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File 10329

**VIA EMAIL AND COURIER**

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
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HONORARY COUNSEL

Ian G. Scott, Q.C., O.C.  
(1934 - 2006)

Dear Ms. Walli:

**Re: Transmission Connection Cost Responsibility Review (EB-2008-0003)**

The Power Workers' Union ("PWU") represents a large portion of the employees working in Ontario's electricity industry and has the utmost interest in initiatives that impact the energy industry and the provision of on going service quality and reliability to customers. Attached please find a list of PWU employers.

The PWU is committed to participating in regulatory consultations and proceedings to contribute to the development of regulatory direction and policy that ensures on going service quality, reliability and safety at a reasonable price for Ontario customers. To this end, attached please find the PWU's comments on the *Revised Proposed Amendments to the Transmission System Code*.

We hope you will find the PWU's comments useful.

Yours very truly,

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP

Richard P. Stephenson  
RPS:jr

cc: John Sprackett  
Judy Kwik  
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## List of PWU Employers

Atomic Energy of Canada Limited (Chalk River Laboratories)  
BPC District Energy Investments Limited Partnership  
Brant County Power Incorporated  
Brighton Beach Power Limited  
Brookfield Power – Lake Superior Power  
Brookfield Power – Mississagi Power Trust  
Bruce Power Inc.  
Cooor Nuclear Services  
Corporation of the City of Dryden – Dryden Municipal Telephone  
Corporation of the County of Brant, The  
Coulter Water Meter Service Inc.  
CRU Solutions Inc.  
Ecaliber (Canada)  
Electrical Safety Authority  
EPCOR Calstock Power Plant  
EPCOR Kapuskasing Power Plant  
EPCOR Nipigon Power Plant  
EPCOR Tunis Power Plant  
Erie Thames Services and Powerlines  
ES Fox  
Great Lakes Power Limited  
Grimsby Power Incorporated  
Halton Hills Hydro Inc.  
Hydro One Inc.  
Independent Electricity System Operator  
Inergi LP  
Innisfil Hydro Distribution Systems Limited  
Kenora Hydro Electric Corporation Ltd.  
Kincardine Cable TV Ltd.  
Kinectrics Inc.  
Kitchener-Wilmot Hydro Inc.  
London Hydro Corporation  
Middlesex Power Distribution Corporation  
Milton Hydro Distribution Inc.  
New Horizon System Solutions  
Newmarket Hydro Ltd.  
Norfolk Power Distribution Inc.  
Nuclear Safety Solutions  
Nuclear Waste Management Organization  
Ontario Power Generation Inc.  
Orangeville Hydro Limited  
Portlands Energy Centre  
PowerStream  
PUC Services  
Sioux Lookout Hydro Inc.  
Sodexho Canada Ltd.  
TransAlta Energy Corporation - O.H.S.C. Ottawa  
Vertex Customer Management (Canada) Limited  
Whitby Hydro Energy Services Corporation

**Revised Proposed Amendments to the  
Transmission System Code**

***Comments of the Power Workers' Union (PWU)***

**I. BACKGROUND**

1. By a letter dated January 4, 2008, the Ontario Energy Board (“OEB” or “the Board”) launched a consultation with respect to policies regarding cost responsibility for generation and load connections to transmission systems.
2. On July 8, 2008 the Board released for comment a Board staff Discussion Paper (“Discussion Paper”) that identified and analyzed issues and options associated with the connection of generation facilities to transmission systems, specifically relating to Enabler Lines. Stakeholders filed their comments on the Discussion Paper on August 11, 2008.
3. On October 29, 2008 the Board released a Notice of Proposal (“October Notice”) asking for written comments on proposed amendments (“October Proposed Amendments”) to the Transmission System Code (“Code”) regarding cost responsibility associated with the transmission connection of generation facilities that form part of renewable resource clusters.
4. By a letter dated April 15, 2009 the Board released a Notice of Revised Proposal asking for written comments on revised proposed amendments to the Code (“Revised Proposed Amendments”). The following constitute the PWU’s comments on the Revised Proposed Amendments.

## II. GENERAL COMMENTS

### 1. The *Green Energy and Green Economy Act, 2009*

5. The PWU is of the view that, Bill 150, the *Green Energy and Green Economy Act, 2009*, introduced on February 23, 2009 (“Bill 150”), if/when passed, could have implications for the Code as it relates to the connection of renewable generation facilities to the transmission systems. The PWU also recognizes that the Code amendment currently under consideration has expanded the scope of the definition of enabler facilities to include enabler facilities identified in an approved Integrated Power System Plan (“IPSP”) and enabler facilities necessary to connect renewable generation facilities that the OPA has been directed to procure.
6. The PWU, therefore, agrees with the Board’s view that, regardless of what the implications of Bill 150 might be, the Board should move forward with the Revised Proposed Amendments for three reasons. First, the exact implications of Bill 150 to the Code are not clear at this point. Secondly, the expansion of the definition of enabler facilities has already gone a long way in addressing most issues relating to the connection of renewable resources. Thirdly, the Revised Proposed Amendments and the clarifications provided by the Board provide more clarity and greater certainty to transmitters compared to the October Proposed Amendments.

## III. PROPOSED REVISIONS TO THE OCTOBER PROPOSED AMENDMENTS

### A. Selection of the Appropriate Option

7. As submitted in comments on the October Proposed Amendments, the PWU is disappointed that the Board rejected the Shared option, which would have followed the cost causality principle and fully attributed costs to generators. However, the PWU concedes that the option that the Board

has opted for, the Hybrid option which potentially has risk for the ratepayer including the possibility of paying for unused capacity of enabler lines, is a better option compared to the Pooling option. The later option would have the ratepayers taking on full risk of the costs of the enabler lines.

## **B. The Transmitter Designation Process**

8. The PWU is of the view that the Board has reasonably responded to the requests from a number of stakeholders for further information about the transmitter designation process. While the response does not clearly identify the criteria against which competing applications would be evaluated, the PWU is in particular satisfied with the Board's anticipation of what the overall approach will look like with respect to the following issues which the PWU considers as highly relevant to on going quality, safety and reliability of service:
  - a. The Board will conduct a hearing or a joint hearing in relation to an application when there is/are applications filed by a transmitter(s). In the event that no transmitter files an application, the Board will initiate a proceeding on its own motion to amend the license of a transmitter to direct the transmitter to undertake development activities relating to the enabler facility<sup>1</sup>. The PWU submits that while this is a reasonable approach, it is important to carefully identify criteria by which applications are evaluated when they are filed or by which the Board determines the transmitter whose license should be amended to undertake the development work. The PWU anticipates that the Board will consider, among others, such criteria as experience, expertise, technology, availability of resources, economies of scale, cost, and preparatory work done by the transmitter's own initiatives. In this regard, the PWU submits

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<sup>1</sup> Ontario Energy Board, Revised Proposed Amendments to the Transmission System Code, April 15, 2009, Pages 4-5

that due care be exercised so as not to compromise reliability, quality and safety issues in pursuit of low cost.

- b. The transmitter that has been designated by the Board to undertake development activities in relation to an enabler facility will be permitted to recover all of the prudently incurred costs associated with those activities even if the enabler facility does not proceed to construction, provided that failure to proceed to construction is for reasons outside of the transmitter's control.<sup>2</sup> The PWU believes that the Board is exercising fairness in this respect because this would provide greater certainty and the benefit of holding the transmitter harmless.
- c. In the normal course, the Board anticipates that the transmitter that is designated to undertake development activities relating to an enabler facility will also be the transmitter that will eventually construct and own the enabler facility. However, the Board does not wish to preclude at the outset the possibility that this might not be the case.<sup>3</sup> The PWU submits that this is a reasonable approach. The PWU also submits that having the transmitter that has undertaken development work to construct the enabler facilities has benefits including greater efficiency and cost effectiveness, which ultimately will benefit the ratepayer.
- d. The PWU is satisfied with the Board's clarification and view that, to the extent that the need for and costs associated with an enabler facility project are adequately assessed by the Board in the context of the IPSP, those issues should not be anticipated to be revisited thereafter except in relation to any material deviations. Similarly,

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<sup>2</sup> Ontario Energy Board, Revised Proposed Amendments to the Transmission System Code, April 15, 2009, Page 5

<sup>3</sup> Ibid.

the PWU agrees with the Board's view that, to the extent that the need for and costs associated with an enabler facility project are adequately assessed by the Board in the course of designating a transmitter to undertake development activities, those issues are not intended to be revisited thereafter except in relation to any material deviations. The PWU recognizes that issues pertaining to matters such as the capacity of the enabler facility and the technology used would remain to be addressed in the leave to construct proceeding. In general, the Board's anticipated approach in this respect is balanced and has the benefit of saving time and resources for the Board, the transmitter, stakeholders and the ratepayer.

**C. Issues Where No Revisions to the October Proposed Amendments are Proposed**

9. The PWU has carefully examined the eleven issues that the Board identified as issues where no revisions to the October Proposed Amendments are required. The Board has either provided clarifications, or explained why no further action is required with respect to those issues. In general, the PWU is satisfied with the Board's clarifications and explanations with the exception of issue # 6 which relates to facilities forming part of a renewable resource cluster.
  
10. In response to a stakeholder suggestion that the definition of enabler facility (section 2.0.28A) be amended to refer specifically to renewable generation facilities, the Board states that its proposed definition of "enabler facility" makes it clear that such a facility is intended to connect generation facilities that are located within a renewable resource cluster. It further states:

**Although the Board anticipates that most of the generation facilities sited within a renewable resource cluster will be renewable**

**generation facilities, the Board notes that strictly speaking there is no prohibition on the connection of non-renewable generation facilities to an enabler facility. The Board believes that it is appropriate to allow for such connections to occur<sup>4</sup>.**

11. The PWU submits that the reason why the Board needed to review the Code in relation to enabler facilities and why the Board introduced the Hybrid option to deal with the issue of cost responsibility in the first place is because of the specific nature of renewable resource clusters which the OPA has/will identify as part of the Government's policy to promote renewable resources. The Board's contemplation of the connection of non-renewable generation to the enabler facilities raises the question as to why the Board's status quo transmission connection cost policy would not apply to such generators. The PWU will further address this issue in the following section where it has a similar concern relating to cost responsibility for generation facilities "outside" the renewable resource cluster, which is one of the issues which the Board has proposed a revision to in the October Proposed Amendments.

#### **D. Issues Where Revisions to the October Proposed Amendments are Proposed**

##### *1. Cost Responsibility for Generation Facilities "Outside" the Renewable Resource Cluster*

12. The PWU is concerned with the Board-proposed revised amendment to the Code relating to cost responsibility for generation facilities "outside" the renewable resource cluster. The Board noted the following under the October Proposed Amendments:

**...generation facilities within a renewable resource cluster would each pay a pro-rata share of the cost of the enabler facility, net of the cost of any incremental capacity triggered by the anticipated**

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<sup>4</sup> Ontario Energy Board, Revised Proposed Amendments to the Transmission System Code, April 15, 2009, Pages 8-9



**connection of a generation facility outside of the renewable resource cluster (sections 6.3.8A and 6.3.14A).<sup>5</sup>**

In the Revised Proposed Amendments, the Board states that it does not believe that section 6.3.8A, which the Board proposed to add to the Code in its October Proposed Amendments, is required given the comments received from stakeholders.

13. The Board offers two reasons for its decision: First, it noted the comments of stakeholders who submitted the lack of clarity and precision of the provisions under the October Proposed Amendments. Second, as a practical matter, the Board noted that it may be difficult to determine with any degree of precision the exact geographic boundaries of a renewable resource cluster. Consequently, the Board states that it believes:

**... that it is more appropriate for any generation facility that connects to an enabler facility to pay its pro-rata share of the cost of the enabler facility, regardless of whether the facility is or is not located within the renewable resource cluster.<sup>6</sup>**

14. The PWU submits that the Board's revised proposal in this respect raises a number of questions that need clarification:
  - a. First, if a generator "outside" the renewable resource cluster is allowed to connect to the enabler facility and all that it is required to do is to pay its pro-rata share of the cost of the enabler facility, what is it that distinguishes generators "inside" the cluster from those "outside" the cluster? In other words, the reason for the Board's initiation of this proceeding is the specific and peculiar needs of potential renewable resource generators that may be multiple and small and located in remote areas. The current policy applicable to

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<sup>5</sup> Ontario Energy Board, Revised Proposed Amendments to the Transmission System Code, April 15, 2009, Page 11

<sup>6</sup> Ontario Energy Board, Revised Proposed Amendments to the Transmission System Code, April 15, 2009, Page 11

other generators is not only that they must bear full responsibility for their connection cost but also that they play the leading role. In this regard, the Board's suggested proposal blurs the boundary between generators "inside" and "outside" the cluster. Moreover, if any generator anywhere is allowed to connect to the enabler facility under the same condition as the generators in the cluster, then the enabler facility will cease to be what it is and will become like any other transmission facility serving any generators.

- b. Second, there is the question of who will bear the cost in the event that the transmitter builds an enabler facility with capacity over and above what would be needed for generators in the renewable resource cluster in anticipation of a generator "outside" the cluster, and if the anticipated generator does not materialize. Neither the generators in the renewable resource cluster nor the ratepayers should be expected to pick up the cost. The proposed Hybrid option already provides that the ratepayers would pick up the cost of unsubscribed generation anticipated in the OPA-identified cluster. The ratepayers are also responsible for development costs, at least initially.

In other words, it is not clear why such generators should be treated any different from other generators that are subject to the Board's current transmission connection policy. Also it is not clear whether the Board's anticipation is that in addition to paying its pro-rata share of the cost of the enabler facility that such a generator would be subject to other requirements by the transmitter such as security deposits, which the Board has proposed in the Revised Proposed Amendments will not be not payable in relation to the construction of enabler facilities. The PWU is also of the view that treating generators "outside" the cluster that may connect to the

enabler facilities different from other generators that are not connected to the enabler facilities and subject to the status quo raises the question of fairness and can influence generators to make uneconomic decisions.

- c. The Board's comment that "it may be difficult to determine, with any degree of precision, the exact geographic boundaries of a renewable resource cluster" is not helpful in clarifying and solving the problem. In fact, the PWU notes that in the October Proposed Amendments, the Board proposed to define 'renewable resource cluster' in *Section 2.0.57A* of the Code as a "*defined geographic area identified as such...*" In the Revised Proposed Amendments, the Board is proposing to remove the word "defined" from the definition. The PWU is concerned that unless the renewable resource cluster area is identified and reasonably defined by the OPA, it will cause implementation problems and induce arbitrariness into the policy designed for renewable resources.

## 2. *Security Deposits*

15. In the Revised Proposed Amendments, the Board has proposed to amend the Code to add a new section (6.3.10A) that confirms that security deposits are not payable in relation to the construction of enabler facilities. The Board noted that the purpose of a security deposit is to provide some measure of risk mitigation for a transmitter to address the possibility that the facility for which a transmission facility is being constructed does not actually connect to the transmission system whereas the same concern does not apply in the case of an enabler facility, since many generation facilities are expected to connect to the enabler facility over time, after construction of the enabler facility has been completed.

16. The PWU shares the Board's view that there are practical implementation problems with respect to security deposits in relation to enabler facilities. On the other hand, as indicated earlier in this submission, if the Board contemplates the possibility for an "outside" generator to connect to an enabler facility and if a transmitter were to build the facility not only to serve generators in the renewable resource cluster but also in anticipation of generation "outside" the cluster, the Board ought to review its proposal with respect to such issues as the applicability of security deposits and responsibility for development cost. The PWU submits that, at minimum, the Board should provide clarification in relation to this issue.

### *3. Load Connections*

17. The PWU agrees with the Board's view that, if, in order to accommodate a load facility an enabler facility needs to be modified after initial construction has been completed, then based on section 6.3.2 of the Code the load facility would be required to make a capital contribution to cover the cost of the modification.

### *4. Other*

- i. Definition of Enabler Facility

18. The PWU is satisfied with the Board's decision to revise section 2.0.28A of the Code, which clarifies that an enabler facility is a facility "owned and operated by a transmitter".<sup>7</sup>

- ii. Definition of Renewable Generation

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<sup>7</sup> Ontario Energy Board, Revised Proposed Amendments to the Transmission System Code, April 15, 2009, Page 13

19. The PWU agrees with the Board's proposal to amend section 2.0.57 of the Code to define renewable generation as generation facilities that generate electricity using a renewable energy source, as defined in the *Electricity Act, 1998*.

All of which is submitted respectfully.

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