

October 26, 2012

BY COURIER (2 COPIES) AND EMAIL

Ms. Kirsten Walli

Board Secretary

Ontario Energy Board

P.O. Box 2319

2300 Yonge Street, Suite 2700

Toronto, Ontario M4P 1E4

Fax: (416) 440-7656

Email: boardsec@oeb.gov.on.ca

Dear Ms. Walli:

**Re: Request for Intervenor Status by Environmental Defence
EB-2012-0064 – Toronto Hydro 2012-2015 Rates**

We are writing to request intervenor status in the above proceeding on behalf of Environmental Defence.

Environmental Defence seeks intervenor status and costs eligibility as a leading environmental organization that represents both the public interest in environmental protection and the interests of consumers whose energy bills can be reduced through cost-effective energy conservation measures. As discussed below, Environmental Defence wishes address the issue of whether the proposed Bremner Transformer Station can be avoided or deferred, which would result in significant savings, lower electricity bills, decreased greenhouse gas emissions, and improved security of supply.

Grounds for Intervention and Costs Eligibility

Description of Environmental Defence and Some of Its Achievements

Founded in 1984, Environmental Defence is a registered charity with a large base of supporters. As discussed below, Environmental Defence is a leading advocate on energy and environmental issues in Canada.

Environmental Defence has been highly successful in its public interest advocacy on energy issues. For example, Environmental Defence was instrumental in the passage of Ontario's *Green Energy and Green Economy Act, 2009*, which established new and important statutory objectives for the Ontario Energy Board (the "Board") relating to conservation and renewable generation. The *Act* has also led to a large expansion of

renewable energy in Ontario. Building on this success, Environmental Defence continues to advocate for improvements to the feed-in tariff created by the *Act*.

Environmental Defence is often quoted in Canada's major newspapers and magazines on energy and environmental issues. In the last month alone, Environmental Defence was quoted in a *Globe and Mail* article about the end of the federal government's successful eco-energy retrofit program and also in a *Canadian Business Magazine* story entitled *Canada's Energy Future*.¹ Environmental Defence's Executive Director and Campaigns Director were interviewed twice on national television on environmental and energy issues, again in the last month alone.²

Environmental Defence's environmental work, on issues ranging from toxic chemicals to clean beaches, has led to concrete improvements in the lives of Canadians. For example, the dangerous chemical Bisphenol A ("BPA") is now banned in baby bottles in Canada due to concerns first raised by Environmental Defence in 2007. For many years, Environmental Defence has participated in the federal government's Chemicals Management Plan. Environmental Defence is also the coordinator of Blue Flag Canada, which certifies beaches so that Ontario families can enjoy this public resource. Environmental Defence recently co-founded Blue Green Canada with the United Steelworkers, which promotes green energy initiatives that have positive employment and economic impacts.

The Honourary Board of Directors of Environmental Defence includes prominent Canadians such as Robert Bateman, Ray Civello, Farley Mowat, David Suzuki, John Swaigen, and Donald Wright. Environmental Defence also works with and is supported by major organizations such as Sears Canada, Xerox Canada, and the Toronto Dominion Bank's environmental foundation.

Furthermore, Environmental Defence publishes reports and guides in the area of energy conservation, efficiency, and policy. For example, it has created an interactive online tool to help energy consumers reduce their bills through energy efficiency initiatives. Some further recent publication titles include:

- *Building Ontario's Green Economy: A Road Map*;
- *Ontario Feed-In Tariff: 2011 Review*;
- *The Global Clean Energy Jobs Race: Ontario's Opportunity*;
- *Blowing Smoke: Correcting Anti-Wind Myths in Ontario*;
- *Faces of Transformation: Jobs, economic renewal and cleaner air from Year One of Ontario's Green Energy Act*;
- *Falling Behind: Canada's Lost Clean Energy Jobs*; and

¹ Shawn McCarthy, "Energy-Saving program shut down too early, millions in rebates never paid out", *Globe and Mail*, September 28, 2012 <<http://www.theglobeandmail.com/news/politics/more-than-900-million-paid-out-for-tax-credits-for-energy-efficient-home-renovations/article4575763/>>; "Canada's Energy Future," *Canadian Business* (October 15, 2012).

² "Northern Gateway Hearings Underway," *Power Play with Don Martin*, CTV Television (Oct 17, 2012); "BPA Alternative Could be as Risky," *CTV News - CTV Television* (Sept 30 2012).

- *Greening Canada's Building: Report Card.*³

Finally, Environmental Defence includes an economic perspective in its energy work, including in terms of savings for homeowners and consumers, as well as overall economic impacts. This fits well with the Board's role as an economic regulator mandated to protect the interests of consumers.

Intended Participation

In this proceeding, Environmental Defence intends to focus on the issue of whether Toronto Hydro has provided sufficient evidence to justify its proposed Bremner Transformer Station in comparison to alternatives. This falls under issue 2.2. It appears to Environmental Defence that the Bremner Station can be avoided (or at least significantly deferred) through a combination of conservation and demand management (CDM) and distributed generation (e.g. CHP). Doing so would simultaneously lower electricity bills, decrease Ontario's greenhouse gas emissions, and increase security of supply – a potential “win-win-win” scenario. From a purely economic standpoint, this could result in very significant overall savings.

To the best of our knowledge, no other intervenor is addressing this important issue. Although Pollution Probe was pursuing this issue, it has now withdrawn from this proceeding.

Environmental Defence intends to participate in the hearing, review and test the evidence, make submissions, and seek a cost award. Environmental Defence does not wish to file interrogatories. However, it does intend to ask questions in the technical conference (or file a motion if necessary) to obtain more complete responses to a number of interrogatories posed to Toronto Hydro by Pollution Probe. Environmental Defence also intends to provide expert evidence on whether the Bremner Station is justified in light of the alternatives of CDM and distributed generation.

Consultant and Legal Counsel

Environmental Defence has retained an expert consultant, Jack Gibbons of the Ontario Clean Air Alliance, and experienced legal counsel in the law firm of Klippensteins, Barristers and Solicitors. Mr. Gibbons and Klippensteins have a demonstrated track record of effective representation at the Board in raising new and important environmental and energy issues in a way that respects the Board processes and is not duplicative of the work of others.

Conclusion re Grounds for Intervenor Status and Costs Eligibility

Based on its long and successful track record in promoting the public interest on energy and environmental issues, its intended focused and selective approach to this hearing, and

³ See <http://environmentaldefence.ca/issues/clean-energy/reports>

the importance of the issue it wishes to raise, Environmental Defence asks that it be granted intervenor status and costs eligibility in the above proceeding.

Late Intervention Request

Environmental Defence asks that this late intervention request be accepted as the timing of this request will not prejudice the applicant or intervenors. Again, Environmental Defence does not seek to file written interrogatories as this step in the proceeding has already passed.

Furthermore, Environmental Defence can make a significant contribution to this ongoing proceeding and has retained Jack Gibbons, who is already well versed in the evidence and issues in this matter.

Requests for Evidence and Addresses of Representative and Party

Environmental Defence requests two copies of the pre-filed evidence/materials. Please deliver one copy to Murray Klippenstein and myself as counsel for Environmental Defence at the law firm address above (e-mail addresses: kent.elson@klippensteins.ca and murray.klippenstein@klippensteins.ca). Please deliver the other to Environmental Defence's consultant, Jack Gibbons of the Ontario Clean Air Alliance. Electronic copies are sufficient.

We also request that counsel (Mr. Klippenstein and Mr. Elson) and Mr. Gibbons be listed on the intervenors' list under Environmental Defence. Mr. Gibbons is located at:

Ontario Clean Air Alliance
160 John Street, Suite 300
Toronto, Ontario M5V 2E5
Tel: (416) 260-2080 ext. 2
Fax: (416) 598-9520
E-mail: jack@cleanairalliance.org

Environmental Defence's full name and address is:

Environmental Defence
116 Spadina Avenue, Suite 300
Toronto, Ontario M5V 2K6
Tel: (416) 323-9521
Fax: (416) 323-9301

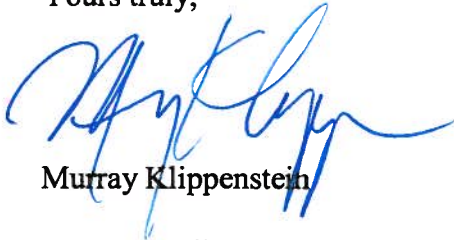
Please send correspondence and any other materials to both Jack Gibbons and to counsel as the authorized representatives.

Service on other Parties

Environmental Defence requests the Board's directions as to whether this letter should be served on any other parties.

Please do not hesitate to contact me if anything further is required.

Yours truly,



Murray Klippenstein

cc: Applicant and Intervenors