWORKS INC.
 Map not drawn to scale

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ATTACHMENT B

Conditions of Approval from EB-2007-0051

EB-2007-0051

**Hydro One Networks Inc.
Bruce to Milton Transmission Project**

Section 98 Interim Order Granting Access to Land

CONDITIONS OF APPROVAL

These conditions of approval are an integral part of the Decision and Order EB-2007-0051 issued August 20, 2007 by the Ontario Energy Board (the "Board"). They define, for Hydro One Networks Inc. ("Hydro One") and affected landowners, the conditions that Hydro One shall adhere to when entering on land pursuant to the Board's interim order under section 98 of the *Ontario Energy Board Act*.

1. DEFINITIONS

- 1.1 **Proposed Corridor** – The Board's interim order authorizes Hydro One to enter only on land comprising the Proposed Corridor, being a strip of land 61 meters (200 feet) wide immediately to the north and east of the right-of-way used for Hydro One's existing transmission line from the Bruce Power nuclear generation facilities to Hydro One's Milton Switching Station.
- 1.2 **Permitted Activities** – Permitted Activities are:
- a. Legal surveys involving property staking and measuring by survey crews along the perimeter of the Proposed Corridor and along the perimeter of properties subject to buy-out;
 - b. Engineering surveys involving property staking and measuring by survey crews;
 - c. Soil testing on selected properties involving bore hole drilling using a tracked vehicle;
 - d. Property appraisals including woodlot assessments on each affected property;
 - e. Biological surveys by personnel on foot involving the collection of plant and wildlife information, habitat assessments and delineation of

wetland and Area of Natural and Scientific Interest (“ANSI”) boundaries;

- f. Archaeological surveys conducted by licensed personnel on foot in accordance with Provincial Guidelines. Work includes surface checks for items of interest in recently ploughed fields or digging of small test pits to a maximum depth of one meter should ploughing not be possible.
- g. Other environmental investigations by personnel on foot including hydrologic/water quality testing, landscape and visual assessment, cultural and built heritage assessment, landowner and business owner surveys, agricultural investigations and well water testing.

2. GENERAL REQUIREMENTS

- 2.1 Hydro One shall conduct the Permitted Activities in accordance with its application and evidence filed in EB-2007-0051, except as modified by the Board’s August 20, 2007 Decision and Order and these conditions of approval.
- 2.2 Unless otherwise directed by the Board, authorization for entry to land shall terminate on April 1, 2009.
- 2.3 A copy of these conditions of approval shall be attached to each written notice to landowners described in condition 3 below.
- 2.4 Hydro One shall obtain all other approvals required to conduct the Permitted Activities.

3. ADVANCE NOTIFICATION OF LANDOWNERS

- 3.1 Hydro One shall use all reasonable efforts to provide oral and written notice to landowners a minimum of 48 hours prior to entry. Unless otherwise agreed upon with landowners, entry is to be limited for a subsequent five-day window in which Permitted Activities could then occur. All Permitted Activities shall only take place during weekdays and not statutory holidays and between the hours of 8 am and 5 pm. (Example: Hydro One will provide notice by Friday for a five-day entry window beginning the next Monday and until and including the following Friday; all Permitted Activities will occur during this period between the hours of 8 am and 5 pm).

- 3.2 The notification described in condition 3.1 above shall include a list of the Permitted Activities Hydro One intends to perform during the entry time-window.
- 3.3 Where Hydro One has not been able to contact a landowner prior to entry, Hydro One shall keep a record of the Permitted Activities conducted and make it available to the landowner upon request.
- 3.4 In the event of soil testing activities are planned to be conducted on lands with tracked equipment, Hydro One shall give the landowner at least five days' advance notice and shall use all reasonable efforts to consult with the landowner in advance of entry and provide a sketch depicting the access route and the location of the soil testing activities. This period of time is intended to provide landowners with the opportunity to indicate the locations of any special fixtures (such as wells, tile drainage or septic areas) that are to be avoided while soil testing activities are carried out.

4. CONDUCT OF PERMITTED ACTIVITIES

- 4.1 Unless otherwise agreed to by the landowner, Hydro One or its representatives shall not clear or remove trees having a caliper diameter of more than two inches measured at three feet above ground level.
- 4.2 Reasonable accommodation is to be made in Hydro One's schedule for landowner requests/concerns to ensure the Permitted Activities do not interfere with landowner operations. These accommodations will be determined on a site specific basis but where appropriate may include the following:
 - a. The use of temporary fencing to surround soil testing area if tracked equipment remains onsite overnight; and
 - b. The use and installation of temporary drainage (i.e. culverts) instruments on access routes to maintain drainage flows.
- 4.3 Hydro One or its agents will consult with landowners in advance of entry as to the manner in which gates/fences/entryways are to be managed while entering property. In the event landowners cannot be contacted, Hydro One shall ensure that gates/fences/entryways used by Hydro One personnel or its agents are left as found. Work sites are to be left in a safe condition overnight.
- 4.4 Landowners can be present to observe the Permitted Activities subject to Hydro One's safety policies and procedures and the *Occupational Health and Safety Act*.
- 4.5 Hydro One shall keep records of the personnel attending and entering on lands, the time in which entry occurred and the locations entered.

- 4.6 Upon request, Hydro One shall provide a landowner with the results of the information collected as a result of conducting the Permitted Activities on the landowner's property (such as legal surveys and property appraisal information and the information described in 4.5 above) and biological information subject to applicable disclosure guidelines of the Ministry of Natural Resources or other agencies (e.g., with respect to species-at-risk protection). In the event biological information cannot be disclosed to a landowner, Hydro One will disclose that fact and provide to the landowner the rationale for such non-disclosure.
- 4.7 Affected areas are to be restored to their original condition to the extent possible and practicable, failing which damages shall be paid as per section 98 (2) of the *Ontario Energy Board Act*.

5. COMPLAINT PROCEDURE

- 5.1 Hydro One shall establish a complaint resolution process and provide a detailed description of the process to the affected landowners. For each affected property, Hydro One shall designate a property agent as a contact person to be responsible for addressing and resolving landowner concerns and complaints. Hydro One shall notify landowners who have lodged complaints about how to escalate an issue if it is not resolved satisfactorily or on a timely basis. Hydro One shall provide to a landowner, on request, non-confidential information about complaints made by other landowners.

6. COMMUNICATIONS WITH THE BOARD

- 6.1 The Board's designated representative for the purpose of these conditions of approval shall be the Manager, Facilities.
- 6.2 Hydro One shall designate a person as project manager and shall provide the name of the individual to the Board's designated representative. The project manager will be responsible for the fulfilment of the conditions of approval on the site. Hydro One shall provide a copy of the Board's Decision and Order and these conditions of approval to the project manager, within seven days of the Board's interim order being issued.
- 6.3 Hydro One shall furnish the Board's designated representative with all reasonable assistance for ascertaining whether Hydro One has complied with the Board's interim order.