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March 14, 2019

Reply To: Thomas Brett
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Our File No. 185568

VIA RESS, EMAIL AND COURIER

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
M4P 1E4

Attention: Kirsten Walli,
Board Secretary

Dear Ms. Walli:

**Re: EB-2018-0130: Hydro One Networks Inc.,
Application for 2019 Transmission Revenue Requirement**

Please find enclosed herewith BOMA's Written Submissions.

Yours truly,

FOGLER, RUBINOFF LLP

Thomas Brett

TB/dd

Encls.

cc: All Parties (*via email*)

ONTARIO ENERGY BOARD

Hydro One Networks Inc.

**Application for Electricity Transmission Revenue Requirement
Effective January 1, 2019**

Written Submissions of

Building Owners and Managers Association of Greater Toronto ("BOMA")

March 14, 2019

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Counsel for BOMA

Written Submissions of BOMA

Introduction

These submissions are divided into three parts. Part 1 deals with the procedural fairness issues arising from the fact that BOMA is not an intervenor in EB-2018-0218. Part 2 deals with the three questions raised by the Board in Procedural Order No. 1 in this case. Part 3 deals with other matters in this case.

Part 1

HONI has proposed that the Board approve a Revenue Cap Index with an inflation rate of 1.2% for 2019, coupled with an industry productivity factor of 0%, and a stretch factor of 0%, applied to HONI's 2018 rates which were determined pursuant to a cost of service approach in EB-2016-0160, to arrive at 2019 rates. Later in 2019, HONI will propose a three year (2020-2022) Custom IR plan. The inflation and productivity factors cited above, are the same numbers that HONI SSM has proposed in EB-2018-0218 for its seven year Revenue Cap IRM. HONI proposes to eventually true-up these inflation and productivity numbers to those approved by the Board in the EB-2018-0218 case. However, BOMA and some other intervenors in this case were not intervenors in the EB-2018-0218 case. BOMA does not generally intervene in cases of smaller transmitters or distributors, but would have intervened in EB-2018-0218 had it been aware that HONI had intended to use inflation and productivity factors from that case in this proceeding. BOMA did not discover that fact until it began to work in this case in November 2018. As a result of the Board's agreement to HONI's course of action in Procedural Order No. 1 of this case, BOMA has

had no opportunity to critique the PSE Inc. study, which was filed in that case and is the basis of HONI's proposed inflation and productivity factor. BOMA was unable to ask any interrogatories or otherwise participate in that case, which has been ongoing since July 2018. Therefore, HONI's proposal to simply adopt, in this case, the inflation and productivity factors, proposed in EB-2018-0218, is unfair to BOMA, as it had no opportunity to address the proposal in this case. HONI should have advised all intervenors in the last HONI Transmission case (EB-2016-0160) that it intended to use the HONI SSM inflation and productivity parameters, not only in the HONI SSM case, but also in HONI's 2019 case. Its failure to do so is one of the reasons why BOMA takes the position outlined in Part 2, below.

Part 2

In Procedural Order No. 1, the Board asks the parties to address three questions, related to HONI's proposal:

Is it appropriate to use the rate setting parameters proposed for Hydro One SSM on a preliminary basis, or should another approach be adopted?

What should be the nature of the proposed variance account? Should it true up to the approved parameters for Hydro One SSM, true up to parameters determined in Hydro One's Custom IR proceeding or some other option?

What additional evidence should Hydro One be required to file in its next Custom IR application with respect to the RCI parameters?" (p2)

HONI's proposal to use the inflation and productivity factors from HONI SSM raises some concerns for BOMA. HONI SSM's proposal is for a seven year revenue cap IRM, with 2019 as the base year. The revenue requirement index would be applied each year over the seven year period until 2026. The plan has additional features akin to those included in a typical multi-year

distributor price cap IRM. In this proceeding, HONI is proposing to use the same inflation and productivity numbers in what it calls a one year Revenue Cap IRM, or a "mechanistic" application, a very different context than the one in the HONI SSM case. Moreover, aside from the annual IRM option, there is no such thing as a one year IRM; an IRM is a multi-year plan for which inflation and productivity numbers constitute an index for escalating rates each year over the term of the plan.

HONI is not, understandably, using the annual IR option because under the RRFE, the annual IR option is appropriate only for smaller utilities with very predictable year over year requirements, relatively little capex, and stable environments. HONI is not seeking to extend by one year an existing Revenue Cap IRM, the context in which various distributors have applied for, and obtained, one year extensions (our emphasis). Given that HONI has just completed a two year cost of service regime, HONI should have applied for a further cost of service year while it prepared its three year Custom IR proposal. It did not do so. In these circumstances, BOMA believes that the best course of action is for the Board to extend HONI's 2018 rates into 2019, adjusted for the proposed disposition of the 2018 deferral account balances.

If the Board were to accept BOMA's proposal, there would be no need for a true-up of the inflation and productivity factors cited above, to those approved in the HONI SSM case, or to the inflation and productivity factors as may be proposed and approved in HONI's upcoming Custom IR application. BOMA is unable to answer the Board's third question, as the shape of HONI's Custom IR proposal is not yet clear, including what inflation and productivity factors, if any, would be proposed.

Moreover, since BOMA is not familiar with the evidence that HONI SSM has filed on these matters in the EB-2018-0218 case, it cannot say what more evidence on the inflation and productivity factors would need to be filed by HONI in its upcoming Custom IR proposal. BOMA suggests only that HONI would need to file sufficient evidence to support its proposed Custom IR plan, including any inflation and productivity factors that it may propose to use in any part of its application.

Part 3

If the Board were to decide to approve HONI's initial use of the HONI SSM/variance account approach in determining HONI's 2019 rates, in BOMA's view, the Board should make at least the following adjustments to HONI's proposed revenue requirement. First, both the inflation and productivity factors should be applied to all proposed 2019 offsetting revenues, and not only to the capital and OM&A driven components of the revenue requirement. There is a well-established regulatory principle that the utility cannot selectively apply these parameters. Second, given the undue lateness of HONI's application, which was filed on October 26, 2018, BOMA proposes that the implementation date for 2019 rates be the date on which the Board issues the 2019 rate order following its decision in this proceeding. HONI should have been able to file its application, perhaps with certain caveats, much earlier in 2018, but chose not to do so. Third, it is important that the December 31, 2018 numbers be provided, unaudited if necessary, prior to the Board rendering a decision in this case. At least the December 31, 2018 balance in the in-service capital additions account must be available to ensure that there is absolute clarity around the assets in-service at the end of 2018, which in turn will allow clarity around the additional assets put into service in 2019, which will be an important consideration in establishing the baseline for the 2020-

2022 Custom IR proposal. Fourth, the Board should, in determining the inflation factor, not accept the proposed 14%-86% split between labour and GDP, but should apply the 30%-70% split which has been its traditional position, as there is no compelling evidence in this case to depart from the 30%-70% split. Fifth, given that the Board has not previously signed a 0% stretch factor to HONI, it should stay with a 0.3% stretch factor as the interim figure.

BOMA would support HONI's proposals with respect to the clearance of certain deferral or variance accounts and the proposed new accounts with the caveat that the proposed true-up account for the inflation and productivity factors would only be required if the Board accepted HONI's proposal.

Finally, with respect to HONI's proposals for executive compensation, BOMA understands the legal framework to be as follows. Section 78(1)(5.0.2) of the Ontario Energy Board Act states:

"In approving or fixing just and reasonable rates for Hydro One Limited or any of its subsidiaries, the Board shall not include any amount in respect of compensation paid to the Chief Executive Officer and executives, within the meaning of the Hydro One Accountability Act, 2018, of Hydro One Limited. 2018, c. 10, Sched. 1, s. 10" (our emphasis).

Section 1 of the Hydro One Accountability Act defines "executive" as follows:

"executive" means any person who holds the office of executive vice-president, vice-president, chief administrative officer, chief operating officer, chief financial officer, chief information officer, chief legal officer, chief human resources officer or chief corporate development officer, or holds any other executive position or office, regardless of the title of the position or office".

Section 2(1) of the Hydro One Accountability Act states:

"The board of directors of Hydro One Limited shall, within six months of the day this subsection comes into force, establish a new compensation framework for the board, the Chief Executive Officer and other executives in consultation with the

Government of Ontario and the other five largest shareholders of Hydro One Limited".

Section 4 of the Hydro One Accountability Act states:

"Sections 2 and 3 apply, with necessary modifications, to each of Hydro One Limited's subsidiaries".

BOMA recommends that the Board ensure that HONI's executive compensation proposals are consistent with the legal framework, outlined above.

All of which is respectfully submitted.