

**ONTARIO ENERGY BOARD**

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

**AND IN THE MATTER OF** an Application by Hydro One Networks Inc. for an Order granting leave to construct approximately 180 kilometres of 500 kV double circuit electricity transmission line adjacent to the existing high voltage transmission corridor extending from the Bruce Power Nuclear Facility in Kincardine Township to the Milton Switching Station in the Town of Milton, and to make modifications to certain other transmission facilities to incorporate the new transmission line.

**AND IN THE MATTER OF** motions by Pollution Probe, Powerline Connections, and Fallis Fallis & McMillan ("Fallis") requesting various relief in respect of Hydro One Networks Inc. application for leave to construct.

**SUBMISSIONS OF THE INDEPENDENT ELECTRICITY SYSTEM OPERATOR**

1. Pursuant to Procedural Order No. 1 issued by the Ontario Energy Board (the "Board") on June 5, 2007, the Independent Electricity System Operator (the "IESO") wishes to make submissions on the motions filed by Pollution Probe, Powerline Connections and Fallis (collectively the "Parties") requesting relief, specific or implicit, with respect to the timing or need for timely review and approval of the Application, and cost claims for their participation in the proceeding.
2. The motion by Powerline Connections and Fallis appears to be a combined response to the Board's Procedural Orders relating to Hydro One's application requesting leave to construct pursuant to section 92 of the Ontario Energy Board Act, 1998 (the "Act"), and separate application for Early Access, pursuant to section 98 of the Act. Accordingly, the IESO submissions in this regard are in response to

the requested relief as they relate to the application for leave to construct. The IESO filed comments on the Motion Records filed by various parties in respect of the separate application for early access to land.

3. The IESO is a registered intervenor in the hearing of the leave to construct application. The IESO's submissions in this regard are in accordance with its obligations and responsibilities as the market, system and reliability administrator, and consistent with the desire to preserve its interests as a licensee and occasional proponent in matters requiring Board review and approval.

4. The IESO is a non-profit, non-share capital corporation independent of all other participants in the Ontario electricity industry. The IESO is established under the *Electricity Act, 1998* to administer the Ontario wholesale power market and to direct the operation and maintain the reliability of the IESO-controlled grid. The IESO does not own any electric power generation or transmission facilities. It directs the operation of transmission and generation facilities, including interconnections that are situated in Ontario.

5. The authority and obligations of the IESO are established by legislation, its licence issued by the Board, and the Ontario Market Rules. In particular, the IESO's responsibility for maintaining reliability and operability of the IESO-controlled grid is more precisely set out in the Market Rules which, among other things, require the IESO to identify current or emerging constraints that may adversely affect the reliability and operability of the integrated power system, and conduct system impact assessments in order to assess and address adverse reliability and market efficiency impacts that are attributed to proposed new or modified connections to the IESO-controlled grid. Accordingly, the IESO has a direct and substantial interest in the hearing of this matter.

6. While the IESO is interested in, and may be affected by the outcome of other relief sought by various parties, the IESO current submissions will be limited to the following points:

- i. the Application for leave to construct should proceed expeditiously to ensure timely construction and commissioning of the new electricity transmission line, and
  - ii. requests for cost claims should be made and administered consistent with the Board's current Rules of Practice and Procedures.
- i. **the Application for leave to construct should proceed expeditiously to ensure timely construction and commissioning of the new electricity transmission line.**

7. The Parties have requested various relief, specifically or implicitly, that if granted will adversely impact timely construction and commissioning of the new transmission line. In particular, the Pollution Probe Motion Record notes that “[w]hile Hydro One Networks Inc. may wish to move this project forward as fast as possible, Pollution Probe submits that it is in the public interest to allow a more considered approach and analysis of the application by extending the timelines for this application.” Pollution Probe further submits that it is particularly important that the following dates [i.e., proposed technical conference, submission of intervenor interrogatories to Hydro One Networks Inc. and corresponding responses, and submission of intervenor evidence] be extended to allow for sufficient time for Pollution Probe and its intended specialized expert to question Hydro One Networks Inc. appropriately and to prepare its own evidence, if any. Pollution Probe fails to articulate how denial of its request will adversely impact its ability to participate in the hearing, and the value of any incremental contribution with respect to the public interest that it or its specialized expert might otherwise bring to bear.

8. In the case of the Powerline Motion, its submits that, among other things, “Hydro One acknowledges that it has set a target in-service date for the proposed

line of December 2011, and upon working backwards has discovered that its timeline is not feasible if established [Environmental Assessment] procedure and public consultation practices are observed.” It is worthwhile noting that there are no explicit regulatory requirements or procedures obligating a transmission facilities proponent to seek, in any particular order, relief or approval which may be required with respect to leave to construct and Environmental Assessment (EA). In addition, the IESO submits that the EA provisions are not relevant to the matters that the Board is required to consider in the course of reviewing the applications for leave to construct<sup>1</sup>.

9. With respect to the request to set aside the Board’s timetable, the Fallis Motion asserts that “[t]he Board should not subject itself to the potential of criticism that it might attract for giving in to the Applicant’s request of urgency because of the self-imposed time pressures of the Applicant.” No evidence is provided or referenced to support the claim that the proposed line is not urgently needed or the timeframe for, among other things, obtaining necessary approvals and construction of the new line are overstated.

10. In Exhibit B, Tab 6, Schedule 4 in EB-2007-0050, the IESO affirmed that the need for transmission enhancements is particularly evident in three areas of the province, in particular southwestern Ontario to deliver additional nuclear and wind supply from the Bruce area. The IESO also noted that “[w]ithout new transmission facilities, the IESO will be forced to operate existing facilities near their maximum capabilities, with little margin for unexpected events and requiring complex arrangements to do routine maintenance on critical facilities.” Additionally, the IESO noted that the proposed 500 kV line out of the Bruce area “is required as soon

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<sup>1</sup> See s. 96 (20) of the Act which specifies that in considering an application for leave to construct the Board shall only consider the interests of consumers with respect to prices and the reliability and quality of electricity services.

as possible to accommodate the additional generation from both new wind projects and refurbished Bruce units.” The System Impact Analysis for the proposed line, filed as Exhibit B, Tab 6, Schedule 2 in EB-2007-0050, confirmed that the new line is scheduled to be in service by December 2011 “to coincide with the period when all eight units at the Bruce Complex are expected to be in –service simultaneously.”

11. As the IESO studies have concluded that the transmission line is needed as quickly as possible, the IESO submits that the review and approval of application for leave to construct should proceed in a timely manner. While the IESO is supportive of objectives to promote fairness and thorough review of the line, these objectives must be balanced against other critical public interest objectives (e.g., as discussed earlier) that may be otherwise put at risk if the timeline for review and approval and construction of the line is allowed to slide excessively.

**ii. requests for cost claims should be made and administered consistent with the Board’s current Rules of Practice and Procedures.**

12. The requests by Pollution Probe and Fallis regarding cost claims are inconsistent with the Board’s Practice Direction on Cost Awards, and if granted, would amount to an amendment to the Board’s *Rules of Practice and Procedures* without the benefit of a proper review to ascertain and confirm that the amendments are indeed in the public interest. In particular, Pollution Probe is requesting that the Board issue an interim order directing Hydro One Networks Inc. to pay Board-approved cost claims for Pollution Probe’s specialized expert testimony and participation for this matter on an ongoing basis pursuant to s. 30(2) of the Act. In the alternative, Pollution Probe is requesting that the Board hold an oral or written hearing on a date to be set by the Board to determine if Hydro One should be made to pay Board-approved cost claims for its specialized expert testimony and participation for this matter on an ongoing basis.

13. Pollution Probe claims “that the Board will need to consider highly specialized economic and policy issues as part of this proceeding, and Pollution Probe accordingly intends to retain an experience expert to assist the Board and Pollution Probe regarding the key issues. And, “[s]uch issues include but are not limited to economic analyses, reliability analyses, and routing analyses associated with the proposed line.”

14. In the case of Fallis, it is seeking “[a]n order that the intervenors approved by the Board for recovery of their legal costs shall be at a liberty to forthwith submit their first interim legal costs to date incurred through the day of the Return of the Motion on June 26<sup>th</sup>, 2007 before the Board.”

15. The IESO submits that these requests are inconsistent with the Board’s established process for determining cost eligibility, and administration and reimbursement of eligible cost claims that are incurred in the course of providing incremental and valued input into the process. For instance, the request that the Board grant prior approval in this regard amounts to a request for approval of a “blank check”. No information was provided regarding, among other things, the scope of the information to be provided by the specialized expert, whether the specialized expert is filling some purpose or role that cannot be filled by another independent party, and the cost for the services to be provided so that the Board can ascertain, at a minimum, the relative value that the specialized expert is likely to contribute to the proceeding.

16. Moreover, Pollution Probe and its specialized expert intend to undertake an analysis of the reliability impacts of the transmission line. The IESO takes issue with this proposal, and views this as a potential duplication of effort as this would amount to a replication of the IESO’s responsibility for assessing reliability impacts of transmission expansion and reinforcement proposals. In fact, the IESO is required by the Board to register in all electricity transmission leave to construct proceeding

so that it may advise the Board, the proponent and other interested parties on the reliability impacts of proposed new or modified connections to the IESO-controlled grid, as is required of the Board as part of its assessment of the public interest.

17. The IESO takes no issue with Pollution Probe electing to source expert assistance to assist it with its participation in the hearing of the matter; however, the IESO believes that Pollution Probe should be guided by the existing process whereby costs follow the event. Similarly, in the case of Fallis, the IESO submits that the cost claims should be assessed, and where applicable, reimbursed after an assessment of the value of the contribution or the information provided by the cost claimant is carried out, consistent with established procedures.

18. The relief requested will unduly increase costs of intervenor participation in regulatory proceedings, and limit the ability to weigh and balance the relative value of intervenor contribution in relation to the cost of their participation. Accordingly, the IESO submits that the requests by Pollution Probe and Fallis regarding cost claims should be denied.

***ALL OF WHICH IS RESPECTFULLY SUBMITTED***

***Original signed by***

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John Rattray  
Senior Legal Counsel  
Independent Electricity System Operator

Submitted this 19<sup>th</sup> day of June, 2007

Subsequently revised this 22<sup>nd</sup> of day June, 2007