

Hydro One Networks Inc.

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October 01, 2019

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
Suite 2700
2300 Yonge Street
Toronto, ON M4P 1E4

Dear Ms. Walli:

Re: EB-2016-0315 – The Implementation of the Ontario Energy Board Decision to eliminate the Hydro One Networks Inc. Distribution Seasonal Rate Class

In Procedural Order No. 3 dated September 17, 2019, the Board determined that it would treat Section 5 of Hydro One Networks Inc.'s ("Hydro One") July 19, 2019, filing entitled "Alternate Approach to Elimination of the Seasonal Class" as a Rule 42 motion to review part of the Board's decision of March 12, 2015 ("the March 2015 Decision") in Hydro One's 2015-2019 distribution rate application in proceeding EB-2013-0416.

The attached document provides additional material for the purposes of the motion and includes Hydro One's submission on the threshold question of whether the March 2015 Decision should be reviewed.

Yours very truly,

ORIGINAL SIGNED BY MICHAEL ENGELBERG PER HENRY ANDRE

Michael Engelberg

ONTARIO ENERGY BOARD

**In the matter of THE IMPLEMENTATION OF
THE ONTARIO ENERGY BOARD DECISION
TO ELIMINATE THE HYDRO ONE NETWORKS INC.
DISTRIBUTION SEASONAL RATE CLASS**

**and in the Matter of PROCEDURAL ORDER NO. 3 DATED
SEPTEMBER 17, 2019**

SUBMISSION OF HYDRO ONE NETWORKS INC.

1. In Procedural Order No. 3 (“PO #3”) issued by the Board in the above-noted matter, the Board determined that it would treat Section 5, entitled “Alternate Approach to Elimination of the Seasonal Class”, of Hydro One Networks Inc.’s (“Hydro One”) July 19, 2019 filing as a Rule 42 motion to review part of the Board’s decision of March 12, 2015 (“the March 2015 Decision”) in Hydro One’s 2015-2019 distribution rate application in proceeding EB-2013-0416 (“the Original Proceeding”).
2. Hydro One is therefore asking, pursuant to Rule 40.01, that the Board review and vary the March 2015 Decision.
3. In Procedural Order No. 3, the Board also invited Hydro One to file additional material and submissions for purposes of the said motion, as well as to make submissions on the threshold question that is the subject of Rule 42.01 of the Board’s Rules of Practice and Procedure.

SUBMISSIONS ON THE THRESHOLD ISSUE

4. Rule 42.01 states that the requesting party shall set out the grounds for the motion that raise a question as to the correctness of the decision, which grounds may include:
 - a) error in fact;
 - b) change in circumstances;
 - c) new facts that have arisen; and
 - d) facts that were not previously in evidence in the proceeding and could not have been discovered by reasonable diligence at the time.

5. Hydro One submits that although Hydro One needs to show only one of those grounds in order to meet the threshold, the fact is that all four grounds are met.

CHANGE IN CIRCUMSTANCES, NEW FACTS THAT HAVE ARISEN, AND FACTS THAT WERE NOT PREVIOUSLY IN EVIDENCE AND COULD NOT HAVE BEEN DISCOVERED BY REASONABLE DILIGENCE AT THE TIME

- i. The Board's Subsequent Decision to Move to All-Fixed Residential Rates**
6. On April 2, 2015, several weeks after the March 2015 Decision, the Board issued its policy on a new distribution rate design for residential electricity customers. Then, on July 16, 2015, the Board issued a letter to all licensed electricity distributors establishing how it would implement its new policy of moving to all-fixed residential distribution rates ("all-fixed rates"). On September 30, 2015, the Board ordered that the move to all-fixed rates would apply to customers in Hydro One's Seasonal Class ("the September 2015 Order"). The Board policy to move to all-fixed rates, and the September 2015 Order that the policy would apply to the Seasonal Class, is not only a new fact on its own, but also a new fact that immediately signified a change in circumstances and the creation of new facts that

could not have been previously discovered. The September 2015 Order had a significant and dramatic impact on the evidence led in the Original Proceeding that resulted in the March 2015 Decision and in the assessment of that evidence by Hydro One, intervenors and the Board.

ii. New Fact Showing How the Move to All-Fixed Residential Distribution Rates Addressed the Board's Previous Concern

7. The changes to Seasonal Class distribution rates resulting from the September 2015 Order largely addressed the concerns raised by the Balsam Lake Coalition ("BLC"), the intervenor whose concerns were relied upon by the Board in the March 2015 Decision. At page 48 of the March 2015 Decision, the Board wrote:

The OEB is aware that the elimination of the seasonal class will cause rate impacts, particularly for lower volume seasonal customers. At the same time, the OEB is mindful of BLC's submission that this group of customers is not paying the full costs of the service they receive.

8. In making that statement, the Board was voicing its concern that low-volume seasonal customers were not paying the full costs of serving them, and the Board was relying on that fact as a ground to eliminate the Seasonal Class. Understandably, it was not in anyone's knowledge at that time that the soon-to-follow policy decision and September 2015 Order would fully address that problem by requiring the move to all-fixed residential distribution rates which, when completed, would result in low and high volume seasonal customers paying the same charge for distribution service. The significance of that decision was, and remains, that both low and high volume customers will be paying an equal and fair share of their costs, which was the major driver for the elimination of the Seasonal Class.

iii. New Fact Showing How the Move to All-Fixed Residential Distribution Rates Changed the Customer Bill Impacts on Which the Board Based its Decision

9. During the rates proceeding that resulted in the March 2015 Decision, neither Hydro One, intervenors, nor the Board could have contemplated the customer impacts resulting from the combined effect of moving to all-fixed rates and eliminating the Seasonal Class.
10. While some customer bill impact information was provided in Exhibit I, Tab 7.02, Schedule 1 Staff 94 of the Original Proceeding, that information only demonstrated the impacts of moving seasonal customers to the year-round residential classes at the fixed and variable rates that existed at the time. In fact, as it is now known, but could not have been known during the Original Proceeding, those bill impacts are not an accurate reflection of what will happen to seasonal customers as a result of eliminating the Seasonal Class.
11. With the new knowledge that the move to all-fixed rates applies to the Seasonal Class, Hydro One is now able to determine and evaluate the bill impact on seasonal customers resulting from both the move to all-fixed residential rates and the elimination of the Seasonal Class. In particular, it is now possible to demonstrate the incremental impact on seasonal customers as a result of eliminating the Seasonal Class and moving to the applicable all-fixed year-round residential class rates, as compared to the impact on seasonal customers as a result of moving to all-fixed Seasonal Class rates.
12. As detailed in Schedule “A” to this submission, the move to all-fixed rates largely addresses the concern expressed by the Board regarding the disparity in distribution charges between high and low volume seasonal customers and results in a significant bill reduction for all high volume seasonal customers. The incremental impact from eliminating the Seasonal Class is only a small bill reduction of about

\$7 per month for the subset of seasonal customers moving to the R1 residential class, but a large incremental bill increase of about \$68 per month for those seasonal customers moving to the R2 residential class, including any high volume seasonal customers moving to the R2 residential class.

13. Therefore, high volume seasonal customers moving to the R2 residential class will not benefit from the March 2015 Decision, contrary to the evidence available to the Board at the time of that Decision and contrary to the objective stated in the March 2015 Decision that the elimination of the Seasonal Class would address the concern of high volume seasonal customers.
14. The information on customer bill impacts discussed above and further detailed in Schedule “A” attached hereto was not available to the Board at the time of the March 2015 Decision.

iv. The Subsequent Introduction of Distribution Rate Protection

15. The *Ontario Energy Board Act, 1998* was amended in 2019, two years after the March 2015 Decision, to add a new section 79.3, which established the Distribution Rate Protection plan (“the DRP”). The DRP, as subsequently detailed in Regulation 198/17, applies to residential customers of certain specified electricity distributors, including Hydro One’s R1 and R2 residential customers. Regulation 198/17 further specifies that the DRP applies only to a Hydro One R1 and R2 residential customer “if he or she resides continuously at the service address to which the account relates for at least eight months of the year.” This is the same criterion used in the Rural and Remote Rate Protection (“RRRP”) Regulation 442/01, which the Board has previously ruled makes seasonal customers ineligible to receive the RRRP subsidy and therefore means that seasonal customers are also not eligible for DRP. That new fact means that even if the Seasonal Class is eliminated, customers in the same rate class will still be paying vastly different distribution charges because seasonal customers moving to the R1 and R2

residential classes will not get DRP, whereas existing R1 and R2 year-round residential customers will. Although this disparity was understood in the context of the RRRP subsidy for seasonal customers moving into R2 residential class, introduction of the DRP subsidy has significantly exacerbated the problem in the R2 residential class, where existing year-round customers will get both the RRRP and DRP subsidies. The extent of the disparity was unknown at the time of the March 2015 Decision.

16. The issue of the disparity in distribution charges for customers in the R1 residential class is even more significant because the Board and parties to the Original Proceeding would have believed that seasonal customers moving to the R1 class would pay the same rates as existing R1 year-round residential customers; but that anticipated result changed completely when the DRP subsidy came into effect and seasonal customers were not eligible to receive the subsidy.
17. The result is that, while the Seasonal Class would be technically eliminated by the March 2015 Decision, in practice, and in fact, seasonal customers moving to the R1 and R2 residential classes must continue to be distinctly identified for billing purposes and will continue to pay distinctly different distribution charges from those paid by the R1 and R2 year-round residential customers in the same class. Hydro One submits that this is contrary to the outcome anticipated by the Board in the March 2015 Decision.

v. The Subsequent Comment Letters from Seasonal Customers

18. As demonstrated by the large number of comment letters received to date¹ by the Board in response to the current proceeding (EB-2016-0315), even in advance of having issued notice in this proceeding, seasonal customers are very interested in the elimination of the Seasonal Class. At the time of the Original Proceeding,

¹ As of September 25, 2019, 30 comment letters appear on the OEB's website related to the current proceeding.

seasonal customers would not have been aware of the possibility that the Seasonal Class could be eliminated as part of that proceeding given that this was never considered as an option during the stakeholdering that Hydro One carried out in exploring possible changes to the Seasonal Class in advance of the submission of Hydro One's 2015-2019 rates application.² The possibility that the Seasonal Class might be eliminated as part of the Board's review of Hydro One's rates application was also not highlighted in the notice of the Original Proceeding. As such, the Board's decision to eliminate the Seasonal Class was based largely on the submission of the BLC, which represents a very limited number of seasonal customers, and was not informed by what is now known to be significant interest from seasonal customers in the elimination of the Seasonal Class.

ERRORS IN FACT

i. Error of Understanding that the Seasonal Class Was Not a Density-Based Rate Class

19. At page 48 of the March 2015 Decision, the Board wrote:

The OEB finds the arguments of BLC to be persuasive. Hydro One has developed the technical capability to implement and maintain density-based rates for its non-seasonal residential classes ...The OEB agrees with BLC that the existence of density-based rate classes erodes justification for the retention of the seasonal class ...Existing seasonal class customers shall be placed in a residential class according to their density.

² As noted in Exhibit G1, Tab 2, Schedule 1, pages 5-7 of the Original Proceeding, Hydro One consulted with stakeholders to review the rates for seasonal customers in accordance with the Board Decision in Hydro One's rates application EB-2012-0136. Hydro One consulted with stakeholders on three occasions as part of the broader stakeholder sessions for the 2015-2019 rates application, and Hydro One also engaged a consulting firm to conduct a series of focus groups with seasonal customers on options for making changes to the Seasonal Class.

20. Hydro One submits that this quote indicates that the Board understood that the existing Seasonal Class was not a “density-based” rate class and also shows that the Board erred in not relying on the actual evidence on the record in the Original Proceeding. The evidence clearly established that the costs paid by seasonal customers do take density into account and that Hydro One applies a density adjustment in establishing cost causality and rates for the Seasonal Class. The Board erred by accepting and relying on BLC’s submission, contrary to the actual evidence, that it was necessary to move seasonal customers into another class in order to have such customers pay density-based rates. The fact is, and the fact was at the time of the Original Proceeding, that density is a specific consideration in establishing the costs and rates to be paid by the Seasonal Class.

21. As discussed in Exhibit G1, Tab 3, Schedule 1 pages 9 to 12 of Hydro One’s evidence in the Original Proceeding, and shown in Table 3 of that Exhibit (reproduced below), density factors are used in Hydro One’s cost allocation model to establish the cost to serve customers in the Seasonal Class. The density factor applied to the Seasonal Class is a value of 3.6, which is a weighted average value that captures the fact that about 78,000 low density seasonal customers have a density factor of 4.8 (the same as the low density year-round residential customers) and about 70,000 medium density seasonal customers have a density factor of 1.9 (the same as the medium density residential customers). The result of applying a 3.6 density factor to the Seasonal Class is that seasonal customers, as a group, are allocated costs that accurately reflect their density-based characteristics, without having to abandon the other defining characteristic in determining the cost of serving the Seasonal Class, which is its unique load characteristics.

Table 3
Weighted average customer density and Density Factors by rate class

Rate Class	Weighted Average Customer Density (Cust per km²)	Density Factors from the Density Study
UR	470.6	1.0
R1	212.4	1.9
R2	52.2	4.8
Seasonal	80.8	3.6 *
UGe	478.2	1.0
GSe	145.2	2.4*
UGd	484.8	1.0
GSd	164.4	2.2*

* Interpolated per Figure 1

ii. Error of Not Concluding That the Load Characteristics of Seasonal Customers are Sufficiently Different from their Neighbours to Justify a Separate Rate Class

22. At page 48 of the March 2015 Decision, the Board stated that it *“is not convinced that the load characteristics of seasonal customers are sufficiently different from their neighbours in the residential classes to justify the continuation of the seasonal class”*.

23. Hydro One submits that, in coming to that conclusion:
 - a) the Board disregarded the evidence provided in the Exhibit I, Schedule 7.01, Schedule 8- FOCA3 and Exhibit I, Schedule 7.02, Schedule 6- VECC 93 of the Original Proceeding, both of which clearly showed that the load characteristics are significantly different between year-round residential and seasonal customers; and

- b) the Board also disregarded the testimony of Mr. Andre, provided in the oral hearing Transcript Volume 7 of the Original Proceeding, pages 47 and 48, which highlighted the distinct difference in the load characteristics of the seasonal and residential classes. As Mr. Andre noted, for the R1 residential class “ ... 80 per cent or higher all consume more than 500 kilowatts and about 20 per cent would consume less than 500 kilowatts, where ... if you look at the seasonal class, you'd see the reverse. You'd see 80 per cent of customers consuming less than 500 and 20 per cent consuming more.”
24. Hydro One further submits, as evidence of this second error by the Board, that the evidence in this proceeding included no analysis of how the demonstrated differences in seasonal customer load characteristics impact the allocated costs and rates for the Seasonal Class on which to make a determination that the characteristics are not “sufficiently different” to warrant a separate rate class.

**SUBMISSION ON THE MERITS OF THE MOTION TO REVIEW AND REVISE
THE BOARD'S DECISION, AND ORDER REQUESTED**

25. Hydro One states that its above submission on the threshold issue includes its additional submission on the merits of the motion to review and revise the Board's Decision. Hydro One therefore requests that the Board rely on the submission on the threshold issue, as well as on the evidence in the proceeding that led to the March 2015 Decision, to:

- i. find that Hydro One has met the threshold required for the Board to proceed to review and revise its March 2015 Decision to eliminate the Seasonal Class;
- ii. find that the March 2015 Decision should be revised so as not to eliminate the Seasonal Class;
- iii. find that Hydro One should proceed with the Board's previously approved move to all-fixed residential distribution rates for the Seasonal Class.

All of which is respectfully submitted.

ORIGINAL SIGNED BY MICHAEL ENGELBERG PER
HENRY ANDRE

Michael Engelberg
Counsel to Hydro One Networks Inc.

SCHEDULE “A”

1. The information summarized in Table 10 of the updated Seasonal Report filed with the Board on July 19, 2019 (“2019 Seasonal Report”), reproduced below, breaks out the end-state impacts on seasonal customers into two components: (a) the impact of just moving to all-fixed Seasonal Class distribution rates (columns 3 and 4); and (b) the incremental impact resulting from eliminating the Seasonal Class per the Board’s Decision (e.g. columns 5 and 6 show the impact on seasonal customers moving to the R2 residential class all-fixed distribution rates, and columns 7 and 8 show the impact on seasonal customers moving to the R1 residential class all-fixed distribution rates).

Table 10
Break Out of End State Impacts Resulting from the Seasonal Class Moving to All-Fixed Rates and the Elimination of the Seasonal Class

Monthly Consumption (kWh)	2021 Seasonal Status Quo Total Bill (\$/month)	2021 Impact of Seasonal Class Moving to All-Fixed Rates		2021 Impact of Eliminating Seasonal Class					
				Seasonal-R2		Seasonal-R1		Seasonal-UR	
				\$	%	\$	%	\$	%
50	61.44	11.94	19%	67.47	110%	-6.66	-11%	-30.18	-49%
350	109.31	-1.76	-2%	68.09	62%	-6.61	-6%	-30.37	-28%
1000	213.03	-31.45	-15%	69.44	33%	-6.51	-3%	-30.78	-14%

2. The breakout of bill impacts provided in Table 10 demonstrates that the bulk of the benefit for all high volume seasonal customers comes from the move to all-fixed rates, which results in a 15% (\$31.45) reduction in the total bill for a 1000 kWh customer. The incremental impact from elimination of the seasonal class results in only an additional reduction of 3% (\$6.51) in the bill for high volume seasonal customers moving to the R1 residential class but an increase of 33% (\$69.44) in the bill for high volume seasonal customers moving to the R2 residential class. This information about the small incremental bill reductions for the subset of seasonal customers moving to the R1 residential class being at the expense of large

incremental bill increases for those seasonal customers moving to the R2 residential class was not available to the Board at the time of the March 2015 Decision.

3. The bill impacts presented in the evidence available to the Board at the time of its March 2015 Decision (per Table 2 in Exhibit I, Tab 7.02, Schedule 1 Staff 94 reproduced below) were based on seasonal customers paying the fixed and variable rates that existed at the time for the year-round residential classes (i.e. not the all-fixed rates that we now know the year-round residential classes are moving to). That evidence showed that the low volume seasonal customers moving to the R2 residential class (and not eligible for RRRP) would experience a significant bill increase of 111.4%, but it also showed that a typical volume customer would see only moderate increase of 21.4% and a high volume customer would actually see a reduction of 1.5% in their bills.

Table 2
Distribution and Total Bill Impacts for Seasonal Customers Moving to R1 and R2 Residential Rate Classes

Rate Class	Consumption Level	Monthly Consumption (kWh)	Change in Distribution Bill		Change in Total Bill	
			\$	%	\$	%
Seasonal to R1	Low	50	\$0.79	2.8%	\$0.72	2.0%
	Typical	400	(\$18.50)	-31.9%	(\$19.40)	-17.4%
	High	1,000	(\$51.55)	-47.0%	(\$53.91)	-22.4%
Seasonal to R2 (no RRRP)	Low	50	\$39.25	140.5%	\$39.97	111.4%
	Typical	400	\$23.04	39.7%	\$23.87	21.4%
	High	1,000	(\$4.73)	-4.3%	(\$3.74)	-1.5%

4. In fact, as it is now known but could not have been known during the Original Proceeding that led to the March 2015 Decision, those bill impacts are not an accurate reflection of what will happen. The combined impact on seasonal customers moving to the R2 residential class as a result of the move to all-fixed rates and the elimination of the Seasonal Class will be a higher 129% increase for

low volume customers, a not so moderate 60% increase for typical consumption customers, and an 18% increase for high volume customers instead of the bill reduction that the Board would have anticipated in reaching its March 2015 Decision.³

5. While the combined impact on seasonal customers moving to the R1 residential class as a result of the move to all-fixed rates and the elimination of the Seasonal Class is not as dramatically different from the information available to the Board at the time of the March 2015 Decision and what we now know to be the case, there are still notable differences, as can be seen by comparing the total bill impacts in Table 2 of Exhibit I, Tab 7.02, Schedule 1 Staff 94 to what we now know the impacts to be as shown in Table 10 of the 2019 Seasonal Report. The most notable of those differences is that instead of the 22% bill reduction that the Board would have anticipated for high volume seasonal customers moving to the R1 residential class, those customers will actually only see an 18% bill reduction – while those two numbers may not seem significantly different, what is critically different from the information available to the Board at the time of its March 2015 Decision is that 15% of the bill reduction results from the move to all-fixed rates and only 3% results from the elimination of the Seasonal Class.

³The combined impacts are the sum of the impacts from moving to all-fixed rates and eliminating the seasonal class as shown in Table 10. The combined impacts are also provided in Table 9 of the 2019 Seasonal Report.