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of Ottawa-Carleton
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Service du contentieux

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27 January 1986

Hydro Consumers Association,
Canadian Environmental Law Association,
243 Queen Street W.,
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Attention: Steven Shrybman, Counsel

Re: Ontario Hydro Eastern Ontario
Transmission System Expansion

Enclosed is a copy of the Regional Municipality
of Ottawa-Carleton's Reply in the above matter.

Yours truly,

Ernest L. McArthur
Assistant Solicitor

EM/hm

IN THE MATTER OF Section 2 and 3 of
the Consolidated Hearings Act, 1981
(S.O. 1981, c. 20)

IN THE MATTER OF Section 12(2) and (3)
of the Environmental Assessment Act
(R.S.O. 1980, c. 140)

IN THE MATTER OF Sections 6, 7 and 8
of the Expropriations Act (R.S.O.
1980, c. 148)

IN THE MATTER OF an undertaking of Ontario
Hydro consisting of the planning of,
selection of locations for, acquisition of
property rights for, and the design,
construction, operation and maintenance
of additional bulk electricity system
facilities in Eastern Ontario consisting of
switching and transformer stations,
communications and control facilities,
transmission lines and related facilities

REPLY OF THE REGIONAL MUNICIPALITY OF OTTAWA-CARLETON TO
PETITIONS FILED WITH THE HONOURABLE LIEUTENANT GOVERNOR IN
COUNCIL

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PART I: BACKGROUND

POSITION TAKEN BY THE REGIONAL MUNICIPALITY OF OTTAWA-CARLETON

1. The Regional Municipality of Ottawa-Carleton (hereinafter referred to as "The Region") has appeared as a party to the hearings before the Consolidated Joint Board both at the Plan stage and the Route stage and has always taken the position in its evidence that there is an urgent need for extra transmission facilities between Kingston and the Ottawa area in order to ensure the increased supply of a reliable source of power for the Ottawa area.

Appendix "A" to Petition of the Hydro Consumers Association - Reasons for Decision: Route Stage (West Section) Sept. 30, 1985 @ p. 15

DECISION OF THE JOINT BOARD

2. In its decision dated November 4th, 1985 the Joint Board established a route between Kingston and Ottawa and in its Reasons for Decision expressed its finding that there is a need for the undertaking as proposed by Ontario Hydro, and that there are no acceptable alternatives to the installation of bulk transmission facilities between Kingston and Ottawa.

Appendix "A" to Petition of the Hydro Consumers Association - Reasons for Decision: Route Stage (West Section) Sept. 30, 1985 @ pp. 1, 2 and 3

POSITION TAKEN BY THE REGION SUBSEQUENT TO THE JOINT BOARD DECISION:

3. While maintaining its position that there is an urgent need for an increased supply of power to the Ottawa area, on November 27, 1985 the Regional Council adopted the following Resolution:

"RESOLVED THAT WHEREAS a joint board decision has been made to run twin 500 KVA lines through the existing Bridlewood Hydro Corridor;

AND WHEREAS Ontario Hydro has previously rejected this location because of the narrowness of the corridor;

AND WHEREAS the safety and health impacts of utilizing this corridor have not been evaluated;

THEREFORE BE IT RESOLVED that the Council of the Regional Municipality of Ottawa-Carleton request Ontario Hydro and the Ontario Cabinet not to proceed to use this corridor unless studies are carried out to show that there will be no significant safety problems or significant health problems for adjacent residents."

PART II: REPLY

REPLY TO THE HYDRO CONSUMERS ASSOCIATION

4. The Hydro Consumers Association's first concern is about the need for, and alternatives to, Ontario Hydro's undertaking.

Para. 5 Hydro Consumers Association Petition

5. With respect to the question of "need", it is the Region's submission that this was adequately addressed and investigated by the Joint Board. Evidence was given not only on behalf of Ontario Hydro but by witnesses on behalf of the Region, Ottawa Hydro, Nepean Hydro, Gloucester Hydro and the Ottawa-Carleton Board of Trade, all of whom have direct knowledge and expertise on the question of Ottawa's need for an increased supply of power. Obviously, this evidence was accepted by the Joint Board.

6. The Hydro Consumers Association's second concern is about the participatory rights accorded those with an interest in the undertaking. It alleges an inability to fund an effective opposition to the evidence given on behalf of Ontario Hydro, and

requests a new hearing on the ground that the Joint Board consistently refused to provide that funding, either through its own resources or those of one or more of the other parties to the proceedings.

Para. 5 Hydro Consumers Association Petition

Para. 6 - 19, Hydro Consumers Association Petition

7. The Region submits that the Joint Board properly rejected the Hydro Consumers Association's applications for costs in advance. There is no precedent for so doing. In fact, the Divisional Court has recently ruled specifically in similar circumstances that neither the Consolidated Joint Board nor the Ontario Energy Board, without specific legislative authority, has authority to provide funding in advance of a hearing under the guise of awarding "costs".

Re Regional Municipality of Hamilton-Wentworth and Hamilton-Wentworth Save the Valley Committee (1985) 51 O.R. (2d) 23.

Re Ontario Energy Board (1985) 51 O.R. (2d) 333

8. The Hydro Consumers Association asks that the Lieutenant Governor in Council remit the undertaking for a new hearing before a different Joint Board with respect to the matter of need in order that independent evidence can be heard, presumably this time with adequate funding for interest groups.

Para. 29 Hydro Consumers Association Petition

9. It is submitted with respect that grounds have not been made for a re-hearing and further, that any further delay in the undertaking is contrary to the now well established needs and interests of the majority of people in the Ottawa area.

REPLY TO PETITIONS IN GENERAL

10. The substance of the remaining petitions is either that there is no "need" for extra power, or that the wrong route was chosen by the Joint Board. In essence they request further hearings. The Consolidated Hearing Act does not anticipate more than one hearing by the Joint Board. While the Act does provide for an application to the Lieutenant Governor in Council, it is respectfully submitted that such applications should only be considered where a denial of natural justice or lack of jurisdiction is alleged, or where entirely new matters or evidence are raised. It is submitted that the Petitions are not based on allegations of natural justice denied, lack of jurisdiction, or new evidence, and that accordingly they should not be considered by the Lieutenant Governor in Council, nor do they provide grounds for new Joint Board hearings.

11. In the alternative, if any one or more of the Petitions do raise new matters then it is submitted that they are matters which could have been raised at the appropriate time which was at the Joint Board hearings.

12. It is submitted by the Region that all Petitioners were provided by the Joint Board with ample opportunity to give evidence, and to cross-examine on, those matters which are the subject of their Petitions, and that a fair hearing was given to all.

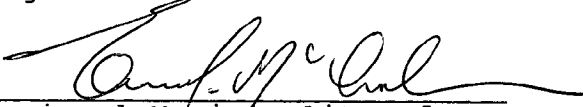
13. It is further submitted that the Joint Board heard sufficient evidence throughout the extensive hearings to enable it to make a proper decision on the questions of need and route selection.

PART II RELIEF REQUESTED

14. For the reasons stated in the preceding paragraphs the Region requests respectfully that the decision of the Consolidated Joint Board dated November 4th, 1985 be approved so that the undertaking as proposed by Ontario Hydro may proceed as expeditiously as is possible.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 15th day of January, 1986.

J. Douglas Cameron, Q.C.
Regional Solicitor



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