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May 23, 2013

via RESS e-filing – signed original to follow by mail

Ms. Kirsten Walli, Board Secretary

Ontario Energy Board

PO Box 2319

2300 Yonge St, 27th floor

Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Toronto Hydro-Electric System Limited (“THESL”)
OEB File No. EB-2012-0064
Submissions on Environmental Defence’s Cost Claim**

THESL writes in respect of the above-noted matter.

THESL received cost claims from the following Intervenors: School Energy Coalition, Environmental Defence, Energy Probe Research Foundation, the Association of Major Power Consumers of Ontario, and Consumers Council of Canada.

Pursuant to the OEB’s Partial Decision and Order dated April 2, 2013, attached are submissions of THESL’s counsel on the cost claim of Environmental Defence.

Please contact me if you have any questions.

Sincerely,

[original signed by]

Amanda Klein

Director, Regulatory Affairs

att.

:AK/RB/acc

cc: Fred Cass, THESL Counsel
Intervenors of Record for EB-2012-0064, by electronic mail only

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May 23, 2013

Kirsten Walli
Board Secretary
Ontario Energy Board
PO Box 2319
2300 Yonge Street
Toronto, Ontario
M4P 1E4

Dear Ms. Walli:

Re: EB-2012-0064 – Cost Claim by Environmental Defence

We are writing on behalf of Toronto Hydro-Electric System Limited (Toronto Hydro or THESL) to put forward Toronto Hydro's objection to the claim for costs made in this matter by Environmental Defence. This letter contains the submissions of Toronto Hydro in support of its objection to the Environmental Defence cost claim.

Toronto Hydro objects to the Environmental Defence cost claim because the claim offends at least three important principles that bear on the Board's consideration of whether to make a cost award in favour of an intervenor.

The first of the three principles is that ratepayers ought not to be required to fund activities or interventions that do not materially contribute to the Board panel's understanding and resolution of the issues in any given case. The second principle is that ratepayers ought not to be required to fund activities or interventions that become the basis for an intervenor to conduct a broad public campaign, the intent of which may be to influence the outcome of the Board's process. The Board's processes are well defined and prescribed by law. Intervenors who attempt to influence or circumvent those processes ought not to be rewarded by ratepayers for costs that they incur. The third principle is that costs should be awarded for, and should encourage, responsible participation in Board proceedings.

Toronto Hydro's specific submissions regarding the Environmental Defence cost claim will begin with a brief review of the relevant procedural background in this case.

Procedural Background

Environmental Defence filed a late intervention request in this proceeding on October 26, 2012. In its late intervention request, Environmental Defence stated that it intended to provide:

...expert evidence on whether the Bremner Station is justified in light of the alternatives of CDM and distributed generation.¹

In connection with the late intervention request, Environmental Defence also stated that:

Environmental Defence simply wishes to take normal procedural steps in this proceeding; it is not requesting special indulgences or longer than normal timelines, as seemingly suggested by THESL. ... Again, Environmental Defence is seeking permission to take normal procedural steps; it is not seeking special indulgences or extended timelines.²

The late intervention request by Environmental Defence was accepted by the Board in Procedural Order No. 3 issued on November 8, 2012. In that Procedural Order, the Board specifically noted the intention of Environmental Defence to provide expert evidence "on whether the Bremner Station is justified in light of the alternatives of CDM and distributed generation".³

Procedural Order No. 3 went on to say that the Board accepted that Environmental Defence may be submitting evidence and that the Board had made provision for this circumstance in the Procedural Order. The Board made provision for the evidence to be filed by Environmental Defence by establishing a process for the Bremner Project that included timelines for the filing of intervenor evidence, interrogatories on that evidence and responses to such interrogatories.

The direct result of the involvement of Environmental Defence in this case was that the process for the Bremner Project, following after the Technical Conference, was bifurcated from the process for the other issues in the initial phase of the case. The other issues in the initial phase of the case went to hearing in

¹ Letter from Murray Klippenstein to the Board Secretary dated October 26, 2012, page 3.

² Letter from Murray Klippenstein to the Board Secretary dated November 5, 2012.

³ EB-2012-0064 Procedural Order No. 3, page 7.

December of 2012, but the hearing with respect to the Bremner Project did not occur until February of 2013.

The timing of the hearing with respect to the Bremner Project was affected not only by the process established to receive evidence from Environmental Defence, but also because of requests by Environmental Defence to accommodate both its counsel and its witness. In early January of 2013, Environmental Defence requested that the hearing with respect to the Bremner Project not commence until after February 4th to accommodate Mr. Elson and Mr. Bach.⁴ This request was made notwithstanding the repeated assurance by Environmental Defence that it was not seeking "special indulgences or extended timelines" in connection with its late intervention request.

Environmental Defence Evidence

As indicated above, Environmental Defence stated that it would provide expert evidence "on whether the Bremner Station is justified in light of the alternatives of CDM and distributed generation". Contrary to this statement, however, the Environmental Defence witness, Mr. Bach, described the mandate given to him in the following manner:

Environmental Defence ... requested ... evidence on whether the incremental CDM potential in downtown Toronto significantly exceeds 18 MW.⁵

During cross-examination, Mr. Bach was asked about a press release issued by his client, Environmental Defence. The press release was marked as Exhibit K7.4 and a copy of it is attached to these submissions as Schedule A. The press release contains the following statement about the evidence filed in this proceeding by Environmental Defence:

...Environmental Defence will provide expert evidence that energy efficiency and local energy generation are a cheaper option for consumers.⁶

Mr. Bach quite willingly agreed that his evidence did not show that energy efficiency and local energy generation are a cheaper option for consumers than the Bremner Station.⁷ He confirmed that the press release had misrepresented his evidence, when he gave the following testimony:

⁴ Letter from Kent Elson to the Board Secretary dated January 9, 2013.

⁵ Exhibit K6.5, evidence of H.R. (Bob) Bach dated December 7, 2012, page 1.

⁶ Exhibit K7.4 and 7Tr. 121.

⁷ 7Tr.122.

MR. CASS: ...So someone, on behalf of Environmental Defence, has misrepresented your evidence, haven't they?

MR. BACH: Unless there was any other evidence that I am not aware of, I would have to agree with you.⁸

Clearly, there was a vast gulf between the evidence that Environmental Defence told the Board that it intended to file and the mandate that Environmental Defence gave to the witness who was responsible for the evidence. There was also a vast gulf between the evidence that Environmental Defence stated publicly that it would provide to the Board and the mandate that Environmental Defence gave to the witness.

The terms of reference given to Mr. Bach were the subject of examination during the Bremner hearing and, ultimately, the significance of these terms of reference was confirmed in the Board's decision with respect to the Bremner Project.

In its decision, the Board noted, first, that the terms of reference were based on an assumption that was wrong and, second, that the terms of reference did not focus on the issues regarding the need for the Bremner Station.⁹

Even though the terms of reference given to Mr. Bach were squarely at issue in this proceeding, Environmental Defence refused to cooperate with a request to provide the *actual* terms of reference.

Mr. Bach stated very clearly that his "total communication" with Environmental Defence was "through Mr. Gibbons"¹⁰ and that he was provided with "a separate document" including his terms of reference. A request was made for the "separate document" and Mr. Bach said that he could produce it.¹¹ After a considerable amount of equivocation by counsel for Environmental Defence, the presiding Board member said that if there is no difficulty in providing it, the Board would like to see it. An undertaking was given (Undertaking J7.4), but Environmental Defence has never complied with the undertaking. Instead of producing the "separate document" referred to by Mr. Bach, Environmental Defence provided a re-print of the short section of Mr. Bach's evidence that gave rise to the questions about his terms of reference during the hearing.¹²

⁸ 7Tr.122.

⁹ EB-2012-0064 Partial Decision and Order, April 2, 2013, page 44.

¹⁰ 7Tr.126.

¹¹ 7Tr.130.

¹² The response to Undertaking J7.4 was not the "separate document" referred to by Mr. Bach in his testimony. This is clear from the fact that the response begins with the words "Environmental

In its decision with regard to the Bremner Station, the Board made an explicit finding that Mr. Bach's evidence was of little assistance to the Board in assessing the need for the Station.¹³ The Board noted that, while Mr. Bach had concluded that there is CDM potential in excess of 18 MW, Toronto Hydro and Navigant based their analysis on CDM of 58 MW and Mr. Bach's retainer did not include an assessment of his conclusions about CDM potential on the need for the Station. The Board pointed out further that Environmental Defence did not call any other evidence that would link these issues.¹⁴

Role of Jack Gibbons

There can be no doubt that full responsibility for the unhelpful terms of reference given to Mr. Bach rests with Jack Gibbons. Mr. Bach said not only that his total communication with Environmental Defence was through Mr. Gibbons but also that he does not "know the people at Environmental Defence directly".¹⁵

Further, as the one and only link between Mr. Bach and Environmental Defence, Mr. Gibbons must be taken to be responsible for the public statement about the evidence of Mr. Bach that Mr. Bach said was a misrepresentation of his evidence. Indeed, Mr. Gibbons is quoted in that very press release as having made the following comment about the Bremner Station proposal:

This proposal doesn't make sense. Toronto's electricity needs can be met at a lower cost and more securely by a combination of energy conservation and local power generation, according to Mr. Jack Gibbons.¹⁶

When asked about this comment by Mr. Gibbons, Mr. Bach responded as follows:

I am aware that Mr. Gibbons is an advocate for specific aspects of our electricity system, in particular the elimination of coal-fired power plants. I cannot specifically answer your question in any other respect.¹⁷

Defence asked me", which most certainly cannot be the wording of the terms of reference given to Mr. Bach by Environmental Defence.

¹³ E.B.R.O. 2012-0064 Partial Decision and Order, April 2, 2013, page 44.

¹⁴ E.B.R.O. 2012-0064 Decision, page 44.

¹⁵ 7Tr. 126.

¹⁶ Exhibit K7.4

¹⁷ 7Tr.124.

The import of Mr. Bach's evidence is that Mr. Gibbons, who was Mr. Bach's sole contact with Environmental Defence, used the evidence in this proceeding as a basis for public advocacy about "specific aspects of our electricity system".¹⁸

The Board's Practice Direction on Cost Awards

The Board's *Practice Direction on Cost Awards* sets out principles that the Board may consider, among other things, in determining cost awards. These considerations include whether a party:

- participated responsibly in the process;
- contributed to a better understanding by the Board of one or more of the issues in the process;
- engaged in conduct that tended to unnecessarily lengthen the duration of the process; and
- engaged in any other conduct that the Board considers inappropriate or irresponsible.¹⁹

It is clear from the Practice Direction that costs awarded by the Board are only those that are incurred directly in relation to a party's participation in the proceeding in respect of which the cost award is made. For example, this is the thrust of section 6.03 of the Practice Direction, which states as follows:

The burden of establishing that the costs claimed were incurred directly and necessarily for the party's participation in the process is on the party claiming costs.

The Cost Claim by Environmental Defence

Toronto Hydro submits that the Environmental Defence cost claim should be rejected by the Board in its entirety. The process for consideration of the Bremner Project was bifurcated from the Board's consideration of the other issues in the initial phase of the case because of Environmental Defence's statement about the evidence that it intended to file. This resulted in additional procedural steps and those steps required additional time in the schedule for consideration of the

¹⁸ For example, see: "Toronto Hydro makes pitch for \$272 million transformer Project", The Toronto Star, February 19, 2013 (attached as Schedule B), "Power up or pay, warns T.O. Hydro; Blackouts a real danger if downtown station not built", The Toronto Star, January 4, 2013 (attached as Schedule C); Newstalk 1010 CFRB Radio Interview, January 4, 2013 (attached as Schedule D).

¹⁹ *Practice Direction on Cost Awards*, Revised March 19, 2012, section 5.01.

Bremner Project. Despite the additional time and process allowed for evidence from Environmental Defence, the following are indisputable facts about that evidence:

(1) Environmental Defence never filed the evidence that it said it intended to file (“whether the Bremner Station is justified in light of the alternatives of CDM and distributed generation”);

(2) the terms of reference given to Environmental Defence’s witness (whether the incremental CDM potential in downtown Toronto significantly exceeds 18 MW) were entirely different from the scope of the evidence that Environmental Defence said it intended to file;

(3) the terms of reference given to Environmental Defence’s witness were, as found by the Board, based on an assumption that was wrong;

(4) because the terms of reference given to Environmental Defence’s witness were based on an assumption that was wrong, the witness ended up considering whether there is CDM potential in excess of 18 MW, which was not a meaningful exercise because Toronto Hydro and Navigant had actually assumed CDM potential of 58 MW;

(5) again as found by the Board, Environmental Defence did not call any other evidence to link the evidence of its witness with the need for the Bremner Station; and

(6) the Board made an explicit finding that the evidence actually filed by Environmental Defence was of little assistance.

In these circumstances, the reasonable outcome is that Environmental Defence should bear responsibility for the costs of other parties, and of the Board, associated with the process that was established when Environmental Defence said that it intended to file evidence to address whether the Bremner Project is justified.

At the very least, Toronto Hydro submits that there should be no cost award of any amount in favour of Environmental Defence. Given the events described above, culminating in an explicit finding by the Board that the evidence of Environmental Defence was of little assistance to the Board, the costs claim by Environmental Defence should be denied. The intervention by Environmental Defence did not contribute to a better understanding of the issues in this case, but instead resulted in additional time, process and costs to receive evidence that was not helpful.

There are other reasons for rejecting Environmental Defence's cost claim and these are addressed under the subheadings that follow.

No Cost Award for Purposes Extraneous to the Proceeding

The purpose of a cost award is to compensate a party for the costs of responsible participation in a Board proceeding. As reflected in the Board's Practice Direction, the burden is on a party claiming costs to establish that the costs were incurred "directly and necessarily" for the party's participation in the process.

Toronto Hydro submits that an award of costs cannot and should not be seen as a source of funding for a purpose extraneous to the proceeding. The power of an administrative tribunal to award costs does not authorize funding of activities that are aimed at purposes outside the tribunal's process.

In this case, when asked about a public statement made by Mr. Gibbons regarding the evidence in this proceeding, Mr. Bach indicated that, in effect, Mr. Gibbons was acting as a public advocate. While the terms of reference given to Mr. Bach by Mr. Gibbons resulted in evidence that was not helpful to the Board, Mr. Gibbons used this evidence in his public advocacy activities. Awarding any costs to Environmental Defence in this proceeding would be the equivalent of funding Environmental Defence and Mr. Gibbons for evidence that was not helpful to the Board but was seen as helpful by Mr. Gibbons for the purposes of his public advocacy.

It is worth noting that neither Environmental Defence nor Mr. Gibbons has ever offered any explanation to the Board for the unhelpful evidence that Mr. Bach was engaged to present to the Board. There is not the slightest doubt on the record of this proceeding that Environmental Defence told the Board that it intended to provide evidence about whether the Bremner Project is justified, and yet Mr. Bach was asked to develop evidence as to whether there is CDM potential in excess of 18MW. Further, having engaged Mr. Bach to produce evidence about whether the CDM potential in downtown Toronto exceeds 18 MW, Environmental Defence represented in a press release that it would provide expert evidence to the Board that energy efficiency and local energy generation are a cheaper option than the Bremner station. Clearly, it was of importance to Environmental Defence in its

public communications to create the impression that it had helpful evidence to provide to the Board. Yet, it was not of the same importance to Environmental Defence in its intervention in this proceeding to give a mandate to an expert witness to produce such evidence.

These events cry out for some explanation from Environmental Defence and all the more so given the evidence that emerged when Mr. Bach was examined at the hearing, in particular his confirmation that the Environmental Defence press release was a misrepresentation of his testimony. The fact that no explanation has ever been given to the Board by Environmental Defence or Mr. Gibbons is just one more indication that the purpose of the intervention was not to be of assistance to the Board but rather to create a platform for public advocacy by Mr. Gibbons.

Environmental Defence Did Not Participate Responsibly

Toronto Hydro submits that Environmental Defence did not participate responsibly in this proceeding. Examples of the conduct of Environmental Defence that did not meet the standard of a responsible intervenor include the following:

- (1) Environmental Defence told the Board that it intended to file evidence about whether the Bremner Project is justified in light of the alternatives of CDM and distributed generation, but the mandate given to its witness was to assess whether the CDM potential in downtown Toronto exceeds 18 MW;
- (2) Environmental Defence emphasized in its request for late intervention status that it was not seeking special indulgences or extended timelines, but it later submitted that the hearing of the Bremner Project should be scheduled to suit the convenience of its counsel and witness, when no other party requested or was granted any such scheduling accommodation;
- (3) Environmental Defence conducted its intervention in this proceeding more to suit the purposes of Mr. Gibbons's public advocacy activities than to be of assistance to the Board; and
- (4) Environmental Defence utterly refused to cooperate with the request for production of the "separate document" that Mr. Bach said he could

produce when he was asked about the terms of reference given to him by Mr. Gibbons.

The last of these four points is worthy of further elaboration. The terms of reference given to Mr. Bach were squarely at issue in this proceeding. Mr. Bach said that he was given his terms of reference in a separate document that he received from Mr. Gibbons. A specific request was made for production of this "separate document", the Board expressed a desire to see it and an undertaking was given. However, the document given to Mr. Bach was never produced and no reason was given why it could not be produced. Clearly, there could not have been any issue about solicitor-client privilege, because this is a document that passed between Mr. Gibbons and Mr. Bach.

We will never know what was in the document that caused Environmental Defence to flout the Board's usual procedures rather than produce the document. What we do know is this is not the conduct of a responsible intervenor.

Toronto Hydro would be remiss if it were to leave the subject of responsible intervention without stressing that its concerns about the conduct of Environmental Defence are not just idle complaints. When a utility applies to the Board for approval of critical infrastructure, the maintenance of reliable service to customers is a vitally important consideration. After a full hearing of the case, the Board may agree, or it may disagree, with the utility's position regarding the critical nature of the proposed facilities, but the point is that the Board is not in a position to presume that there is little or no risk to the reliability of service before it has heard and assessed the evidence. While proper procedures must be followed in order for the Board to arrive at a fair and reasonable assessment of the evidence in such a case, unnecessary delay surely is something that must be avoided and an intervention that can be seen to have caused needless and avoidable delay surely is something that must be dealt with in a firm and decisive manner.

In this case, the hearing with respect to the Bremner Project was delayed beyond the hearing of the other issues in the initial phase of the proceeding because of an expectation that Environmental Defence would produce evidence of value to the Board. In the end result, Environmental Defence did not produce evidence of value.

The delay in the hearing with respect to the Bremner Project for the receipt of evidence from Environmental Defence proved to be a needless one that added little or nothing to what would have been available for the Board's consideration if the Bremner Project had gone to hearing with the other issues in December of 2012. Without doubt, the delay allowed Mr. Gibbons an extended opportunity for his public advocacy activities. Toronto Hydro respectfully submits, however, that an intervenor should not be rewarded with costs for putting at risk the reliability of

May 23, 2013

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service to customers while using a Board proceeding as a platform for a public advocacy campaign.

Conclusion

For the reasons set out above, Toronto Hydro submits that Environmental Defence should not be allowed any costs for its intervention in this proceeding.

All of which is respectfully submitted.

Yours truly,

AIRD & BERLIS LLP

A handwritten signature in cursive script, appearing to read "Fred D. Cass".

Fred D. Cass

FDC/

c.c. All EB-2012-0064 Intervenors
Amanda Klein, Toronto Hydro



environmental
defence
INSPIRING CHANGE

Published on *Environmental Defence* (<http://environmentaldefence.ca>)

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Feb
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2013

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Tue, 02/19/2013

ENVIRONMENTAL DEFENCE and TORONTO ENVIRONMENTAL ALLIANCE

For Immediate Release: February 19, 2013

Environmental groups urge the Ontario Energy Board to put energy conservation first in hearings into Toronto Hydro's Bremner transformer station

Reducing energy use creates jobs, cuts pollution and is the cheapest energy option

Toronto, ON – At today's Ontario Energy Board (OEB) hearings into Toronto Hydro's application to build a new \$272 million transformer station downtown, Environmental Defence will provide expert evidence that energy efficiency and local energy generation are a cheaper option for consumers and the best environmental choice.

"We understand Toronto faces rising energy demand as the city's density increases, but we want to ensure the solution picked will be the most affordable and environmentally friendly option," said Gillian McEachern of Environmental Defence. "Reducing energy use not only saves people and businesses money, and creates jobs, it's also the cheapest form of new energy supply."

Toronto consumes 56 per cent more electricity per person than New York City.

“Toronto has tried to put into place more effective programs to reduce electricity use and generate more electricity within its boundaries,” said Franz Hartmann of the Toronto Environmental Alliance. “But the city’s efforts have been blocked by decisions of the Ontario Power Authority and the OEB.”

As a result, downtown Toronto’s electricity demand may exceed its supply capacity in the near future. Toronto Hydro is proposing to build a new \$272 million transformer station, near the CN Tower, to supply more electricity to downtown office buildings and condos on hot summer days when their air conditioners are running full.

“This proposal doesn’t make sense. Toronto’s electricity needs can be met at a lower cost and more securely by a combination of energy conservation and local power generation,” said Jack Gibbons, expert consultant to Environmental Defence and Chair of the Ontario Clean Air Alliance. “We want the Ontario Power Authority and Toronto Hydro to work together to lower our electricity bills and avoid the need for a \$272 million transformer station by pursuing cost-effective, feasible and reliable energy conservation and local power generation options in downtown Toronto.”

Toronto Hydro and the Ontario Power Authority are currently working on a Toronto Regional Electricity Supply Plan, which will examine all the options to meet the city’s electricity needs, including energy conservation and distributed generation. This creates the opportunity to develop a smart plan to lower our energy bills and move Toronto to a clean, green and reliable energy future.

About ENVIRONMENTAL DEFENCE (www.environmentaldefence.ca): Environmental Defence is Canada's most effective environmental action organization. We challenge, and inspire change in government, business and people to ensure a greener, healthier and prosperous life for all.

About TORONTO ENVIRONMENTAL ALLIANCE (www.torontoenvironment.org): Since 1988, the Toronto Environmental Alliance has campaigned locally to find solutions that build a greener city for all.

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For more information, or to arrange interviews, please contact:
Naomi Carniol, Environmental Defence, (416) 323-9521 ext. 258; (416) 570-2878 (cell)
ncarniol@environmentaldefence.ca

Campaign:

Clean Energy

Good Green Jobs

Topics: Press Release

No comments have been posted to the blog

Business

Toronto Hydro makes pitch for \$272 million transformer project

Critics push for local generating, conservation.

By: John Spears Business reporter, Business Reporter, Published on Tue Feb 19 2013

A \$272 million transformer project is needed in downtown Toronto to forestall the possibility of a months-long outage that would “impair the image of Toronto as a leading urban centre,” says Toronto Hydro.

But skeptics at an Ontario Energy Board hearing that opened Tuesday are questioning whether the company has justified the need for the expensive project. The hearing continues Wednesday.

Toronto Hydro says a new \$195 million transformer station is needed on Bremner Blvd., near the Rogers Centre, to serve both immediate needs and allow for growth in the city core. An additional \$77 million would need to be spent by 2030 to support the new station.

The energy board must approve the project before Toronto Hydro can build it and recover the cost from its customers through their electricity bills.

Toronto Hydro officials say that they need to start work immediately, because its aging Windsor transformer and switching station in the same area, built in 1950, badly needs an overhaul.

But right now there’s nothing to replace the Windsor station when it undergoes its lengthy overhaul. And there’s nothing to back up the Windsor station — which hydro officials say supplies power to nine of the 10 biggest buildings in the city core — if it suffers a big failure.

“Bremner is a core component of our plan to address aging critical infrastructure,” said Toronto Hydro’s Tom Odell.

A consultant’s report filed with the board says repairs of a major failure at the Windsor station could take months. “The time for removal, transport and reconnection of an extremely large and heavy transformer would be up to 90 days or longer,” says the report from Navigant Consulting.

A new transformer station would also allow Toronto Hydro to shift power between the east and west ends of the city, Toronto Hydro officials told the board. That would increase reliability for everyone.

In the meantime, growth in the downtown core, and the demand for new building connections, is growing relentlessly, Toronto Hydro’s Jack Simpson told the board. “There are approximately 189 towers under construction across Toronto currently, and that outpaces Manhattan two to one,” Simpson said.

Looking at the immediate downtown requirements and the long-term growth pattern, “Bremner is

needed and it is the only option that makes sense,” he said.

Environmental Defence is questioning whether Toronto Hydro and the OPA have considered whether conservation programs and new clean generating stations inside the city could meet the downtown needs at a lower cost than the new transformer station.

Jack Gibbons, who is working with Environmental Defence, said in an interview that there’s “huge potential” for curbing demand and for adding local generation — if only the OPA will provide funding.

He noted that OPA officials had told the hearing that they would consider funding cost-effective measures.

Gibbons acknowledged that the equipment at the Windsor station must be replaced, and there’s currently no back-up supply to allow the work to proceed.

But he said back-up lines can be installed to other downtown transformer stations at a cost of about \$22 million.

“They’re picking the option that is the most expensive,” he said.

He said there’s a financial incentive to do that: if Toronto Hydro spends \$272 million, it will be allowed to earn a return of \$9.8 million annually on the investment.

The Building Owners and Managers Association of Toronto is also asking questions of Toronto Hydro’s proposals.

The association realizes that a downtown power supply is essential, said Marion Fraser, a consultant working for BOMA and a former key energy advisor to the provincial Liberal government.

She said BOMA’s members aren’t satisfied to date that a sufficiently rigorous analysis has been done.

Building managers could offer much good advice in energy conservation, she said, if only they were asked.

“They would discover all sorts of additional things,” Fraser said in an interview. “Fifty per cent of the savings are in operations, and none of the OPA programs deal much with operations.”

Power up or pay, warns T.O. Hydro; Blackouts a real danger if downtown station not built

Toronto Star
Fri Jan 4 2013
Page: A1
Section: News
Byline: John Spears **Toronto Star**

An equipment failure at a key hydro station in the city core could cut power in Toronto's financial district for "days, possibly weeks," Toronto Hydro says.

That's why it needs to spend \$195 million to build the new Bremner transformer station near the Rogers Centre, the company argues in filings to the Ontario Energy Board.

But critics say there's a better solution that includes curbing power consumption in the city core, along with constructing small, efficient power stations producing electricity right where it's needed.

The Ontario Energy Board will listen to the arguments in the coming weeks, though no date has yet been set.

Toronto Hydro's warning is stark in its application for approval of the Bremner project:

"The potential consequences of inaction, deferral or embarking on an alternative include increased risk of sustained power outages to the downtown core, directly impacting key customers such as the financial district, Union Station, the CBC, Rogers Centre and the Metro Toronto Convention Centre."

"Sustained" outages, Toronto Hydro warns, would be more than inconvenient.

The new station would provide backup for the existing Windsor transformer station in the city core, whose equipment is obsolete. At present, there's no way to take the station out of service to modernize its gear.

"Equipment failure at Windsor TS is considered one of (Toronto Hydro's) highest risk events due to both the state of equipment and the critical loads it supplies," the company warns.

"There is no alternate supply to customers should a switchgear fail, and restoration time would be measured in days, possibly weeks, depending on the failure scenario."

Toronto Hydro has been saying for several years that it needs to spend heavily to replace aging equipment. Customers ultimately pay for the spending through higher rates, but the spending must be approved by the energy board.

The proposed new station would be able to backstop the Windsor station so it could be re-equipped.

The new transformer station is also needed to feed power to the new condos and offices sprouting downtown, Toronto Hydro says.

While the transformer station itself will cost \$195 million over the next three years, a consultant hired by Toronto Hydro estimates an additional \$77 million would have to be spent over the ensuing 15 years to accommodate growth in demand, for a total of \$272 million.

That's too much money, and it doesn't address the heart of the issue, according to Jack Gibbons.

Gibbons heads the Ontario Clean Air Alliance and also acts as an adviser for Environmental Defence, which filed a formal brief to the energy board written by consultant H.R. Bach.

Gibbons challenges the assumption that demand must continue to grow in the core, arguing that conservation programs could easily flatten the growth in demand.

In New York, he notes, electricity consumption per person is 56 per cent lower than Toronto.

Current provincial programs, he said, don't do enough to encourage conservation.

Toronto also has an untapped capacity to generate power within its own borders, Gibbons argues.

Downtown rooftops are ideal sites for solar panels, which produce maximum power as demand peaks on hot summer afternoons he says.

He also notes that Enwave, which pumps cold lake water to downtown buildings for summer cooling, is looking to expand, which would further curb demand for electrically driven air conditioning.

There's also room for small-scale generators fired by natural gas that can produce both heat and power - one already operates in the Sen. David Croll Apartments, another at U of T.

Other projects have been proposed. Northland Power, for example, has suggested a facility at the Redpath Sugar refinery that would generate power for the grid, and steam for the refinery.

Gibbons estimates 1,200 megawatts could be produced - a significant share of the city's overall peak demand of about 5,000 megawatts.

That locally produced power could flow directly into the grid, without the need of the new transformer station, which funnels power into the local system from Hydro One's high-voltage lines.

Spending hundreds of millions on the new transformer station "just makes no sense," he said in an interview.

"It's Toronto Hydro pursuing a very conventional, 1950s electrical utilities solution."

Bach's report for Environmental Defence agrees in broad measure with Gibbons.

He says measures are available to cut the demand for power "well beyond the modest forecast" by Toronto Hydro.

Gibbons wouldn't put a cost on his array of alternatives, but said it would be far cheaper than the Bremner transformer station.

Toronto Hydro officials wouldn't be interviewed because the issue is heading to the energy board.

But the company filed a report by Navigant Consulting that was dubious that enough local power plants would ever be built to meet the demand. There is "considerable uncertainty" that enough local generators would be installed to back up the Windsor station, or to meet demand, Navigant wrote.

VIDEOPLUS TRANSCRIPTION SERVICES

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1 **Subject:** **Newstalk 1010 CFRB Radio Interview**
2 **Date:** **January 4, 2013**
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6 **00:00:00** **Track "Newstalk 1010 CFRB Jan 4 2013 FF2" starts.**

7 JOHN DOWNS: All right, let's get into this. Is it a threat? Is it a
8 premonition? Is it reality? An equipment failure at a key
9 hydro station in the city core could cut power in Toronto's
10 financial district for days, possibly weeks, according to
11 Toronto Hydro. That's why it needs to spend \$195 million
12 to build the new Bremner Transformer Station near the
13 Rogers Centre, the company argues in filing with the
14 Ontario Energy Board, the OEB. That's what I was
15 talking about. But critics say there's a better solution that
16 includes curbing power consumption in the city core,
17 along with constructing small, efficient power stations
18 producing electricity right where it's needed. Now, the
19 OEB will listen to the arguments in the coming week.
20 Toronto Hydro's warning is stark in its application for
21 approval of the project. Quote, this is scary, listener
22 discretion is advised. The potential consequences of an
23 action, deferral, or embarking on an alternative include,
24 increased risk of sustained power outages in the
25 downtown core. Went through that one. Directly
26 impacting key customers, such as the financial district,
27 housing the Toronto Stock Exchange, and the
28 headquarters of at least four of Canada's leading bank
29 institutions, Union Station, the Canadian Broadcast
30 Company, and in parenthesis beside that they say, CBC.

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1 Really? Is that what it stands for? Rogers Centre, and
2 the Metro Toronto Convention Centre. Sustained
3 outages Toronto Hydro warns would be more than
4 inconvenient. Well, see, this is what I'm a little concerned
5 about. They talk about how the proposed new station
6 would be able to backstop the Windsor station so it could
7 be re-equipped. The transformer itself is going to cost
8 \$195 million over the next three years, and a consultant
9 hired by Toronto Hydro estimates an additional 77 million
10 would have to be spent over the ensuing 15 years to
11 accommodate growth in demand. That's a total of over a
12 quarter of a billion dollars. In a couple minutes we're
13 going to talk to someone who says, that's too much
14 money, and that doesn't address the heart of the issue.
15 Wow. This is kind of disconcerting for two reasons. One
16 is that, what Toronto Hydro is actually saying is true, and
17 that could be frightening. And under some
18 circumstances, it kind of makes sense. You think about
19 it, there are not just tons of residential buildings going up
20 in the downtown core, but we've had a lot more
21 commercial, as well. And I'll be honest, I've been
22 thinking, can our sewer pipes handle all that? And what
23 about our electricity supply? Could we actually supply all
24 these new buildings the demand that will come from the
25 grid? The other option here is, maybe Toronto Hydro is
26 painting a stark picture, and it does sound stark, doesn't
27 it? Look, I'll read this part again, and imagine the sky is
28 black because it's dark out, there's no light, lightening,
29 and maybe some kind of dark, classical music. What's

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1 that one from Fantasia? Mussorgsky's something or
2 other. It's scary, it's really scary. Toronto Hydro's been
3 saying for several years that it needs to spend heavily to
4 replace aging equipment. Customers, ultimately, pay for
5 the spending through their higher rates-, oh, there it is,
6 look at that. I found it. Customers, ultimately, pay for
7 spending through their higher rates, but the spending
8 must be approved by the Energy Board. Wow, that's it.
9 That's it. That's okay, though. So look at it this way.
10 They'll increase your power rates, no big deal. Or we'll be
11 plunged into darkness, it'll be chaos, I think zombies will
12 somehow play a role in this apocalyptic vision, four
13 horsemen? They may show up, I don't know. Although,
14 you think about it, the mounted unit for Toronto Police,
15 the exhibition, that might be within the grid. They have
16 the horses. When we come back, we're going to talk to
17 someone who says, guffaw. I'm sure he's much more
18 articulate than that, but we'll explain when we return. I'm
19 John Downs, you're listening to Friendly Fire live, on In-
20 Depth radio, Newstalk 1010.

21 ***(Traffic and advertising segment.)***

22 JOHN DOWNS: Welcome back to Friendly Fire, I'm John Downs. Ryan
23 Doyle is on vacation. The potential consequences for
24 inaction, deferral, or embarking on alternatives include
25 increased risk of sustained power outages to the
26 downtown core, directly impacting key customers, such
27 as the financial district, housing the TSX, headquarters of
28 at least four of Canada's leading bank institutions, Union
29 Station, the CBC-, no, not the CBC. How will Peter

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1 Mansbridge read the news by candlelight? Well, that's
2 the warning from Toronto Hydro, telling the Ontario
3 Energy Board that, look, it's in total about a quarter of a
4 billion dollars worth of work, but we have to do it,
5 otherwise, it will be chaos. But it doesn't have to be
6 chaos, according to Jack Gibbons, who is head of the
7 Ontario Clean Air Alliance, Jack, thank you very much for
8 joining us tonight.

9 JACK GIBBONS: My pleasure.

10 JOHN DOWNS: It's a scary picture. Could you please help settle our
11 listeners down?

12 JACK GIBBONS: Yes. Toronto Hydro wants to build a new transformer
13 station near the CN Tower, it would cost a quarter of a
14 billion dollars, and they're proposing to build it to meet the
15 spikes in the demand for electricity that occur on about a
16 dozen hot summer days, when our air conditioners in our
17 downtown condos and office towers are going full-out.

18 JOHN DOWNS: Now, do they paint an accurate picture here, or are they,
19 maybe, being a little flowery with their language?

20 JACK GIBBONS: Well, definitely being flowery, painting a grim picture. But
21 the good news story is, there's a much lower cost way to
22 keep our air conditioners on, than building a quarter of a
23 billion dollar transformer station. It's doing things like
24 energy conservation.

25 JOHN DOWNS: Oh, wait a second, are you going to tell me that I have to
26 put my A/C up to 24 or 25 in the summer? Because I
27 really don't want to do that.

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1 JACK GIBBONS: Absolutely not, I'm telling you, you should have a more
2 energy efficient air conditioner, so you can still have the
3 same level of comfort, but don't consumer as much
4 electricity.

5 JOHN DOWNS: Okay, but doesn't the population, don't consumers of that
6 energy, have to agree to that?

7 JACK GIBBONS: Well, it's in everyone's self interest, because it will lead to
8 lower energy bills.

9 JOHN DOWNS: Okay, but if that doesn't happen, if the public doesn't
10 come together and take these measures, then isn't the
11 only other option to allow this to go forward?

12 JACK GIBBONS: Well, no, Toronto Hydro can provide financial incentives
13 to reward people for making energy efficiency
14 investments that are good for them, and good for all of us,
15 and avoid the need for the transformer station, and they
16 can also invest in new forms of supply. Lots of the
17 downtown office towers are cooled by the deep lake
18 water cooling system, that takes cold water from under
19 Lake Ontario, and uses that to cool our buildings. That's
20 a lower cost option, it's 100 percent renewable, it's
21 cleaner.

22 JOHN DOWNS: Now, I've got to ask, though, Jack, I don't want to sound
23 cynical here, but if I'm Toronto Hydro and I'm in the
24 business of selling electricity, don't I want to create as
25 much electricity as possible so I could sell as much
26 electricity as possible? It wouldn't be in my best interest
27 for people to be conserving.

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1 JACK GIBBONS: Well, that's absolutely right. That's the unfortunate thing.
2 The Ontario Energy Board established conservation
3 targets for Toronto Hydro, but then the Ontario Power
4 Authority, which is another agency of the government of
5 Ontario...

6 **00:09:59** Track "Newstalk 1010 CFRB Jan 4 2013 FF2" ends.

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8 **00:00:00** Track "Newstalk 1010 CFRB Jan 4 2013" starts.

9 JACK GIBBONS: ...offering Toronto Hydro an \$8.5 million profit bonus if
10 they under spend their conservation budget. So
11 unfortunately, the promotion of energy conservation is not
12 a profitable course of action for Toronto Hydro, they want
13 to sell more electricity to make more money. But that
14 doesn't make sense, because again, energy conservation
15 is the best way to reduce our bills, and to keep the lights
16 on and the air conditioners on in downtown Toronto.

17 JOHN DOWNS: Don't we have a bit of a conflict there if we are relying on
18 a business that is in the business of getting us to use as
19 much electricity as possible, when they're making an
20 argument trying to allow the government to allow them to
21 increase their production?

22 JACK GIBBONS: Well, yes, unfortunately, there is this conflict of interest
23 between what's in the interest of Toronto Hydro, in terms
24 of making a profit, and what's good for their customers.
25 And so what we need to do is, we need to change the
26 rules of the game, the Ontario Energy Board and the
27 Ontario Power Authority must make the promotion of
28 energy conservation the most profitable course of action

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1 for Toronto Hydro, so they will actually promote what's
2 best for their customers.

3 JOHN DOWNS: All right, so is the reality, maybe, in between the two the
4 fact that, with conservation along with increased capacity,
5 to a degree, because we do have that many more
6 customers, there is going to have to be some kind of
7 increase in capacity, but not necessarily what we're being
8 told by Toronto Hydro?

9 JACK GIBBONS: No, we can definitely reduce our total electricity
10 consumption in Toronto.

11 JOHN DOWNS: Enough to supply all the new people getting onto the
12 grid?

13 JACK GIBBONS: Yes, because Toronto's electricity consumption per
14 person is 56 percent higher than that of New York City.
15 We've got a huge untapped energy efficiency potential,
16 and we need to really fully tap that huge gold mine of
17 energy efficiency, and we also need to bring on new local
18 supplies, like cold water from Lake Ontario. Solar
19 Photovoltaic, located in downtown Toronto.

20 JOHN DOWNS: Solar? You saw the sunset at like 4:26 today.

21 JACK GIBBONS: Yes, but what Toronto Hydro is building this transformer
22 station for is to meet the peaks in demand that occur on
23 hot summer afternoons between 3:00 and 5:00 p.m., and
24 that's when the solar in the summer produces a maximum
25 output. This is something where solar is the best supply
26 solution for.

27 JOHN DOWNS: Excellent. Well, Jack, thank you very much for your
28 perspective on this one.

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1 JACK GIBBONS: Thank you, John.

2 JOHN DOWNS: Jack Gibbons is head of the Ontario Clean Air Alliance.
3 Do you really trust a company that's in the business of
4 selling something to conserve, or encourage you to
5 conserve that product? Because I don't. Star Talk, star
6 8255, you can text us at 71010, I'm John Downs, you're
7 listening to Friendly Fire live on In-Depth Radio Newstalk
8 1010.

9 *(Advertising segment.)*

10 JOHN DOWNS: Welcome back to the program, I'm John Downs, Ryan
11 Doyle is barbequing somewhere south of the border right
12 now, entitled to do that the next few days. Glad you could
13 be with us, if you want to be part of the show, give us a
14 call, Star Talk, star 8255, you can text us 71010, or email
15 Friendly Fire at Astral dot com. Downtown Toronto could
16 face a major blackout without a new transformer station.
17 Toronto Hydro says, yes, it will cost about a quarter of a
18 billion dollars, but did you see all those new condos
19 popping up? We have to do it to meet capacity. Well, our
20 last guest, Jack Gibbons, who is with the Ontario Clean
21 Air Alliance says, well, actually, there are ways that that
22 demand, that peak demand in the summer could be met
23 where you don't have to create, or upgrade that Bremner
24 Boulevard transformer station. I've got an interesting text
25 message here that I've got to look into, but it says
26 something about Jack's organization. I don't want to say
27 anything until I confirmed it, but let's take some calls.
28 Star Talk, star 8255. George?

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1 the money for the infrastructure, including sewers and
2 everything else, to catch up to our development. Unless
3 we stop our development for the next five years.

4 JOHN DOWNS:

5 Yeah, that's true, and George, I appreciate it. You make
6 a good point, because keep in mind, that every time a
7 condo goes up, the City of Toronto makes a lot of
8 money. Because you know who lives in those condos?
9 Taxpayers. I just wonder whether or not the tax revenue
10 generated from the people who now live in those condos
11 is adequately going to pay for the infrastructure needs to
12 accommodate those people. And a lot of us who already
13 live in the city. Ultimately, when it comes down to it, I'm
14 really just worried about the sewers backing up, quite
15 frankly. We'll come back, I'm going to look into that
16 allegation about the Ontario Clean Air Alliance. I'll check
17 it out, but I'll explain that when we come back. As well,
18 we're going to talk about drug testing, maybe in your line
19 of work. I'm John Downs, you're listening to Friendly Fire,
live on In-Depth Radio, Newstalk 1010.

20 **00:09:59**

Track "Newstalk 1010 CFRB Jan 4 2013" ends.

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2 Typed & Proofed by: L. Brown

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