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BY E-MAIL

September 20, 2017

Kirsten Walli Board
Secretary Ontario
Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Hydro One Networks Inc.
Distribution Rate Application, 2018 - 2022
Board File Number EB-2017-0049
Response to Draft Issues List Submissions**

In Procedural Order #1, issued on August 31, 2017, the OEB directed OEB staff to issue a draft Issues List by September 8, 2017; provided for the filing and delivery of submissions on the draft Issues List by Hydro One and intervenors by September 15, 2017; and made allowance for parties to respond to the submissions of other parties on the draft Issues List by September 20, 2017.

Five parties made submissions on the draft Issues List: Balsam Lake Coalition (BLC); Consumers Council of Canada (CCC); Vulnerable Energy Consumers Coalition (VECC); Anwaatin Inc. (Anwaatin); and the City of Hamilton. Hydro One submitted a letter indicating that it had no submissions on the proposed draft Issues List. These are the submissions of OEB staff on each topic area raised.

1) Fair Hydro Plan

Both BLC and CCC requested that the Fair Hydro Plan (FHP) be explicitly mentioned on the Issues List. OEB staff is of the view that the application should be reviewed on its own merits in terms of the rates determined, without reflecting exogenous impacts. Therefore, staff views the impacts of FHP as 'out of scope'. OEB staff does acknowledge that there could be impacts on both Working Capital and Load Forecasts as a result of the FHP. However, staff is of the view that an additional issue is not required: OEB staff submits that the impacts of the FHP on Working Capital can be addressed under the

proposed Working Capital Issue # 33 (Are the inputs used to determine the working capital component of the rate base and the methodology used appropriate?); and that the Load Forecast implications of the FHP can be addressed under proposed Load Forecast Issue # 46 (Are the customer and load forecasts a reasonable reflection of the energy and demand requirements for 2018 – 2022?).

2) Planning and Pacing of Capital Expenditures

CCC advocates that a change be made to proposed draft Issue #28 (Are the proposed capital expenditures resulting from the Distribution System Plan, adequately planned and paced?). CCC states that there is no explicit issue addressing whether the proposed overall capital expenditure levels over the term of the plan are appropriate. Staff is of the view that proposed Issue #28 as drafted already covers this matter and that a change is not required to specifically include CCC's concerns.

3) Acquired Utilities' Costs

VECC questioned whether the proposed draft Issues List covered, for the years 2018-2020, the questions of whether Hydro One has appropriately excluded the costs attributable to the Acquired Utilities; and whether, for the years 2021-2022, these costs have been appropriately determined and included. VECC acknowledged that this topic could be deemed to be included if proposed issues such as Issues #29, #30, #32, #37, #41, #42, #43 and #44 of OEB staff's proposed Issues List are examined and determined with respect to the "distribution business", as defined by Hydro One, in each of the test years.

OEB Staff agrees that the existing proposed draft Issues List already covers the concerns raised by VECC with regard to costs related to the Acquired Utilities, and that no amendment to the draft is required.

4) Cost Allocation

Regarding proposed draft Issue #48 (Are the inputs to the cost allocation model appropriate and are costs appropriately allocated?), VECC asks for confirmation that the determination of whether or not the costs have been allocated appropriately includes not only whether the OEB's cost allocation methodology has been applied appropriately, but also, in the case of the Acquired Utilities, whether the costs allocated appropriately reflect the OEB's decisions in the related MAAD proceedings. In those proceedings, the OEB stated that it expected the rates for the related service areas to be reflective of the costs to serve them. VECC referenced section 3.2 of the EB-2014-0244 Decision, in which the OEB approved the Hydro One/Haldimand Hydro MAADs transaction on March 12, 2015.

Staff is of the view that proposed Issue #48 is stated in broad enough terms that the concerns raised by VECC are subsumed within that issue as proposed, and that a separate issue is not required.

5) Rate Impact Mitigation

VECC submitted that proposed Issue #5 of OEB staff's list (Do any of the proposed rate increases require rate smoothing or mitigation?) should include whether the mitigation measures already included in the proposed rates are appropriate.

Staff acknowledges that the current proposed draft Issue #5 does not specifically address the current mitigation measures proposed by Hydro One. As rate mitigation measures are an important part of rate design, staff submits that VECC's suggestion should be adopted by way of an expansion of the existing proposed Issue #5, so that it would now read:

“Are Hydro One’s proposed rate impact mitigation measures appropriate and do any of the proposed rate increases require rate smoothing or mitigation beyond what Hydro One has proposed?”

6) First Nations and Métis Strategy

Anwaatin submitted that the proposed draft Issues List does not currently appear to allow for the examination of evidence filed on First Nations and Métis Strategy, as set out at Exhibit A, Tab 4, Schedule 2, including the approach taken to discharge the duty to consult and accommodate Indigenous Rights Holders. Anwaatin requested that the Board include an additional issue under the General Section (A).

“Has Hydro One adequately addressed the duty to consult and accommodate Indigenous Rights Holders and does Hydro One’s First Nation and Métis Strategy sufficiently address the unique rights and concerns of Indigenous customers?”

OEB staff suggests that this requested issue is overly broad in the context of this rate case, and it is not clear to staff that the acknowledgement attributed to Hydro One regarding the “delegated duty to consult” at page 2 of the Anwaatin submission is consistent with the text of that portion of the strategy referred to in that submission.

The duty to consult is triggered where the Crown contemplates action that could adversely impact an Aboriginal or treaty right. It is not clear to OEB staff that the approvals being sought by Hydro One in this rate application directly impact any Aboriginal or treaty rights. Anwaatin has not identified the specific rights that they believe could be impacted.

Generally speaking, duty to consult issues are more likely to be engaged through “land use” matters such as leave to construct applications. OEB staff accepts that in theory there could be rate-related issues that give rise to the duty. However, OEB staff is not aware of, nor has Anwaatin identified, any such issues in the current case.

In Procedural Order No. 3 in Hydro One’s 2017 and 2018 transmission revenue requirement proceeding (EB-2016-0160), issued October 21, 2016, in which it established the Issues List for that proceeding, the OEB rejected a similar request from Anwaatin as being “too broad in the context of this particular test period for a transmission revenue requirement proceeding.” In that case, Anwaatin had requested that the OEB add the following issue:

“Has Hydro One undertaken adequate outreach and consultation with Indigenous communities and groups and are its current processes and procedures sufficient to do so?”

In rejecting the request, the OEB found, in part:

“The Filing Requirements for Transmitters (Filing Requirements) provide that an applicant should describe these and any other activities designed to engage all customers connected to the transmission system, including discussions related to investment planning and transmission rates and charges. Transmitters should specifically discuss how their customers were engaged in order to determine their needs, what their needs are, and how the application has responded to any identified needs. To clarify the intended purpose of evidence with respect to customer engagement in this case the OEB hereby adds an additional issue under the “General Heading” of the issues list as follows;

‘Were Hydro One’s customer engagement activities sufficient to enable customer needs and preferences to be considered in the formulation of its proposed spending?’

This issue defines the intended purpose of the customer engagement activity with respect to the relief sought in this test period transmission revenue requirement proceeding. It also reflects the Filing Requirements and the TSC in that it pertains to all customers that will be impacted by Hydro One’s level of test period spending.”

Chapter 2 of the OEB’s *Filing Requirements for Electricity Distribution Rate Applications* (Filing Requirements) contains similar provisions with respect to customer engagement. For example, section 2.1.6 of the Filing Requirements provides, in part:

“Distributors should specifically discuss in the application how they informed their customers of the proposals being considered for inclusion in the application, and the value of those proposals to customers (i.e. costs, benefits and the impact on rates that customers would face). The application should discuss any feedback provided by customers and how this feedback shaped the final proposals included in the application.”

OEB staff submits that a similar approach to that taken by the OEB in the transmission proceeding is warranted here, and that Issue #22 as currently drafted (Was the customer consultation adequate and does the Distribution System Plan adequately address customer needs and preferences?) is adequate to address the customer engagement provisions of the Filing Requirements as they relate to all Hydro One customers.

However, OEB staff submits that it may be appropriate to include an issue related to Hydro One’s evidence on its First Nations and Métis Strategy, as that strategy has not been explicitly reflected in the current draft Issues List. Should the OEB wish to do so, OEB staff suggests that the following issue could be added to the General section of the Issues List, as a new Issue #6:

“Does Hydro One’s First Nation and Métis Strategy sufficiently address the unique rights and concerns of Indigenous customers?”

8) City of Hamilton

The City of Hamilton submitted that the word “overall” should be deleted from proposed draft Issue # 4: “Are the overall rate and bill impacts in each customer class over the 2018 to 2022 period reasonable?”

Hamilton indicated that the meaning of the word “overall” in the issue is unclear, and potentially distorts its meaning by implying that some form of averaging may be taking place.

Staff is of the view that this is a reasonable suggestion and favours the removal of the word “overall” from proposed draft Issue #4, but would also suggest a further change by removing the word “over” and replacing it with “in each of the years in”, so that Issue #4 would now read:

“Are the rate and bill impacts in each customer class in each of the years in the 2018 to 2022 period reasonable?”

Sincerely,

Original Signed By

Harold Thiessen
Ontario Energy Board staff
Case Manager – EB-2017-0049