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KEYNOTE ADDRESS

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Good afternoon. It's a pleasure to be with you today.

I see many familiar faces in the audience. I'm glad to see you all in one place at the same time because what I want to say affects all of you whether your interest is in transmission or distribution or generation or policy or legal or investment. Today, I want to talk today about "real" people. What I mean by this is a different kind of intervenor in the Ontario Energy Board's hearings.

I don't mean to imply that those of you who are traditional intervenors are not "real" people, too. You are, of course. And you bring your knowledge, your advocacy, your passion and your search for a just and certain outcome to our hearings. You need to know whether projects are going to go ahead or not. Some of you are making investments decisions that require a level of certainty. Well, the path to just decisions that will provide that certainty is becoming more complicated.

And today I want to make the case that you also need to bring to our hearings your understanding and tolerance for others who put before us their problems, their concerns, their passions and their desire for a just and certain outcome, as they see it.

What is new, is this: Increasingly, the Board is hearing from types of intervenors that we typically haven't seen, asking us to consider issues that we typically haven't decided on, and prompting us to think about whether the typical ways in which we interact with stakeholders are keeping pace.

These new intervenors, some well-resourced, some not, are obvious reflections of the many changes that have taken place in our industry and beyond. I know you are feeling this. So are my fellow Board members. And certainly I have felt it. We find ourselves constantly re-evaluating our sense of what is and what is not in 'the public interest' in this sector.

As you know, our Chair, Howard Wetston, recently gave a speech on the public interest in which he concluded that the public interest could not be defined; but that you would know it when you saw it. But he made it clear that the concept of the public interest is firmly rooted in law.

If we have the mutual desire to have just and certain decisions, then I think you'll agree that it is important to continue this discussion on the public interest, both internally and with you.

My comments then will be in three parts: First, I'll provide some examples of the types of issues that are being brought before us by this new intervenor. Second, I'll share my thoughts on impacts: How is the Board responding to these issues? And third, I will very briefly discuss what this means to the timelines required to get regulatory decisions.

I don't have to tell you that the electricity sector is a complex one. But imagine how challenging it is for people who don't understand the policy decisions, the regulatory framework, and the resulting legal implications. To people who are not used to dealing with these issues every day, as we are, it must certainly seem like Alice down the rabbit hole.

'Real' people, as I call them, have been on my mind during recent hearings and in particular as we head into the Integrated Power System Plan Hearing that will begin in August, and also as we continue the hearing related to the Bruce-Milton transmission project which is well underway.

As you know, these rulings will be among the most consequential ever decided on by the Ontario Energy Board. Many of you in this room will have an interest in the outcomes of these cases, whether you represent a utility, a major consumer, an investor, an aboriginal group or an environmental group. Others who care about the outcomes, like landowners, are probably not here today.

You all know the numbers. If approved, the cost of the projects flowing from these decisions will be in the range of \$60 billion for the IPSP and \$1 billion for the proposed Bruce-Milton line. And the impact is just as significant.

With the IPSP, the Board's mandate is not to set rates for delivering power or to approve construction for a new section of the provincial grid. It is quite different from our traditional mandate. The IPSP is a long-term plan for electricity supply in a large jurisdiction; and it involves supply, transmission and conservation and demand management.

Beyond our normal consideration of economic and reliability issues, we have been asked to determine whether the OPA weighed and evaluated issues of environmental protection, sustainability and safety.

With such a vast scope, clearly the lives of "real" people – be they First Nations people, rate payers, landowners, developers -- become a central part of our proceedings. As examples, in the issues hearings on the IPSP, we learned that in northwest Ontario, some stakeholders are very concerned about a reduction in generation capability and a lack of transmission infrastructure, and the impacts this will have on local resource industries.

In northeast Ontario, concerns were raised about new generation and transmission that would be built presumably for the benefit of southern Ontario, with little perceived benefit for Northerners.

First Nations peoples focused our attention on their need for broad consultation and accommodation, for equity positions in new facilities, for development opportunities for their people, and for greater electrification of their communities.

Dealing with such a range of issues, and having them presented to us by so many different types of intervenors, is a growing challenge for us. As you know, our greatest challenge has always been to try and balance our stakeholders' desire for greater efficiency and greater speed in rendering decisions with our mandate of providing a decision that is just.

Now, with these types of intervenors, there is an added tension: one that challenges us to balance speed and efficiency with the process of being patient, of figuring out what non-experts want and of deciding how to respond to their needs as part of our 'public interest' mandate in order to reach a just and certain outcome - an outcome that is not likely to be reviewed.

The Bruce-Milton project holds similar challenges to the IPSP. Hundreds of landowners could potentially be affected by the project. Our job here is to determine the need for new infrastructure and its impact on price, reliability and quality of service.

We need to give landowners who risk having their land expropriated the opportunity to weigh in on these issues. So there is a great deal of attention required, and in some cases much more time being spent understanding the root issues.

For the first time, the Board is frequently seeing people come before us who are not regulatory experts or lawyers. Their lives are normally far removed from what we do. And they are asking us to deal with their issues in terms they understand. They don't want to be shunted from one level of government to another or from one government agency such as the Ontario Energy Board to another. They want a single process, one forum where they can go to present their issues and have them solved.

Our challenge is: How can we help them with that, and indeed, should we help them with that?

Here's a quick snapshot of what some intervenors might be dealing with. Landowners could find themselves faced with Leave to Construct regulation, which is well within the Board's jurisdiction. If the Board were to find that the construction of certain facilities was in the public interest, then landowners may have to cope with the physical and emotional consequences of the expropriation orders.

On the financial side, it's possible that they might also be referred to the Ontario Municipal Board which would establish a price for their land. And if there were

environmental or broader social issues related to a specific piece of property, they would also have to navigate their way through the Environmental Assessment Process.

That's a lot to deal with. I am sure that you can imagine how you would feel if you were in their situation.

And yet, these are just a few of the challenges that real people face, many of them without law degrees, many of them without legal counsel, many of them with no experience in presenting their case to a regulator such as the Ontario Energy Board.

I want to be clear. I am not saying that the Board would or should consider intervenors' personal factors in our deliberations. What I am saying, however, is that understanding them gives us insight into why some intervenors feel as strongly as they do. It helps us to reflect on how we can assist these parties by making clear our jurisdiction and by helping them navigate through our processes.

All this being said then, there are two fundamental questions for us to consider. First, to what extent can the Board obtain a just result in the type of situation where, to an outsider at least, the challenges seem insurmountable? And secondly, does it serve the public interest to create a forum in which individuals become frustrated and give up?

Let me give a few other quick examples of how the issues we are hearing and the people we are hearing from are changing.

Aboriginal communities are bringing their issues to us in increasing numbers. In 2006, the community of Cat Lake, north of Sioux Lookout, informed the Board that it was no longer able to continue operating its distribution system and that it planned to stop running the system immediately. In order to ensure the community continued to receive a safe and reliable source of electricity, the Board used its powers to order Hydro One to run the Cat Lake distribution system.

Hydro One complied with the order, and has been running the system at a loss for the past three years. However, rather than continuing to renew Hydro One's temporary license every three months – which is within the Board's jurisdiction -- a permanent solution needs to be found that is 'just' for all parties concerned.

Now, whose responsibility is it to find and impose this permanent solution, bearing in mind that the ultimate solution requires the cooperation of the federal government, the provincial government and provincial agencies, as well as the leaders of the Cat Lake First Nations people?

In other examples we have dealt with farmers who want their livestock protected from stray voltage; we have listened to a community and farmers who want to ensure natural

gas service to a local ethanol plant; and we have heard from sailors, divers and environmentalists who are concerned with a sub-marine transmission cable at Wolfe Island.

We are also hearing more from communities in general especially in transmission rates and leave to construct cases. And increasingly, we are getting interventions from small business people, either because they represent a load in a rates case, or because their lands and businesses are impacted by a leave to construct application.

Some applications for approval to construct connection facilities to wind farms have been very successful because of the proponents efforts to reach agreement with landowners and first nation groups who intervened.

I haven't said much about environmental issues, yet as you might imagine, many intervenors have raised this type of concern, particularly within the context of the Bruce-Milton project. Many landowners and other stakeholders brought their issues to the Board in pre-hearings, thinking we had jurisdiction in this area. But we don't have any such mandate.

After hearing significant argument on the matter, the Board confirmed that environmental issues were outside of its mandate, and referred the parties to the Environmental Assessment process.

This decision may have been frustrating for some intervenors, but I think it's a good example of the Board's understanding of the limits of its jurisdiction, as well as being an important demonstration of the fact that we cannot be all things to all people.

I'd like to shift gears here and move from examples about regulatory breadth and complexity to an overview of what the Board is doing to address these issues.

In other words, when real people, with real lives, real problems and real concerns come before the Board, how do we work to ensure a just and certain outcome?

Through recent hearings, we have learned some very important lessons:

- The first lesson is that with this kind of intervenor, the Board needs to take longer and needs to listen more, especially as 'real people' don't always express their concerns in the same way as regulatory or legal experts might or as you might. We also need to give more guidance and instruction.

- Second, not all issues that are brought before the Board can, or should, be solved by the Board. Some issues just aren't part of our mandate, and it's only by hearing what people are really saying that the Board can identify the Board issues and refer non- Board issues to other authorities.
- Third, pre-hearing conferences work. These sessions provide an opportunity for us to really understand the core issues. Given the magnitude of some of the issues we see, this is time well-spent.

By committing to information sessions that explain the Board's mandate in plain language, we can help to manage stakeholders' expectations so they understand the scope and limits of the Board's jurisdiction before they appear before us.

Explaining who the Board is, who the various regulatory bodies are, who does what, and what our expectations are for participation during hearings – all of this information is, I hope, helpful for those types of intervenors, including general legal counsel, who may be new to the Board's processes.

These sessions represent a new approach for us and going forward, you can be sure the Board will be initiating these more often, while at the same time, encouraging applicants to build on the good work they have already done in this area.

Fourth, meeting people on their home turf helps. Although it can be administratively difficult to do so, we are finding that holding meetings and hearings in the local community makes the OEB and our processes more accessible and real to the people of affected communities.

In our Farm Stray Voltage Project, for example, Board staff met with farmers across the province. In the case of the ethanol plant that I mentioned earlier, the hearing was held in Aylmer. The Wolfe Island Transmission Line Hearing was held in Kingston and the panel in the Bruce to Milton Case spent several hearing days in Milton. We plan to continue this practice by holding some of the IPSP Hearing in locations outside of Toronto.

If going out to these affected communities helps people to believe in our process and trust in the results, then it's worth it. It's what delivering a just outcome is all about; and it is consistent with our public interest mandate.

Some of you, no doubt, are concerned about the time required to accommodate the participation that I have discussed.

I believe that the extra time required may take anywhere from a few days to a few weeks for the most complex of hearings like Bruce to Milton or the IPSP. I also believe

that the additional time is likely to be more than offset by fewer motions, reviews and appeals.

The real savings in the regulatory timeline come from administrative, procedural and legal changes. This is the topic for another speech which I would love to give at another time.

However, going off on a brief tangent, I will just point out that the Bruce to Milton project has benefited from new legislation which allows the OEB to grant entry onto land for testing and planning purposes without an approved Leave to Construct.

The Board has twice granted this approval to Hydro One for this project. As a result Hydro One has been able to begin activities in parallel with the Leave to Construct and EA processes.

In addition, in the Bruce to Milton case, the Board has ruled several times that the Leave to Construct proceeding can run parallel to the EA process as long as the two processes do not become too out of step. Normally the Leave to Construct process follows after an approved EA.

These rulings should significantly reduce the project timeline, if the project is approved.

And I have to point out the importance of just good hearing management.

That ends my tangential point. I would like to go back to my main theme for my final comments.

I want to close on a personal note. I have been involved recently in many hearings in which the new type of stakeholder I have been discussing is present. Through this experience, my sense of what the 'public interest' means has evolved.

I firmly believe that a just result comes when as a regulator we are able to provide an environment in which all stakeholders – not just expert stakeholders – feel confident enough to bring their case forward, secure in the knowledge that their issues will be dealt with respectfully, thoughtfully, openly and transparently.

I also believe that this approach will result in well-grounded, just decisions which are less likely to be reviewed and therefore will provide more certainty for everyone.

Your part is to bring your advocacy and your expertise. That is critical. But I also ask that you bring your understanding and your tolerance. We must remain within the bounds of our jurisdiction, of course, but we can do this while providing the necessary

conditions for success so there is full participation, informed participation, and ultimately a just and certain outcome.

Thank you for your time today.