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VIA E-MAIL

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge St.
Toronto, ON
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Dear Ms. Walli:

Re: Hydro One Networks Inc. – 2010 & 2011 Distribution Rate Application
Board File: EB-2009-0096)
VECC's Reply Comments Regarding Draft Issues List

As Counsel for the Vulnerable Energy Consumers Coalition (VECC), I writing to provide reply comments regarding submissions made by Hydro One Networks regarding the Board's Proposed Issues List and the schedule for the proceeding.

Issue List

Hydro One has recommended the removal of a number of issues from the Proposed Issues List. First, Hydro One Networks has proposed that Issues 3.4, 3.6, 3.7, 3.8, 4.4, 5.1, 7.2 and 7.5 be removed from the list on the grounds that they are related to methodologies reviewed and accepted by the Board in previous proceedings. VECC has the following comments regarding this proposal:

- VECC submits that even in cases where Hydro One Networks is using a previously approved methodology or guideline the Board is not relieved from its obligation to examine the applicant's evidence to confirm that the methodology is being applied appropriately and that the correct data has been used in the application of the methodology; additionally, methodologies may become obsolete, proven to be incorrect, or be challenged in other ways in subsequent proceedings such that the simple elimination of the issue *ab initio* is inappropriate. In VECC's view the reliance on existing Board approved methodologies or guidelines will, in many cases, ensure the issue is not contentious, but that does not mean that the issue no longer exists, even if only from a due diligence perspective.

Indeed, Hydro One Networks appears to agree with this perspective when it comes to depreciation (Issue #3.6); property/capital taxes (Issue #3.7); and income taxes (Issue #3.8) and recommends that the actual calculation of the amounts be subsumed in Issue #3.1. For these three issues VECC believes that Hydro One Networks' proposal is acceptable but not the optimal approach. By maintaining the these topics as separate issues it may be possible to limit the scope of Issue 3.1 which is much more likely to go to an oral proceeding. For property taxes, VECC notes that in the most recent Transmission Revenue Requirement proceeding, the calculation of property taxes was a contentious issue and, in its Decision (EB-2008-0272, pages 32-33) the Board did not agree with Hydro One Networks' approach to determining the amount to be included in rates. In VECC's view, this is an additional reason for maintaining Issue #3.7 as a separate item.

- With respect to Issue 3.4, VECC notes that according to Hydro One Networks' application (ExC1/T5/S1/Page 1, lines 23-25) the methodology for allocating common costs has been updated. In VECC's view this warrants retaining the "appropriateness of the methodology" as a separate issue. VECC assumes that the generic due diligence issue regarding the application of the methodology is subsumed in Issue #3.3.
- With respect to Issue #4.4, VECC assumes that questions regarding inputs to

and the application of the methodologies would be subsumed in Issues #4.1 (for working capital) and #4.3 (for shared service capital). Again VECC views this approach as reasonable but not the most efficient – for the same reasons as outlined in the first bullet above.

- With respect to Issue 5.1, VECC notes that due to the proposed January 1, 2010 effective date, Hydro One Networks' proposed ROE will not be based on the OEB's calculated 2010 ROE value which will be issued early in 2010. Hydro One Networks has proposed a particular approach for establishing its ROE using a similar methodology but different data such that the results will likely differ from those applied to other electricity distributors for 2010. As a result, VECC submits that Hydro One Networks' proposed ROE is a relevant topic for the Issues List.
- With respect to Issue #7.2, Hydro One Networks' rationale for exclusion is that it uses the Board approved methodology and the proposed revenue to cost ratios are within the Board approved ranges. In VECC's view this rationale flawed. With respect to the first point, VECC notes that Hydro One Networks' application includes roughly 18 pages of documentation (Ex G2/T 1/S 1, pages 1-18) on areas where its cost allocation model differs from the model distributed by the Board. As a result, it is incorrect to suggest that Hydro One Networks uses the "Board approved methodology". With respect to the second point, the Board's Cost Allocation guidelines require that the revenue to cost ratio for each customer class be adjusted such that it conforms with the acceptable range established for that class. However, once within the range, it is VECC's submission that the policy guideline does not give utilities the licence to unilaterally adopt any revenue to cost ratio it chooses. In VECC's view, even if the proposed ratios are within the Board's guidelines, the proposed values are a legitimate issue to explore as part of the proceeding, particularly since Hydro One Networks is proposing to adjust some of the values.
- With respect to Issue #7.5, VECC submits that the issue is relevant from a due diligence perspective, as discussed under the first bullet above, and

should remain on the Issues List as phrased.

Hydro One Networks also proposes that a number of issues be excluded on the basis that they relate to evidence where there is not a material change from that reviewed in the previous application. Issues included in this category include #1.3, #2.2, #3.9, #4.5, #4.6, #7.3, #7.4, and #8.3. VECC's comments regarding the proposed exclusion of these issues are set out below.

- With respect to the exclusion of Issue #1.3, it is VECC's view that the acceptability of service quality levels, both current values and trends are relevant matters in considering both capital and OM&A spending. Therefore, VECC submits that service quality will (implicitly if not explicitly) be topic of relevance for this proceeding.
- With respect to Issue #2.2, VECC notes that there is a significant change in the level of external revenues forecast for 2010 and 2011 versus previous years (Ex E1/T 1/S2) and submits that Hydro One Networks' rationale for exclusion is not applicable to this item.
- With respect to Issues #3.9 and #4.6, VECC notes that questions of spending levels on loss reduction are likely subsumed within Issues #3.1 and #4.2 respectively.
- With respect to Issue #4.5, VECC generally agrees that the question of whether or not proposed expenditures are adequately supported is subsumed under issues #3.1 and #4.2. However, VECC notes that in its Decision regarding Hydro One Networks' last Transmission Revenue Requirement Application the Board expressed concerns regarding the documentation provided by Hydro One Networks' regarding how its Investment Planning process supported the levels of proposed spending (EB-2008-0272, pages 20-22). Since the same process is used for Transmission and Distribution, VECC submits the matter of whether Hydro One Networks' evidence regarding its Investment Planning process adequately supports the OM&A and Capital expenditures in 2010/2011 is clearly a relevant issue for this proceeding.

- With respect to Issue #7.3, VECC submits that the approach used to set the fixed-variable split is subjective and depends, only in part, on the specific results of the cost allocation study. Also to be considered are the current splits and the bill impacts on customers. In VECC's view this is not a mechanical calculation and the considerations involved in determining the splits are unique to each proceeding such that the matter is a relevant issue in each rate proceeding. VECC also notes that the evidence provided by Hydro One Networks (Ex G1/T 4/S 1, pages 1-2 and Ex G1/T 4/S 2, pages 1-2) does not fully explain how the proposed fixed charge for each customer class was derived.
- With respect to Issue #7.4 regarding rate impact mitigation plans, Hydro One Networks indicates that its plan is not materially changed from that submitted in the previous application and approved by the Board. First, this statement is incorrect. The current proposal only considers bill impact for the average customer (Ex G1/T 8/S 1, pages 1-2). However, the Board's Decision included impact measures for all customers (EB-2007-0681, pages 42-43). Second, bill impact mitigation is not a mechanical exercise but rather a matter of judgement based on the specifics of the particular Application. What works in one case may not work in another where the costs and initial impacts are different. As a result, VECC submits that Hydro One Networks bill impact mitigation plans are a relevant issue for this proceeding.
- With respect to issue #8.3 regarding the treatment of stranded meters, Hydro One Networks' rationale includes the fact that this was a "settled" issue in EB-2007-00681. However, VECC notes that one of the provisions of the Settlement Agreement was that:

  > Unless stated otherwise, the settlement of any particular issue in this proceeding and the positions of the parties in this Proposal are without prejudice to the rights of parties to raise the same issue and/or to take any position thereon in any other proceedings. (page 3)

Also, VECC notes that since smart meters are to be fully installed by 2010, this is an appropriate time to revisit the issue of stranded costs. As a result, VECC submits this should remain an issue for the proceeding.

Hydro One Networks final category of issues to be excluded are those that relate to evidence that is largely based on external consensus forecasts. The Issues included are #1.2 and #5.2. VECC notes that both the consensus forecast used to determine Hydro One Networks' economic and business planning assumptions (Issue #1.2) and the prevailing market conditions used to determine the spreads for its forecast interest rates are from April 2009. Given the volatility of the current economy and the uncertainty regarding the future that has existed over the last 12 months, VECC submits the forecasts and data used by Hydro One Networks are a relevant issue for this proceeding. VECC notes that in the Board's review of various electricity distributors 2009 rate applications questions as to the impact of more recent economic forecasts were deemed to be relevant. VECC agrees that Issue #1.2 could be considered as subsumed under other issues. However, this is not the case for Issue #5.2 which in VECC's view must remain as a separate issue in the proceeding.

Schedule

Hydro One Networks has proposed that a) intervenors be required to declare their intent to submit evidence on the same date that their interrogatories are due and b) a settlement conference is not needed. In its September 15th comments, VECC explained that the interrogatory responses are a critical input to decision as to whether or not intervenor evidence is required and believes that this is still the case and that Hydro One Networks' proposal is not workable. In the same comments, VECC also explained why the decision on an oral versus written consideration of a particular issue could not reasonably be made until after the interrogatory process is completed. Even if Hydro One Networks is not willing to offer to reduce its expenditures as part of a settlement process, VECC submits that the settlement process offers an excellent (and timely) opportunity for parties to consider which Issues should be dealt with on a written versus oral basis. However, VECC does note that, given Hydro One Networks unwillingness to participate in any settlement discussions regarding the specifics of its application, the 3+ weeks currently allotted for the process will not be required.

Yours truly,

Michael Buonaguro
Counsel for VECC