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Chair

Ontario Energy Board

**SPEECH**

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Check Against Delivery

It is a great pleasure to speak again at the APPrO conference – one of the most significant energy events of the year. You have chosen a most appropriate theme “Critical Connections”.

This theme lies really at the heart of where we find ourselves right now. We all know that Ontario needs new investment in infrastructure. There is no silver bullet. The path to its development has a lot of moving parts. The Ontario Power Authority (OPA) has the critical role of trying to put all these pieces together.

Now, it is clear as to what the OPA’s role is, and as some of you know, I have spoken in the past about the role that the OEB plays in facilitating infrastructure development in Ontario.

I would like to focus on three things:

- The OEB’s role with respect to our review of the Integrated Power System Plan – the IPSP,
- The proposed legislative amendments that are relevant to infrastructure development, and lastly;
- The Natural Gas Electricity Interface Review or NGEIR decision which was issued last week.

First, the IPSP. The plan is a completely new responsibility – new for the OPA, which must prepare the 20-year IPSP, and new for the OEB which is required by statute to review and approve it.

Let me tell you why I believe the OEB review of the IPSP is significant.

In late 2002, a real crisis of confidence developed in the electricity sector in Ontario. I am not speaking of market opening but rather the impact of the price freeze in November 2002 and the legacy of huge cost overruns and delays associated with several nuclear projects.

Looking back, the province had about 20 billion dollars in stranded debt. With market opening, there was the expectation that decontrol would occur, along with privatization of Hydro One and planning and investments by private investors.

Under that model there might have been a more limited role for the OEB by comparison to the one that exists presently. Without rewriting history, that did not occur.

But planning has to take place. Generation is needed. Transmission is needed. Conservation is needed. It was decided to create centralized planning and the OPA has made considerable progress here, as you can see by the various

discussion papers it has issued in recent weeks. I will discuss some of the OEB's progress momentarily.

But generally, *The Electricity Restructuring Act* of 2004 made it clear that the Board's focus in the electricity sector was the protection of consumer interests and the promotion of economic efficiency and cost effectiveness.

This supports my belief that the work of the OPA, as well as fair, transparent and proportional regulation by the OEB, will enhance confidence in the electricity sector and avoid the pitfalls of the past. This belief is further supported by the OEB's role with respect to the setting of payments for the output of some of OPG's facilities as well as our role in setting electricity prices for residential, low-volume and designated consumers.

So, returning to the IPSP, what have we done to date? As part of our belief in better regulation OEB Staff issued a Discussion Paper in early September. It outlines proposed principles and filing guidelines to guide the review of the IPSP and of the OPA's procurement processes. Remember this document is not intended to confine the OEB's discretion, but rather to structure the exercise of that discretion.

It is clear that the Minister has discharged his responsibility by determining as a matter of government policy the future electricity supply mix for Ontario. The OPA has direct responsibility for the plan which must accommodate the supply mix. This sets the framework for our review of the plan.

The government described the intended responsibility of the OEB regarding its review of the IPSP. Upon third reading of the legislation in 2004, it was stated:

"The OEB would review the plan using its normal public hearings process, which would provide intervenors an opportunity to comment on the plan as proposed by the OPA, and ensure full public transparency about the future of the sector. The OEB would focus on three requirements: first, that the plan as proposed by the OPA would fulfill the Minister's Directives, second that it fulfill those Directives in an efficient and economically prudent manner, and third, consistent with its statutory mandate, that consumer interests are protected in the plan."

So this is the government's policy and the Board has the statutory responsibility to review the plan – not the directive, but the plan.

Among the questions we will need to consider:

- What are the costs of the plan?

- Looking at the plan over the next 20 years, what is the impact for electricity consumers?
- Is it a cost-effective way to achieve reliability within the terms of the Minister's directive?
- Will the plan achieve the government's long-term goals?
- What are the environmental impacts of individual projects?

In this regard we will be looking at the plan's assumptions in a number of areas, from the amount and cost of investments in transmission, to the timetable for the phase-out of coal to the balance between conservation, renewables and other forms of new generation.

You may have heard me in the past describe why I think guidelines are important tools of better regulation. Better regulation is more than a bunch of rules or principles. It is about our mindset, professionalism and how we approach what we do.

Guidelines are transparent and promote policy coherence while recognizing the need to maintain some degree of flexibility to address unique circumstances or unanticipated issues. They are not fact specific and represent the collective experience and expertise of the OEB. The OPA and stakeholders should know our thinking on such complex matters as economic prudence and cost effectiveness.

On economic prudence, by way of example, my discussions with staff suggest that, at a minimum, this relates to a sense of resilience in terms of the plan's ability to respond to changes in circumstances without major cost implications.

As for cost effectiveness – my discussions with staff suggest that a plan may be cost effective even if it is not the one that has the lower cost. This is likely because the plan has to achieve a number of different goals, and trade-offs will have to be made.

The Discussion Paper also notes that the Board's role in relation to the IPSP does not end when the plan is approved. The OEB Act requires the Board to facilitate the implementation of the approved plan when we perform our responsibilities.

One way this can be achieved is through streamlining of regulatory approvals. The IPSP creates an opportunity for regulatory streamlining of the Board's processes for the approval of transmission projects. Traditionally, these include a review of transmission investment costs (as part of a transmitter's capital budget in a rates proceeding) and the Board's approval of applications for leave to construct transmission facilities.

To the extent that the need for, and costs associated with, a near-term transmission project are assessed by the Board in the context of the IPSP, those issues will not be revisited in subsequent proceedings except in relation to any material deviations.

To achieve this streamlining, close co-operation will be required between transmitters – who have developed the detail regarding project costs that the Board will ultimately require – and the OPA. If the OPA is not able to supply that detail at the plan level, the information will need to be supplied by the individual transmitter at either a rates case or leave to construct hearing.

We received 14 submissions on the staff discussion paper. Frankly I was pleased that the guidelines were generally well received. One stakeholder called it “an exceptional analysis of the issues”.

Of course, most of the stakeholders, including the OPA, responded with constructive suggestions for improvements. A number of these focused on environmental issues, which are some of the most challenging aspects of the plan review for the Board.

The OEB review will have to determine whether the OPA has appropriately considered “environmental sustainability” in the development of the plan. To do that, we need to define what we mean by environmental sustainability.

Our approach was criticized by some as too weak. It has been suggested by some stakeholders that to be environmentally sustainable, development must meet the needs of the present without compromising the ability of future generations to meet these needs.

The area of environmental externalities also drew a lot of comment. To what extent and how should the environmental costs and benefits be included? While in the past the Board acknowledged the importance of environmental costs as legitimate, it has not been its practice to monetize these costs. We will seek further comment from stakeholders as to how these costs should be treated.

The Board has considered all feedback. We expect to issue Board sanctioned principles and filing guidelines later this week or early next week for further comment. We will finalize the filing guidelines and principles in December.

The government has also taken some steps recently with regard to infrastructure development. One proposed amendment to the OEB Act would confirm that all orders of the Board – including leave to construct – are operative when they are made. In other words, an appeal does not result in an automatic stay of an

order. However, the Board and the Divisional Court can decide that it is appropriate to stay an order in the event of an appeal.

Another amendment addresses the ability of proponents of electricity infrastructure projects to gain access to land in order to do preparatory work for these projects.

The OEB Act currently allows proponents entry on a proposed work site in order to conduct surveys and examinations in preparation of the work if they have leave from the Board to construct natural gas or electricity transmission facilities.

The proposed amendments would expand this to enable proponents exempted by the Board from obtaining leave and those who are required by the Board to expand or reinforce a transmission or distribution system to enter onto the land to conduct the necessary preparatory work.

The amendments would also give the Board the power to issue interim orders authorizing proponents to enter onto land to conduct the necessary preparatory work while their application for leave or for an exemption is being determined or while the Board is conducting a proceeding to determine whether to require the proponent to expand or reinforce a transmission or distribution system.

As you also know, the government's electricity supply mix calls for a certain capacity of gas-fired generation for the province.

I would like to say a few words about the Board's NGEIR decision which was released last week. I won't discuss the Panel's decision at this time.

Some of you may recall that, as part of a better regulation goal, one of my earliest initiatives when I became Chair was to identify the priority regulatory issues for the natural gas and electricity sectors.

I wrote to stakeholders in November 2003 asking them to identify what issues were the most important to them. The generators responded loud and clear. They said there was a need to coordinate natural gas services and infrastructure requirements for gas-fired generators in Ontario.

Stakeholder consultations continued in 2004 through what became the Natural Gas Forum. APPrO recommended that the Board consider "the addition of an optional new large rate class that would be more suited to the unique profile of gas-fired electricity generation."

And in March 2005, after approximately eleven distinct consultations, the Board, in the Natural Gas Forum Report, recognized that the need for unique infrastructure and services for gas-fired generators required action.

In that report, the Board also observed that individual rate cases are inadequate to deal with the policy issues raised in this area.

Recall what happened in New England in 2004. During several days of bitterly cold temperatures, New England's electricity system became much more difficult to forecast and operate because of the increased uncertainty about the supply of natural gas. FERC has recently launched an inquiry into gas-electric coordination issues.

If we were going to avoid the kinds of problems experienced in New England, we needed to ensure adequate gas transportation capacity, appropriate storage arrangements and effective coordination between the gas and electricity sectors.

So, following the Natural Gas Forum, the Board directed a further consultation and hearing process to ensure that it dealt with these issues in a hearing context.

This is what animated the Board Staff NGEIR Report, which made recommendations on the issues that the Board might consider.

After hearing further submissions, with no predetermined outcome, the Board identified the issues that it determined required a hearing. It is worth keeping in mind that this hearing was designed to address complex issues of a generic nature. This lies at the heart of our role as a specialized tribunal whose focus is the public interest. And in performing that role in this case, we are not like a court adjudicating on a private dispute between two parties. The Board strives to use the best tool for the task at hand. Some might think that is too proactive, but I consider it just "doing our job".

There was also an ADR process which led to a significant settlement on many critical issues in advance of the hearing itself, including new high deliverability storage services for gas-fired generators, new distribution rates for high-volume gas customers, and more frequent nomination windows. The utilities, generators and other customers were able to come together on these issues, something that had eluded the sector for years. This is, in my view, an example of better regulation.

Of course, not all issues were resolved, particularly whether the storage assets used for high deliverability services would be at cost of service or market rates. That issue went to a hearing which had 20 active participants, seven days of technical conferences and 17 hearing days. The decision was issued last week.

To return to where I started, our province is moving on many fronts to develop the new electricity infrastructure that we all know is needed.

The OEB has already begun facilitating that through the NGEIR initiative and by framing its approach to the IPSP so that the OPA and other stakeholders can better prepare for our review.

As you know, the issues are complex and intervenors must be given the opportunity to participate. Transparency will build confidence in the future of the sector. The government expects the plan to be thoroughly scrutinized.

Let me quote once again from the third reading of Bill 100:

“Ultimately, the purpose of the OEB review is to ensure that the plan would be a reasonable course of action to fulfill the government’s intentions and ensure supply adequacy in the province.”

Thank you.