

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998, S.O. 1998, c.15, Schedule. B,*

AND IN THE MATTER OF notice of proposal by Kruger Energy Inc. (KEI) under section 81 of *Ontario Energy Board Act, 1998* to construct and operate a 100 MVA transmission substation in the Municipality of Chatham-Kent.

SUBMISSIONS OF THE INDEPENDENT ELECTRICITY SYSTEM OPERATOR

Introduction

1. The Independent Electricity System Operator (the “IESO”) submissions in the hearing of this matter are provided in accordance with its authority and obligations established by legislation, its licence issued by the Board, and the Ontario Market Rules. In relation to the current proposal by Kruger Energy Inc. (Kruger or KEI), the IESO’s license obligates it to take all reasonable steps to ensure non-discriminatory access is provided to the IESO-controlled grid for all generators, retailers, and consumers in keeping with its responsibility for directing the operation of the transmission systems, the Market Rules, and applicable reliability standards and the conditions of its license.

2. The IESO recognizes that Kruger’s proposal is unique and may very well be the first of its kind since market opening. This is likely to add to the complexity of the review. We further observe that there are no apparent precedents that Kruger could have relied on in developing its proposal, and information that we believe the Board will require to assess whether the proposal will adversely impact the development and administration of the competitive electricity market was not sufficiently defined or specified in the circumstance. In view of that we encourage the Board to be mindful of this situation in its consideration of the proposal.

The IESO is supportive of new approaches to developing and operating transmission facilities.

3. The IESO supports new approaches to facilitate development and operation of transmission facilities in Ontario. We encourage the Board to maintain flexibility towards adopting policies which will facilitate and support new approaches for developing and enhancing the transmission system. We recognize the significant and ever increasing demand on the transmission system, particularly in the area of the current proposal by Kruger. For that reason the IESO's primary interest in the hearing of this matter is to ensure that the Board is provided with adequate information on which to consider the application, and to make certain that all interested parties will continue to have non-discriminatory access to the IESO-controlled grid and IESO-administered market.

The regulatory test is to determine if the proposal will adversely impact the development and administration of the IESO-administered electricity market.

4. The Board is required to make an order approving the proposal only if it determines that the impact of the proposal will not adversely affect the development and maintenance of a competitive market.¹ We interpret this to be in reference to the electricity market in Ontario. Accordingly, the test that we believe the Board is required to carry out is whether or not the proposal will adversely impact the development and administration of the IESO-administered electricity market.

5. The proposal by Kruger is unique and provides a possible new approach for developing and operating transmission facilities. However, it raises a number of important issues that the IESO believes the Board will need to consider carefully in its review of the proposal. Kruger is a generator licensed to own and operate generating facilities in Ontario but is proposing to build and operate a 100 MVA transformer substation (the "transformer station") for the purpose of conveying electricity into, through or out of the IESO-administered market from generation facilities in the local area. There are inconsistencies in the stated reasons for developing the proposal. For example, it is unclear whether the proposed transformer station is for the primary purpose of conveying electricity into the IESO-administered market from future generation facilities owned and operated by Kruger or

its affiliate. In its letter dated September 11, 2007 in response to a letter sent earlier to the Board by Allus Power, Kruger submits that "...the Project consists of the construction and operation of a 100 MVA substation which will connect potential future generation project(s) of KEI or an affiliate of KEI to the IESO-controlled. In the future, other generation facilities, unrelated to KEI may wish to connect to the project".² On the other hand, in its recent response to interrogatories from Chatham-Kent Hydro, Kruger advised that "[a]s indicated in KEI's Letter of Evidence, the proposed Substation is for generation connection customers"³ We find the reasons for the transformer station to be somewhat unclear especially given that there are no specific or apparent connection proposal(s) under consideration at this time. Accordingly, it is difficult to assess whether the proposal, if approved by the Board, would in fact lead to adverse impacts on the development and maintenance of the competitive electricity market—above all by limiting future access to the electricity market by generators and others in the area.

System and Customer Impact Assessments are important in determining the effects of the proposal on the IESO-administered market and grid.

6. Kruger has acknowledged that the required System Impact Assessment and Customer Impact Assessment are yet to be completed by the IESO and Hydro One, respectively. Kruger also noted that it is still working on the required application and its filing is expected in January of 2008.⁴ Accordingly, we fail to see the basis on which Kruger was able to conclude that its proposal will have little or any adverse impact on the development and maintenance of the competitive electricity market. Specifically, Kruger notes that "[t]he Project will have little or no impact on competition in the province. It may in the future connect generation facilities to the IESO-controlled grid." In addition, "KEI confirms that the Project will in no way affect Open Access [to the transmission or distribution systems]."

¹ Ontario Energy Board Act, 1998, c. 15, Sched. B, 82(3)

² September 11, 2007 Letter to Ms. Kirsten Walli, Board Secretary, pg. 2 of 3, para. 4.

³ Answers to Chatham-Kent Hydro Interrogatories, pg. 1 of 5, c.

⁴ Answers to Board Staff Interrogatories, pg. 14 of 17, Question 12 and pg. 15 of 17, Question 13; and Response to Chatham-Kent Hydro Interrogatories, pg. 2 of 5, c.)

7. A determination of whether the proposal would adversely impact the development and maintenance of the market should be supported by appropriate assessments. Doing otherwise is merely to speculate at best. We believe that the proposal and supporting evidence in its current form provides little basis on which to determine what effect the proposal will have, if any, on the development and maintenance of the IESO-administered market, as well as in promoting open and fair access to the IESO-controlled grid. In addition, while the scope of Kruger's proposal is limited to consideration of the transformer station only (i.e., given the apparent lack of any specifically defined generator project by Kruger or its affiliate or other potential generation customers), the Board cannot ignore the combined effects of the proposed transformer and future connecting generation facilities in keeping with the objective of the required test. That is, the test must consider more than just the physical effects of the transformer. Clearly the intended purpose of the transformer is to at some point convey electricity into or out of the IESO-controlled grid; as such, consideration must be given to the effects of the electricity being conveyed through the transformer station on the development and maintenance of the IESO-administered market, including the effects on flow patterns, system operability, congestion, and system losses in relation to other parties.

8. Furthermore, whether Kruger is obligated or not to provide open access to its proposed station doesn't preclude the IESO from upholding its obligations and authority to take reasonable steps to promote fair access by for all generators, retailers and consumers to the IESO-administered market. Any approval that may be granted by the Board in this regard to build the station should not be misconstrued as approval of or allocation of transmission connection rights or grandfathering of future connection rights to enable access to the IESO-controlled grid by Kruger or its affiliate, or potential generation customers of Kruger pursuant to any agreement entered between them and Kruger. Such connection rights are assured only after the connection proponent successfully completes the IESO Connection Assessment & Approval process.

Conclusion

9. The IESO is supportive of new approaches for developing and enhancing the transmission system. However, these approaches should not be used as basis to inhibit or limit access to the IESO-controlled grid or IESO-administered market. The proposal by Kruger is unique and presents a number of issues that we believe the Board will need to address in the course of its review of the proposal. In particular, we believe that the System Impact Assessment and Customer Impact Assessment would be of value to the Board in determining whether such a proposal will in fact have any adverse impacts on the development and maintenance of the IESO-administered market. Furthermore, the Board needs to clarify that any approval granted by it in respect of the proposal should not be taken as an automatic allocation of transmission access rights or grandfathered rights for future use to enable Kruger or its affiliate or potential generation customers of Kruger to convey electricity into, through or out of the IESO-administered grid and market.

All of which is respectfully submitted this 26th
day of November 2007,

Original signed by

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