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File: 5283

June 30, 2009

Ontario Energy Board
2300 Yonge Street, Suite 2700
P.O. Box 2319
Toronto, ON M4P 1E4

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: Board File No.: EB-2009-0077
Submissions of Northwatch
Proposed Amendments to the Distribution System Code

Northwatch is pleased to provide these comments on the Ontario Energy Board's Proposed Amendments to the Distribution System Code (the "Proposed Amendments") in the above noted matter.

Northwatch was founded in 1988 and is a regional coalition of community and district based environmental groups, naturalist clubs, social justice and development organizations, local peace groups, and Aboriginal support groups, as well as many individuals. Its membership base covers the land mass north of the French River, comprised of the districts of Nipissing, Sudbury, Algoma, Manitoulin, and Cochrane, Temiskaming, including the Hudson's Bay lowlands.

Northwatch's main objective is to represent the public interest with respect to environmental protection, social justice, and resource management matters in north-eastern Ontario. Its members are committed to promoting the health, well being and sustainability of the human and natural communities throughout the region.

The *Green Energy and Economy Act (GEEA)* provides the opportunity for the pursuit of a clean energy future in Ontario. The GEEA also includes a number of provisions that could support a sustainable green energy economy in northeastern Ontario. It aims to increase participation of Aboriginal peoples and involvement of local community members in the development and establishment of renewable energy projects (amended sections 25.32 and 25.35 to the *Electricity Act*). The *GEEA* provides for the possibility that municipalities could generate renewable energy (amended section 144(2) to the *Electricity Act*), or that northern LDCs could generate renewable energy (amended section 71, *Ontario Energy Board Act*).



In the absence of any clarity that may be brought by regulations as yet not developed under Section 79.1 of the *Green Energy and Green Economy Act*, Northwatch has a concern that some ratepayers may be burdened with the costs of construction, expansion or reinforcement associated with the connection of a renewable energy generation project for which the end users are located in a distribution system distant to the location of the generation facility. Such would be the case, for example, if supply generated within a particular area or region exceeded demand, with the surplus exported for use elsewhere. It is important that the Board's framework to support the GEEA ensures that northern residents do not bear an unfair burden in terms of rate impacts and adverse environmental effects.

COMMENTS OF NORTHWATCH

Northwatch generally supports the proposed assignment of cost responsibility. However, Northwatch has comments and concerns related to:

- a) the real impact on the development of renewable energy projects
- b) the impact on Aboriginal or local community partnerships
- c) the impact on the rate payer in north-eastern Ontario, and
- d) the achievement of integrated planning.

IMPACT ON GENERATION OF RENEWABLE ENERGY AND LOCAL PARTNERSHIPS

Northwatch generally supports the proposed assignment of cost responsibility. The proposed assignment would alleviate the payment of costs by the Generator in all cases except for a) connection assets and b) the portion of expansion costs above a cap where the investment is not contained in a Board approved plan or otherwise mandated by the Board. This should encourage the development of renewable energy, depending on the definition of connection assets, and the cap and planning process, and such encouragement could be important in achieving Northwatch's objective of northeastern Ontario achieving a supply-demand balance. However, the real impact cannot be easily determined without more clarity in the rules.



DEFINITION OF “CONNECTION ASSETS” NEEDS CLARIFICATION

Northwatch supports payment by the Generators of costs related to assets at the generation facility. The proposed definition of connection assets includes that portion of the distribution system that a) is used to connect a customer to the “main distribution system”. It is unclear from this definition where the main distribution system begins, and the generator’s responsibility ends, and so it is hard to determine its potential impact.

The costs to the generator must be sufficient to encourage clustering so to minimise the environmental burdens of having a large number of single facilities sited in relative isolation from each other, with project infrastructure potentially making a significant increase to a fragmenting of the forest landscape throughout northern Ontario. Therefore, Northwatch supports part b) of the definition that the connection costs exclude those costs that benefit other customers.

RENEWABLE ENERGY EXPANSION COST CAP

The Board proposes a cap on expansion costs payable by the Distributor at the low end of the range. The purpose of the cap is stated to be “preserving location signals for efficient siting.” Northwatch supports this objective, for the above noted reason of its ability to reduce the impact of energy infrastructure on forest fragmentation. However, the cap should not be set so low as to create barriers for Aboriginal projects or community based developments, particularly those which are dedicated to meeting local energy needs. Northwatch would support a higher cap, or a different approach to the cap for projects with majority Aboriginal ownership, or significant community involvement.

The Board proposes that the cap would not apply where investment is contained in a Board approved plan or mandated by the Board. Northwatch supports this concept as it encourages generators to take advantage of obtaining a Board mandate and the opportunity for the Board to oversee an integrated planning process.

The process for Board mandated investment is unclear, but Northwatch would not support that it be done simply through individual distribution licencing or rate-setting processes. Northwatch supports an approach that will result in an integrated distribution system planning process that balances demand and supply at the local, district and regional level.

Northwatch did not receive notice of the Board discussion paper on infrastructure investment planning (EB 2009-0152), which is relevant to this matter, and has since sought eligibility for costs and an extension of time to review and comment.

Northwatch would also like to comment on the Distribution System Planning Guidelines G-2009-0087.



INCENTIVE FOR PARTNERSHIPS

The GEAA is opening the door for development of local renewable energy partnerships between and among Aboriginal communities, municipalities, LDCs, and local interests.

It is the aspiration and expectation of Northwatch's constituents that the GEEA really does increase local involvement and participation in the green energy economy through renewable energy projects that are majority owned by northern interests, and that serve northern Ontario. These entities will need assistance and nurturing in order to compete against more established energy companies.

Northwatch supports a cost responsibility regime that assists by removing barriers to local community involvement in renewable energy projects. Northwatch would support an additional reduction of the connection costs responsibility for generators that are in majority partnership with Aboriginal or local community interests.

IMPACT ON NORTHEASTERN ONTARIO RATEPAYERS

The Board proposes that some or all of the investments that are proposed to be funded by a distributor may be eligible to be recovered from consumers across the province. Northwatch strongly supports mitigating the rate impact on northern rate-payers as a result of development of distribution systems in the north which may provide energy to all of Ontario, and meet public policy goals of Ontarians.

As above, Northwatch would like to be included in the design of any investment planning, cost recovery or rate-setting process to mitigate this impact.

INTEGRATED PLANNING

Northwatch supports the development of a board mandated process leading to a Board approved distribution investment plan but is concerned that without proper planning, unintended social, environmental and economic impacts will result.

In closing, we appreciate the enormity of the task before the Board to develop a framework to support the GEEA. Northwatch has engaged in the current process, however commenting on discussion papers has been a challenge. The Board's strategy or plan in rolling out its various discussion papers, and how they inter-relate is not entirely clear to us. As a result, this process appears somewhat piecemeal.



We would encourage the Board to consider providing a clear outline and timeline of what they regard to be the several related initiatives, adding detail and clarity to the Statements from the Chair of April 3rd and June 1st 2009. This would, in Northwatch's view, support interveners in working together and in making the most helpful submissions in a timely and coordinated fashion.

All of which is respectfully submitted.

Yours truly,

A handwritten signature in blue ink, reading 'Juli Abouchar'.

Juli Abouchar
Partner, W+SEL
Certified as a Specialist in Environmental Law
by the Law Society of Upper Canada

cc: Northwatch