

POWERWORKS

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February 2015 **POWER WORKERS' UNION NEWSLETTER**

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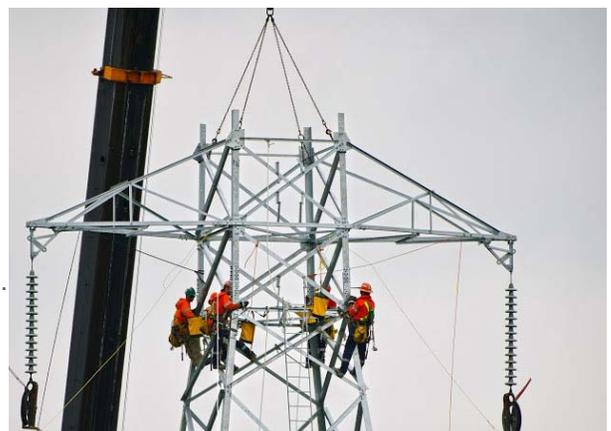
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Splitting Hydro One Doesn't Make Sense

The separation of the transmission and distribution businesses of Hydro One would cause the loss of valuable synergies and efficiencies that would result in higher costs for both new companies.

The Advisory Council on Government Assets has recommended the splitting of Hydro One into two companies. It does this without any acknowledgment that, by doing so, it would create duplication, and eliminate the economies of scale that the Council had recognized as benefits of consolidation of Local Distribution Companies and the recent merger of the Independent Electricity System Operator and the Ontario Power Authority.

We are surprised that the Council doesn't appear to have undertaken any empirical study of the potential cost or benefits of consolidation or disintegration of transmission and distribution systems. The PWU has some familiarity with the experience of other utilities and other jurisdictions. To the PWU's knowledge, the attempts at disintegration have not produced net benefits.



The creation of two head offices, two executive suites, two billing and IT systems, two legal departments and duplicate work centres and system control centres, material and equipment staging centres, etc. will inevitably increase the aggregate costs of the two new companies relative to the single existing

company—year after year, far into the future. The same can be said about lost economies of scale. Hydro One describes the benefits of its use of a consolidated workforce in the following terms:

This company has always operated the transmission and distribution businesses as a single integrated operation. The majority of Hydro One's operations take place in a vast, thinly populated service territory. It is only economic to have a certain number of staff, plant and equipment within any given area. Hydro One deploys many of the same human and physical resources in the operations and maintenance of both its transmission and distribution systems within any given area.

In separating the two operations, the new companies would be faced with two stark choices. They could maintain service levels by doubling up on resources and associated costs. In the alternative, the new companies could drastically reduce service levels that currently include a province-wide world-class storm and emergency response capability at a time when extreme weather events are becoming more frequent due to climate change.

The separation of the transmission and distribution businesses of Hydro One will be a major undertaking resulting in very large, non-recoverable transaction costs.

Hydro One is a large and complex company. The structural separation of Hydro One into two distinct companies would be neither an easy nor an inexpensive task. In some respects, it would be a more challenging undertaking than the separation of the old Ontario Hydro into five new companies in 1999.

This would not be a case of formally dividing two businesses that have been operating separately, but in parallel, under a single corporate roof. On the contrary, transmission and distribution functions have always been carried out on a fully integrated basis at Hydro One and, before that, throughout Ontario Hydro's history. Thousands of employees divide their time, sometimes on a daily basis, between the transmission and distribution systems. Similarly, all manner of plant and equipment is routinely and continuously employed in furtherance of the operations of both businesses. The same can be said for accounting, technology, and any number of corporate support and administrative functions.

The PWU is not aware of any public estimate of the one-time internal transaction costs needed to accomplish separation. Nor is it aware of the associated external transaction costs (investment bankers, financial and legal advisors, etc.). It is inconceivable that these costs would be anything but very significant. The PWU assumes that the ultimate total would be in the hundreds of millions of dollars. It is strange that there was not the least mention of these costs in the Council's interim report.

These costs would be a dead loss to the province. The Ontario Energy Board (OEB) will not permit a utility to recover from customers the transaction costs arising from corporate reorganizations. The important point is that the Ontario government would likely have to bear all of these considerable transaction costs in a reduced sale price.

The separation of the transmission and distribution businesses of Hydro One would require regulatory approval, which would be difficult to obtain.

The separation of Hydro One into two distinct companies (even if both remain wholly owned by the province) would require regulatory approval from the OEB. The Board applies a “no harm” test in considering such applications. There would be significant risk to the government and to potential private sector bidders that the split of Hydro One transmission and distribution would not meet that test. Of particular concern to the Board is whether customers would be exposed to a higher cost structure utility if the proposed transaction proceeds.

The fundamental problem is that, for the reasons discussed above, each of the two new companies would almost certainly have a higher cost structure than Hydro One has today.

Simply put — carving up Hydro One would increase the cost of electricity in Ontario.

Supreme Court Upholds Right to Strike

On January 30, 2015 the Supreme Court of Canada reversed its prior jurisprudence and held for the first time, that the right of unionized workers to strike is protected under the *Canadian Charter of Rights and Freedoms*. Trade unions and their members across the country had been waiting and hoping for this day to come for over 30 years. It is therefore an appropriate time to briefly review both the history and importance of this issue.



When the *Charter* was enacted in 1982, the trade union movement was hopeful that workers would be insulated from arbitrary government action because s.2(d) of the *Charter* expressly protected the “freedom of association” as a “fundamental

freedom” of Canadians. For members of a trade union, the most important elements of their right to associate are the right to collectively bargain and the right to strike. Yet, when the Supreme Court first had an opportunity to interpret the freedom of association provision in 1987, it decided that s.2(d) protected neither the right to strike nor the right to collectively bargain. This narrow interpretation of the freedom of association was in stark contrast to the broad and liberal interpretation of the freedoms of religion and speech that the Court established in the same era.

It took 20 years for the Court to revisit this ruling. In 2007, it reversed its prior decision to the extent that it held that the right to collectively bargain was now protected by s.2(d), although the Court still refused to reverse its decision on the right to strike. Another seven years had to go by before the Court finally decided to reverse that position.

In its recent decision—*Saskatchewan Federation of Labour v. Saskatchewan*— the Supreme Court recognized that the right to strike “at the moment of impasse is an affirmation of the dignity and autonomy of employees in their working lives” and that the right is protected by the freedom of association because that freedom “empowers vulnerable groups and helps them work to right imbalances in society.” The Court recognized the right to strike as a means of balancing the inherent power that employers have over workers. In writing for the majority, Justice Rosalie Abella quoted the earlier work of two academics who said that:

The power to withdraw their labour is for the workers what for management is its power to shut down production, to switch it to different purposes, to transfer it to different places. A legal system which suppresses that freedom to strike puts the workers at the mercy of their employers. This—in all its simplicity—is the essence of the matter.

The importance of this decision for workers in Canada cannot be underestimated. At a time when economic changes such as globalization and political changes such as the increasingly hostile attitude of governments toward unions have undermined the strength of workers in this country and led to the stagnation of wages, the Supreme Court of Canada has stepped in to try to correct the imbalance.

All rights under the Charter are subject to reasonable limits, which means that a breach of a right is permissible if the government can show that, among other things, the breach is a minimal impairment of a right necessary to further a pressing and substantial government objective. The fact that the right to strike is now protected by the Charter does not mean strikes can never be prohibited. Instead, the Court has made it clear that it will treat as suspect any legislation that

prohibits striking without a meaningful alternative, such as interest arbitration, being provided in place of the right to strike. In *Saskatchewan Federation of Labour v Saskatchewan*, the Supreme Court struck down essential services legislation that prohibited essential services workers from striking because the legislation left it up to the government, rather than a neutral third party, to designate which workers were essential.

Beyond all of this lies the fact that the freedom to associate, particularly in opposition to the government, is a hallmark of a functioning democracy and an anathema to totalitarian states. Free trade unions do not exist in countries where no opposition is tolerated. In the end, the Supreme Court's recent jurisprudence regarding the freedom of association is an affirmation that, in our political system, governments cannot interfere with the rights of their citizens to join together, even when it is done in opposition to the interests of those governments, unless they have an objective justification satisfactory to the courts for doing so. January 30, 2015 was thus a great day for the rights of all Canadians.

OPG Plans to Close Niagara and Dymond Machine Shops

Last fall, Ontario Power Generation (OPG) informed the PWU of its intent to stop large-scale machining work at its Dymond (New Liskeard) and Niagara machine shops at the end of 2015. At that time, OPG plans to divest itself of the larger machines and disperse smaller machine tools to other locations.



Dymond Machine Shop

These shops have performed critical specialized and customized work to support OPG's hydroelectric and thermal generating stations for decades. The PWU believes closing these shops would be a big mistake for OPG. Historically they have been integral to the success of the company and will be again going forward, particularly with the significant overhauls planned for the hydroelectric fleet in the near future.

"We have highly trained members and world-class expertise in place and working at these locations now," said PWU Sector 2 Vice President Brad Carnduff. "We are urging OPG to reconsider its options and to recognize the value that these machine shops bring to the company. The PWU will continue to engage the company on this matter in an effort to keep these shops open and operational."

PWU Members at London Hydro Start the Year off Right

On January 23, 2015 the PWU London Hydro Unit Advisory Committee (UAC) hosted a belated PWU members' New Year's Party. The purpose of the party was to unite members and to build solidarity through getting to know each other better, socializing and having some fun together. Tickets were sold at \$20 and included a meal and a DJ.

The party was a huge success! Members were invited to bring a guest and 80 people attended. The feedback received was phenomenal and there were some regretful folks that chose not to attend that I am sure we will see next year.

Thanks to all those who attended and to Sector 3 Vice President, Mel Hyatt, who made time in his busy schedule to be with us. Everyone is now looking forward to the next event.

In solidarity,

Pam Rafeiro

PWU Principal Steward, London Hydro



Pictured from left to right, former Chief Steward Andrea Plumb with Mel Hyatt, VP Sector 3 and Pam Rafeiro, Principal Steward, London Hydro



PWU Health and Safety
Representatives from across the
province took part in Health and Safety
Accreditation-1 Training, a three day course
held in Toronto, February 4 - 6, 2015.

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