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Vice President and Chief Regulatory Officer
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BY COURIER

August 17, 2007

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

**EB-2007-0027 – Hydro One Networks' Reply Submission on Section 92 Woodstock Area
Transmission Reinforcement Application**

I am attaching ten (9) copies of the Hydro One Networks' Reply Submission which is being filed today as directed by Procedural Order No. 2, dated July 24, 2007. Copies are being sent to all persons listed in Appendix A of the Procedural Order No. 1 and to the solicitors for the Township of South-West Oxford. An electronic copy of the Reply Submission will also be added to the Hydro One Networks external website for public and intervenor access.

It has taken some time to gather the information necessary to provide a detailed and complete response to the issues raised by the Township of South-West Oxford in their Submission of August 9, 2007, and Hydro One requests the Board to accept this late reply submission.

Sincerely,

ORIGINAL SIGNED BY SUSAN FRANK

Susan Frank

Attach.

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 or Orders granting leave to construct
Transmission facilities in the Woodstock Area

**RESPONSE OF HYDRO ONE NETWORKS INC.
TO THE AUGUST 9, 2007, SUBMISSIONS OF
TOWNSHIP OF SOUTH-WEST OXFORD**

1. The Township of South-West Oxford (“the Township”) states in its Submissions dated August 9, 2007, that it is generally supportive of the Application of Hydro One Networks Inc. (“Hydro One”) and that it (the Township) does not take issue with the overall need or the economic justification for the Project.
2. The Township’s Submissions go on to state, however, that the Township wants any s. 92 leave to be subject to a condition that Hydro One continue negotiations with the Township to determine a route acceptable to the Township or a condition that there be an additional minimum setback from the edge of the pavement for the proposed towers.
3. As shown in the Application, Hydro One seeks to build the proposed transmission line within the existing transmission right-of-way (approximately half the width being on the road allowance and approximately half the width being on easements) that was

established many decades ago. Hydro One and its predecessor, Ontario Hydro, have had a transmission line within that right-of-way for all of that time.

4. Hydro One has fully satisfied the requirements of sections 92 and 94 of the *Ontario Energy Board Act, 1998* (“the *OEB Act*”) by filing a map showing the general location of the proposed transmission line. Contrary to the inferences in paragraphs 8, 9 and 21 of the Township’s Submissions, there is no requirement for a s. 92 applicant to provide “detailed evidence of the impact of the proposed route upon the owner of the road...”, nor is there any requirement for an applicant to provide “specific and detailed information regarding the location of the proposed transmission facilities” such as specific locations of specific towers, etc.

5. In that regard, the Township’s submissions state that granting unconditional leave to the Applicant “would provide Hydro One with the ability to install the transmission line anywhere within the municipal right-of-way...The Legislature could not have intended the leave to construct would grant such overwhelming authority...”

6. However, that is exactly what the Legislature did, not only when it enacted sections 92 and 94 of the *OEB Act*, but also when it enacted subsections 41(1) and 41(5) of the *Electricity Act, 1998* (“the *Electricity Act*”), which state the following:

41 (1) A transmitter or distributor may, over, under or on any public street or highway, construct or install such structures, equipment and other facilities as it considers necessary for the purpose of its transmission or distribution system, including poles and lines.

41 (5) The exercise of powers under subsections (1), (2) and (3) does not require the consent of the owner or of any other person having an interest in the street or highway.

7. The Township's Submissions state that there is no information on the record as to the environmental impact of the various alternatives. This is not the case, since as noted in Hydro One's response to Supplementary IR #2 filed with the Board on August 3, 2007, Hydro One's Draft Environmental Study Report has been posted on Hydro One's website since June 20, 2007. Furthermore, the process for acquiring the necessary environmental approvals related to the Project are fully described in Section 4.0 of Exhibit B, Tab 6, Schedule 1 of the Application.

8. Hydro One notes that the proposed transmission line will be located on the existing right-of-way, where the transmission line has been for many decades and where the *Electricity Act* allows it to be, and that there is no requirement that Hydro One provide the details noted by the Township to the Board about the various alternatives. Maintaining the current alignment is in keeping with, and respectful of, Provincial Land Use Policy; and as the Township itself points out in its Submissions, "the continued use of existing utility corridors is preferred."

9. A relocation of the transmission line would necessitate the commencement of a lengthy process triggered by the need to acquire new, additional property rights, resulting in delays to the Project and delays in establishing a reliable electricity supply to the Woodstock area. A relocation would affect farming and the natural environment to a

new and greater extent, impacts which can all be prevented and avoided by leaving the corridor where it has existed for many decades.

10. As stated in the Application, Hydro One submits that the Project is necessary and that the construction of the proposed transmission line is in the public interest.

Although the Township's Submissions mention "a *potential* safety concern" and "*future* municipal road work", Hydro One submits that those alleged "potential" and "future" matters should not influence the Ontario Energy Board ("the Board") in determining whether to grant unconditional leave to construct. Even if those alleged situations were actual rather than potential, and present rather than future (which they are not), the fact is that s. 96(2) of the *OEB Act* states that in determining whether a section 92 project is in the public interest,

...the Board shall only consider the interests of consumers with respect to prices and the reliability and quality of electricity service when, under subsection (1), it considers whether the construction, expansion or reinforcement of the electricity transmission line of electricity distribution line, or the making of the interconnection, is in the public interest.

11. One of the grounds of relief requested by the Township in its Submissions is that the Board impose a condition that Hydro One "continue negotiations with the Township to determine a route acceptable to the Township." Hydro One responds that its representatives have been meeting and communicating with Township officials concerning the Project and the Township's concerns since December 1, 2006, as described in Hydro One's response to IR #7 and Supplementary IR #3, including a meeting with the Mayor and the Superintendent of Works at a Hydro One Public

Information Centre at the end of May, 2007. Furthermore, Hydro One has offered to attend a meeting of the Township Council to make a presentation concerning the Project; but the Township has not availed itself of the offer.

12. Despite all the said communications between the parties and Hydro One's offer to go to Council, Hydro One remains willing to discuss the Township's concerns at any time. However, Hydro One submits the following:

- (a) that it would not be appropriate for the Board to impose such a condition on any leave granted under s. 92 to ensure that the result would be "a route acceptable to the Township"; and
- (b) that it would also not be appropriate for the Board to include a condition, as requested by the Township, imposing an additional increase in the already-increasing (at most tower locations) setback, because imposing such a condition would result in the need to acquire additional right-of-way lands and to obtain additional environmental approvals. The result would be an option different from the proposal in Hydro One's Application.

13. Hydro One takes public safety very seriously; and in response to the Township's stated concern that Hydro One's existing towers are not as far from the road as the Township would like them to be, Hydro One responds as follows:

- (a) the existing setback has been in place for all the decades that the existing transmission line and road have been in place;
- (b) because Hydro One will be using narrow-based towers for the proposed Project, the existing setback at most tower locations will be increased by an additional eight feet, a fact which is not mentioned in the Township's submissions; and
- (c) Hydro One has offered to meet with the Township to discuss mitigating steps at tower locations of particular concern to the Township.

14. Therefore, for the reasons stated in paragraphs 4, 5, 6, 8, 9 and 10 above, Hydro One submits that it has satisfied the requirements of sections 92 and 96 of the *OEB Act* and that the allegations raised by the Township are out of scope with respect to the subject matter of the Application.

15. Hydro One therefore submits that its s. 92 Application should be granted unconditionally.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 17th day of August, 2007.

HYDRO ONE NETWORKS INC.

by its counsel

ORIGINAL SIGNED BY MICHAEL ENGELBERG

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