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October 2, 2006

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, Ontario  
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Dear Ms. Walli:

**Re: Board File No. EB-2006-0207  
Staff Discussion Paper on the Review of the Ontario Power Authority's Integrated  
Power System Plan and Procurement Processes**

The OPA appreciates the opportunity to review and comment on the Board's Discussion Paper on the Review of the Ontario Power Authority's Integrated Power System Plan and Procurement Processes (the "Discussion Paper").

The OPA supports the Board's desire to provide guidance on the approach to be used in reviewing the IPSP and the OPA's procurement processes and its expectations with respect to the evidence that the OPA will file in support of the plan and the procurement processes. The OPA and other stakeholders will be assisted by this guidance and believes that it is a useful tool to focus all parties on the key questions that must be considered in this upcoming proceeding.

The following are the OPA's comments on the Discussion Paper:

## **OPA's GENERAL COMMENTS ON DISCUSSION PAPER**

### **Board Mandate**

The OPA agrees with the three fundamental themes that have been articulated by Board Staff as underlying the statutory framework that governs the IPSP. The OPA is planning within the framework of the public policy direction that has been provided by the Supply Mix Directive and the "mandate of the Board does not extend to determining whether the goals expressed in IPSP Directives are appropriate, economically prudent or cost effective". This recognition must inform the Board's consideration of what evidence should be required to be filed.

The OPA wishes to emphasize the integrated and adaptive nature of the plan. The OPA, in carrying out its statutory role of developing the IPSP, must weigh, balance and make

necessary choices between various options. The plan is an intricate puzzle and pulling one piece of the puzzle out has repercussions for other aspects of the plan. That is why the mandate of the Board is to review the plan in its entirety and after reviewing it, approve the plan or refer it back with comments to the OPA (ss.25.30(5) of the *Electricity Act, 1998*). A Board order approving the plan would approve the plan in its entirety rather than approving its individual component parts. This recognition must inform the Board's review of the plan and its consideration of what evidence should be required to be filed.

The OPA understands that the breadth of the issues that could be explored in the IPSP proceeding are potentially vast. It is possible to spend several years in this proceeding studying every issue in great detail. However, a plan that is not approved in a timely fashion will fail to address Ontario's pressing electricity infrastructure needs and will not meet the Government's objectives. The Supply Mix Directive sets some goals that must be achieved by 2010. For these reasons, the proceeding must be manageable for the Board, intervenors and the OPA; the proceeding must focus on the forest and not the trees; and the proceeding must have an end point. This recognition must inform the Board's review of the plan and its consideration of what evidence should be required to be filed.

The OPA also notes the mandate of the Board with respect to the review of OPA procurement processes. The Board's mandate is to review procurement processes, not procurement contracts. The Legislature made a very clear decision that the terms and conditions of procurement contracts entered into by the OPA in accordance with Board approved procurement processes are best left to the OPA in carrying out its public interest mandate. This recognition must also inform the Board's review of the plan and its consideration of what evidence should be required to be filed.

The OPA wishes to first address three general concerns and then provide more detailed comments on specific aspects of the Discussion Paper.

### **Level of Detail**

The OPA agrees with the general premise in the Discussion Paper that more detail should be provided for the near term aspects of the plan than for the longer term aspects of the plan. The OPA also agrees that, where appropriate, the plan and the Board's review process should aim to facilitate regulatory streamlining. In establishing filing guidelines for the IPSP, the Board, however, must focus on what is reasonably necessary in order for it to review the plan and not require the OPA to file information that is more relevant to approval of a specific project rather than an integrated plan. The OPA's detailed comments will address several areas where, in the OPA's view, the information being requested is more than is reasonably necessary to review the plan.

### **Flexibility**

Ontario faces a very great challenge in meeting the goals that have been set out in the Supply Mix Directive. The IPSP and the procurement processes, once approved, are intended to enable the OPA to assist in meeting those goals. It is critical, however, that the plan and the procurement processes be sufficiently flexible and adaptable and not be a straitjacket. The OPA must be able to learn from its experience and be capable of responding and adapting quickly to changing circumstances. The IPSP and procurement processes should not be so prescriptive in setting the course that the OPA must follow as to

require the OPA to regularly have to return to the Board for amendments. This would seriously undermine the ability of the OPA to meet the Supply Mix Directive goals.

### **Process to Finalize Guidelines**

The Guidelines are uniquely important to the OPA in its role as proponent. As such, we are reserving our right to file reply responses to the material received by the OEB during this draft guideline review process.

## **OPA's DETAILED COMMENTS ON DISCUSSION PAPER**

### **PART ONE – THE IPSP**

#### **Part II – Principles Guiding Review and Implementation of the IPSP**

- *Part II, Section D, p. 6* - The requirement to compare alternative investments on a \$/kW or \$/kWh basis will not always be appropriate and could be misleading. For instance, a peaking resource will always appear expensive on a \$/kWh basis.
- *Part II, Section D, p. 7* - The last paragraph of Section D states that the Board will require an understanding of “the short and long-term financial impact of IPSP initiatives on electricity system costs and provincial electricity prices and rates”. The OPA has two comments on this requirement. First, the OPA intends to perform its economic analysis on a Resource Cost basis. This approach addresses economic fundamentals and takes a societal rather than an electricity sector perspective. This means for instance, that a resource would be assessed on its full cost, ignoring the fact that it may be cheaper from the perspective of an electricity ratepayer because of more advantageous tax treatment in comparison with another resource.

Second, while the OPA will address the cost implications of the IPSP, the OPA cannot forecast how these cost implications will translate into electricity rate and price impacts because these will largely be influenced by factors that are unknown to the OPA. Future prices and rates will be influenced not only by cost levels but by the regulatory framework, market dynamics and rate design. In particular, Ontario presently has a hybrid electricity market and the OPA does not know how that market will evolve.

- *Part II, Section E, p.7* – The OPA believes that the wording of this section should be adjusted to be more consistent with the language of the statute. Subsection 25.32(4) of the *Electricity Act, 1998* authorizes the Minister of Energy to give the OPA directives with respect to initiatives issued or pursued by the Crown “after January 1, 2004 and before the Board’s first approval of the OPA’s procurement process under subsection 25.31(4)”. This means that the OPA may receive additional directives after filing and during the course of the IPSP proceeding. The OPA also submits that the phrase “As a general rule” should be deleted from the beginning of this section. The costs under all contracts entered into as a result of a directive, including those directives issued after the IPSP is filed, are deemed to be approved by the Board and so, there is no circumstance where a project contracted for under a directive would be subject to review in the IPSP proceeding (ss.25.20(4), 25.32(4), (6) and (7) of the *Electricity Act, 1998*). The Board should also clarify that transmission projects that are the subject of a leave to construct application filed with the Board prior to the filing of the plan should also not be reviewed as part of the IPSP proceeding. These

projects cannot await the outcome of the IPSP proceeding and must be reviewed on a more urgent basis.

- *Part II, Section F, p. 7* – The OPA agrees with the Board's intent to facilitate regulatory streamlining subject to the OPA's further comments contained herein regarding the appropriate definition of "Near-Term" and the requisite information filing requirements for Near-Term initiatives.
- *Part II, Section G, p. 8* - The OPA agrees with the Board's intent to facilitate implementation of the IPSP projects subject to OPA's comments contained herein regarding the need for the plan and procurement processes to be sufficiently flexible so that the OPA does not have to unnecessarily return to the Board to have amendments approved.

### **Part III - IPSP Filing Guidelines**

- *Part III, Section B, Subsection 1, p. 10* - As noted earlier, the OPA agrees with the general premise of this section that more detail should be provided for the "near term" aspects of the plan than for the longer term aspects of the plan. The OPA suggests, however, that rather than defining "Near-Term Plan" as encompassing "solutions or initiatives for which approvals processes must commence prior to the date of the next IPSP", that it be defined as encompassing only those specific generation and conservation projects for which the OPA intends to contract in the period up to the end of 2010. This is consistent with the legislative framework that speaks to the OPA entering into procurement contracts in accordance with approved procurement processes that are designed to procure resources in accordance with the approved IPSP (ss.25.31(1) and 25.32(1) of the *Electricity Act, 1998*). Defining Near-Term as including solutions or initiatives for which approvals processes must commence prior to the date of the next IPSP could capture resources for which there are long approval lead-times (e.g. nuclear) but for which construction is well off in the future. The OPA would not in these cases be in a position to provide the level of detail required of other Near-Term projects. Also, there are generally no regulatory approvals required with respect to conservation resources.
- *Part III, Section B, Subsection 1, p. 10* - With respect to transmission resources, the Near-Term Plan should address those transmission resources that it is anticipated will need to be the subject of a s.92 leave to construct application filed before the end of 2010. This approach is consistent with the Board's desire, which the OPA supports, to streamline the regulatory process by not having to address the subject of need in the s.92 proceeding. The approach proposed by the OPA will ensure that the need with respect to all s.92 applications that will come before the OEB in the first three years of the plan will already have been addressed in the plan.
- *Part III, Section B, Subsection 3, p. 11* - The last sentence of the first paragraph would require the OPA to explain why its forecasts might differ from other published forecasts, such as those prepared by IESO. It is unclear what other potential published forecasts may exist. The OPA recommends that this requirement be limited to requiring the OPA to explain any differences with IESO forecasts. To the extent that a party to the proceeding puts forward a different forecast in evidence then the OPA will have to address any differences between it and the OPA's forecast.
- *Part III, Section B, Subsection 3, p. 11, para. (i)* - This paragraph requires the OPA to identify the net load growth after separately accounting for "end-use and economic load

growth”. This requires clarification. Does Board Staff intend by the reference to economic load growth that the OPA undertake an econometric load forecast? The OPA has been intending to only file an “end use forecast”. The IESO already undertakes an econometric load forecast and, as noted above, the OPA will be required to describe how and why its forecasts might differ from published forecasts. For these reasons, the OPA does not believe that it would be a useful exercise for it to create another econometric load forecast and so suggests deleting the words “and economic”.

- *Part III, Section B, Subsection 3, p. 11, para. (iv)* - Please clarify what “project-specific” means. Does this mean locally-targeted projects or does it mean any project, including projects targeted at the system as a whole. The OPA assumes the latter but would appreciate clarification.
- *Part III, Section B, Subsection 3, p. 12, para. (i)* - The Discussion Paper would require the OPA to provide load growth assumptions by region and by customer class. The OPA is using an end use forecast methodology developed for a national study which relies on provincial assumptions for load growth. While the OPA will extract regional load forecast information from the province wide load forecast, it is extremely difficult if not impossible to separate load growth assumptions by customer class. The OPA notes that customer classes are not consistent across the Province. The OPA will be able to provide load growth assumptions by sector (e.g. commercial, residential, etc.).
- *Part III, Section B, Subsection 3, p. 12, para. (iv)* - For the same reasons stated above, the OPA cannot forecast electricity prices and therefore cannot make assumptions based on such forecasts.
- *Part III, Section C, Subsection 1, p. 14, para. (v)* - The OPA will seek to express costs in a consistent manner for all generation and conservation resources. However, the OPA notes that this can be a misleading comparison and that there are other factors that will ordinarily need to be considered in making meaningful comparisons (e.g. lead-times, availability of resource, role in overall system reliability, operating characteristics, etc.)
- *Part III, Section C, Subsection 1, p. 14, 1<sup>st</sup> para.* - The Discussion Paper states that “Where a procurement process is proposed to be used, the OPA must identify the nature of the procurement process”. This approach is too inflexible and does not accord with the statutory requirements (*Electricity Act, 1998*, ss. 25.31 and 25.32). Section 25.32(1) of the *Electricity Act, 1998* states that “when the OPA considers it advisable, it shall enter into contracts in accordance with procurement processes approved under section 25.31...”. This section makes clear that the OPA must first have procurement processes approved by the Board, following which it may, as it deems advisable, enter into contracts in accordance with those approved procurement processes.

The OPA can indicate its current expectations with respect to how a particular resource may be acquired but to “hard-wire” this into the plan would not allow the OPA to adjust to changing circumstances. The procurement process guidelines require the OPA to set out the circumstances in which a non-competitive process would be used. This should provide sufficient assurance while leaving the OPA with the flexibility to consider whether such circumstances exist at the time it is commencing the process to procure a resource.

- *Part III, Section C, Subsection 1, p. 14, 3<sup>rd</sup> para.* - This paragraph refers to “obtaining a resource using a process other than a contract-based procurement mechanism, such as a

proposal to obtain demand response by means of an auction or a series of auctions”. This is confusing and requires some clarification. Competitive procurements are a form of auction in which there would be an OPA procurement contract. The OPA understands this sentence to refer to an auction that does not involve an OPA procurement contract.

Also, while the OPA does not anticipate procuring any resources in the Near-Term outside of its procurement processes, it should nevertheless be clarified that this section does not require the OPA to identify and quantify costs that might result from non-procurement initiatives instituted by other agencies (e.g. Day-Ahead Market), as these costs could not be practically quantified by the OPA (see also comments below regarding Section F, Subsection 2). It also should be made clear that these additional obligations with respect to the acquisition of resources using non-contract based procurement mechanisms do not apply to transmission resources.

- *Part III, Section C, Subsection 2, p. 15* – In the Discussion Paper, the Board states that “In valuing a conservation resource initiative, the OPA must take into account any conservation investments that would have been made in the absence of the initiative”. This requires clarification. The OPA is unsure whether this is intended to address free-ridership and/or natural CDM. If it is intended to refer to natural CDM, this is problematic. The OPA will not be able to breakdown natural CDM on an initiative by initiative basis.
- *Part III, Section C, Subsection 2, p. 16* - The Discussion Paper requires the OPA to provide for each conservation resource initiative, not only how the initiative will be procured and from which sector but at which end use it is targeted. This requirement, in the OPA’s view, ought to be relaxed to recognize that CDM is in its infancy in Ontario and that much of the learning on this subject will be acquired by doing. As stated above, it is important that the IPSP and the procurement processes be sufficiently flexible to allow the OPA to learn quickly from its experience and adjust its programs accordingly so that it can meet the Government’s goals. Subjecting the OPA to a further regulatory review before it can adjust will make it impossible to meet the 2010 target for conservation.
- *Part III, Section C, Subsection 3, p. 16* - This section commences by stating that “Specific generation resource acquisition initiatives must be identified in addition to the total supply mix being acquired”. It then goes on to describe the requisite information for these initiatives. The OPA is in general agreement with this section provided it is understood (as discussed above) that these “specific generation resource initiatives” refer only to those specific generation and conservation projects for which the OPA intends to contract in the period up to the end of 2010 (as distinct from non-project specific generation resource acquisition initiatives targeted at meeting overall system needs; that will not be location or generation type specific; and, for which it will not be possible to provide this level of information).
- *Part III, Section C, Subsection 3, p. 17, para. (iii)* - The Discussion Paper requires for each specific generation resource acquisition initiative, “an estimate of the impact of the resource on transmission constraints and congestion costs”. The OPA is content with this requirement, provided the Board is aware that it is not possible to estimate this impact with any significant degree of precision based on currently available information. The actual levels of transmission costs and congestion depend upon volatile and difficult to determine factors.

- *Part III, Section C, Subsection 3, p. 17, para. (iv)* - This paragraph requires the OPA to estimate any non-rate or congestion cost impacts of the project on existing transmission customers. The OPA assumes that the impact that is being referred to relates to the quality of service to the other customers. These concerns are already addressed through the IESO's System Impact Assessment process. The OPA does not understand how this information would assist the Board in its plan review.
- *Part III, Section C, Subsection 3, p. 17, para. (vii)* - This paragraph would obligate the OPA to assess economic and financial risks of each project, including the risk of "additional investments in existing facilities, project delays and uncertainty regarding fuel costs". The question of uncertainty with respect to fuel costs is an issue that needs to be considered at the macro level when addressing how much of a particular generation resource to procure during the life of the plan. In particular, it is a matter that will be considered as part of the OPA's work related to paragraph 4 of the Supply Mix Directive (the "smart gas strategy"). It is difficult to assess the economic and financial risks related to the delay of a particular project, especially at the planning stage. The potential risks will become clearer as a project moves past the stage of execution of a procurement contract and towards commercial operation.
- *Part III, Section C, Subsection 3, p. 17, para. (ix)* - The OPA disagrees with these requirements. See our comments above with respect to the concern about the need to preserve flexibility.
- *Part III, Section C, Subsection 3, p. 17, para. (x)* - The OPA will address the major approvals in its assessment of the potential risks of project delay. The OPA is not in the best position to address the more project-specific approvals that may be required and, in any event, does not know why this level of detail would assist the Board in its plan review.
- *Part III, Section C, Subsection 3, sub (c), p. 18, paras. (ii) and (iii)* - The Discussion Paper requires "an economic assessment of the feasible refurbishment or additions of new nuclear power capacity up to the 14,000 MW ceiling" and "an assessment of the economic and financial risks associated with life extension options" for existing and new nuclear facilities. The OPA agrees with this requirement provided the Board understands the obvious limitations on the OPA's abilities to conduct these assessments. In particular, OPG and Bruce Power have detailed information on the costs, risks and benefits of refurbishment of their units that is not available to the OPA. As the Guidelines correctly acknowledge, OPG's feasibility study on refurbishment is currently ongoing and it has been directed to begin the environmental assessment process for the construction of new units. The OPA does not anticipate that the results of these activities will be known to the OPA when it files the IPSP.
- *Part III, Section C, Subsection 3, sub (d), p. 18, para. (i)* - The paragraph requires the OPA to submit a gas price forecast. The OPA intends to provide such a forecast as part of the overall plan and not with respect to each gas-fired generation resource initiative. This paragraph also requires for each gas project "an assessment of the impact of the project on electricity prices in the wholesale spot market in light of forecast changes in natural gas prices". For the reasons stated above, the OPA cannot forecast how this or any other factor will impact electricity prices.

- *Part III, Section C, Subsection 3, sub (d), p. 18, para. (ii)* - This paragraph would obligate the OPA to assess the level of economic natural gas generation beyond the contracts with respect to gas-fired facilities that the OPA has entered into as a result of a directive from the Minister of Energy. The OPA intends to address this issue in developing its “smart gas strategy” rather than in considering each gas-fired generation resource initiative in the Near-Term Plan.
- *Part III, Section C, Subsection 3, sub (e), p. 19, para. (i)* - The Discussion Paper requires the OPA to identify, for all outside the Province generation resources, all significant agreements that are needed “and the status of those agreements, if known”. It is unclear how the provision of this information will assist the Board in its review. It is unclear whether this is intended to also capture the status of negotiations. The OPA may not be able to disclose certain information related to the status of negotiations due to confidentiality requirements of out of Province negotiating parties.
- *Part III, Section C, Subsection 4, p. 20, para. (ii)* - This paragraph includes a requirement to break down the total cost of the transmission project to “network and radial transmission lines serving more than one transmission customer”. This appears to be a cost allocation issue. This is information at a level of detail that is best addressed in a leave to construct application.
- *Part III, Section C, Subsection 4, p. 20, para. (iv)* - This paragraph requires a detailed breakdown of project costs. This information is not necessary or helpful for the purpose of analyzing a project at a planning level. Such information is more appropriately filed with a leave to construct application.
- *Part III, Section E, p. 22* - This section would require the OPA to model alternative plans and, if the preferred plan is not the plan with the lowest identified costs, justify the selection of the preferred plan over the lowest cost plan. The OPA disagrees with the approach taken in this section. Board Staff have recognized the statutory role of the OPA in developing the plan. The OPA must, in carrying out this task, weigh, balance and make necessary trade-offs. It is the Board’s role to determine whether the plan that is put before it meets the test set out in the statute.

The IPSP will be made up of a number of component pieces. It is at the stage of identifying the individual components that alternatives will be considered. It is an artificial exercise to require the OPA to add up some combination of rejected and accepted alternatives to come up with an alternative plan that is not preferred. Rather, the OPA will test the plan for its ability to withstand a range of possible risks and uncertainties, such as variations from expected load growth or delays in planned resource initiatives.

The OPA is also asked, in doing the analysis required if the preferred plan is not the lowest cost plan, to express all costs in dollars of the year. The OPA believes that it would be more helpful and less confusing to parties if constant dollars were used.

- *Part III, Section E, p. 22, para. (i)(b), 3<sup>rd</sup> bullet* – For the reasons expressed above, the OPA cannot forecast impacts on electricity prices.
- *Part III, Section F, p. 23* - We suggest Part III (F), satisfying the Requirements of the IPSP Regulation, be moved up under Section A, Introduction. Section F, Satisfying the



Requirements of the IPSP Regulation, addresses process and we suggest that organizationally it makes more sense to have process requirements addressed at the outset before the IPSP substance requirements are addressed. This would better match the likely order of evidence, both written and oral, that we would suggest.

- *Part III, Section F, Subsection p. 24* - The second paragraph states in part that the “OPA should ensure that, through its consultation process, interested parties understand that the need for certain projects” will only be addressed as part of the IPSP proceeding and not in any future OEB proceeding. The OPA will address this issue in its consultation process. However, the OPA cannot ensure that this information is understood by all parties as this speaks to a subjective state of mind.
- *Part III, Section E, Subsection 1. p. 24* - The Board states that for the purposes of paragraphs 1 and 7 of Section 2(1) of the IPSP Regulation, the term “Considered” should be taken as meaning weighed and evaluated. In the OPA’s view, this is a well understood term and need not be defined.
- *Part III, Section E, Subsection 1. p. 24* – This Section requires the OPA to ensure that “environmental protection” is considered in developing the IPSP and it thereafter defines environmental protection as the “adverse effects on the environment that an electricity project and identified alternatives to it may have and the measures that will be applied to mitigate those adverse effects”. It is the OPA’s view that this definition conflates the OPA’s obligations under paragraphs 7 and 8 of Section 2(1) of the IPSP Regulation. Under paragraph 7 of Section 2(1) the OPA must consider environmental protection with respect to developing the plan as a whole, however, the definition proposed by the Board imposes an undue burden on the OPA to consider not only environmental impact but mitigative measures with respect to all electricity projects identified in the plan. This is inappropriate given that paragraph 8 of Section 2(1) requires that the plan contain an analysis of the environmental impact of those electricity projects (and alternatives) that will require an environmental assessment or, will in the opinion of the OPA, require that an application for approval be made under the *Environmental Assessment Act* within five years after the approval of the plan by the Board. Paragraph 7 of Subsection 2(1) of the regulation should not be interpreted as adding the same level of burden on the OPA in addressing all electricity projects as it does with respect to those projects that are subject to paragraph 8 of Subsection 2(1).
- *Part III, Section E, Subsection 2, p. 25* - The Board links paragraphs 5 and 6 of Section 2(1) of the IPSP Regulation to paragraphs 2 and 4 of Section 2(1) of the IPSP Regulation. In the OPA’s view, the links posited by Board Staff, and the onerous obligations on the OPA which Board Staff says flow from this, are not, in our view, correct. In the OPA’s view, paragraphs 2 and 4 of Section 2(1) of the IPSP Regulation are distinct from paragraphs 5 and 6 and should be treated as such.

Paragraphs 5 and 6 of Section 2(1) of the IPSP Regulation simply require the OPA to “identify” (i) measures that will reduce reliance on procurement and, (ii) factors that it must consider in determining that it is advisable to enter into procurement contracts. In our view, these are stand-alone paragraphs which simply require the OPA to identify these measures and factors in the IPSP.

On the other hand, paragraphs 2 and 4 of Section 2(1) of the IPSP Regulation require the OPA to “identify and develop” innovative strategies to (i) accelerate the implementation of conservation, energy efficiency and demand management measures and, (ii) innovative strategies to encourage and facilitate competitive market-based responses and options for meeting overall system needs. In our view, these two paragraphs require that in developing the IPSP, the OPA identify and develop innovative strategies to meet these goals. These provisions do not, in our view, impose on the OPA the onerous obligations suggested by the Board.

- *Part III, Section E, Subsection 2, pp. 25 to 26* - It is important to recognize that any “innovative strategies to encourage and facilitate competitive market based responses” that the OPA identifies and develops as part of the IPSP are not likely in the near future to lead to resource developments that are not underpinned by an OPA procurement contract. It is inherently difficult to quantify costs and benefits of individual strategies that are designed to incrementally move the electricity sector towards a more competitive market-based system.
- *Part III, Section E, Subsection 2, pp. 25 to 26, para. (iv)* - The OPA agrees with the statement at the end of this paragraph that “the intention is not for the Board to engage in an assessment of whether market-based responses or options are appropriate or inherently “better” than is centralized procurement within the Ontario electricity context”. Such a debate is beyond the mandate of the OEB. O. Reg. 424/04 makes it clear that the Government wishes to see such innovative strategies brought forward and in doing so has indicated its desire to see competitive market-based responses and options for meeting overall system needs encouraged and facilitated.

## **PART II – PROCUREMENT PROCESSES**

- *Part II, Section A, p. 29* - Board Staff state that the *Act* does not provide any specific criteria against which the Board is to review the OPA’s procurement processes, however, because the procurement processes must accord with the IPSP, procurement process will be deemed appropriate where they are economically prudent and cost effective. The OPA believes the applicable criteria against which the Board can review the OPA’s proposed procurement process are the criteria codified in the Procurement Process Regulation, section 3, entitled “Principles in the Procurement Process”. These principles require, among other things, that in developing procurement processes, the OPA ensure that procurement processes are fair and clearly stated, are to the greatest extent possible competitive, and entail no conflicts of interest or unfair advantage. These are the principles that should guide the Board’s review. In addition, it should be noted that the OPA may not enter into procurement processes until it has complied with Procurement Process Regulations by, among other things, consulting with interested parties and the IESO to assess the capability of the IESO administered markets and other investors to satisfy needs..
- *Part II, Section B, Subsection 1, p. 29* - It is stated in this paragraph that procurement processes must be “designed to minimize at the outset, and/or reduce over time, the financial risks and obligations of electricity consumers. Among other things, electricity consumers should not bear the financial risk of non-performance by the counterparty”. While the OPA agrees with these objectives, it does not believe that they are matters that are properly addressed in the Board’s review of procurement processes. These matters relate to the terms and conditions of procurement contracts. As noted earlier, the Board’s mandate is to review procurement processes, not procurement contracts.

- *Part II, Section B, Subsection 1, p. 30. para. (iii)* - It is stated here that procurement processes should “restrict the use of confidentiality provisions to the maximum extent possible”. The OPA agrees with the goal of transparency in its procurement processes and contracts. However, there are commercial entities whose willingness to invest in Ontario may be negatively affected by concerns about certain commercially sensitive information being made public. This could lead to reduced competition in OPA procurement processes with consequent higher costs for ratepayers under these contracts. The OPA interprets the language “to the maximum extent possible” to involve a weighing of these costs in assessing the level of transparency of the OPA’s procurement process.

Yours Truly,

A handwritten signature in blue ink, appearing to be 'Michael Lyle', written in a cursive style.

Michael Lyle  
General Counsel