



EB-2009-0096

IN THE MATTER OF the *Ontario Energy Board Act, 1998*,
S. O. 1998, c. 15, Schedule B;

AND IN THE MATTER OF a review of an application
filed by Hydro One Networks Inc. for an order
approving just and reasonable rates and other
charges for electricity distribution for 2010 and 2011.

ISSUES LIST DECISION

and

PROCEDURAL ORDER NO. 2

Hydro One Networks Inc. ("Hydro One", the "Company" or the "Applicant") filed an application, dated July 13, 2009, with the Ontario Energy Board under section 78 of the *Ontario Energy Board Act, S.O. 1998, c.15, Schedule B*, seeking approval for changes to the rates that Hydro One charges for electricity distribution, to be effective January 1, 2010 and January 1, 2011. The Board assigned File Number EB-2009-0096 to the application.

The Board issued a Notice of Application and Hearing dated August 4, 2009. In Procedural Order No.1, issued on September 9, 2009, the Board approved 19 intervention requests. Also in Procedural Order No. 1, the Board indicated that it would seek further information from EnviroCentre before making a finding on cost award eligibility. In response to a Board request, on September 15, 2009 the Board received further information from EnviroCentre. The Board hereby approves cost eligibility status

for EnviroCentre with the proviso that EnviroCentre limit its participation to the Green Energy Plan related issues.

On September 13, 2009 the Board received a late intervention request and a request for cost award eligibility from the Green Energy Coalition (GEC). The Board approves both the intervention and the eligibility for a cost award for GEC, assuming that GEC accepts the case record as it currently stands.

On September 17, 2009, the Board received a late request for observer status from Robin Stewart. The Board approves Robin Stewart as an observer in this proceeding.

On September 21, 2009 the Board received a late intervention request from the Hopper Foundry. The Board approves the intervention of the Hopper Foundry, assuming that it accepts the case record as it currently stands.

An updated list of intervenors and observers in this proceeding is attached as Appendix A.

Issues List Decision

Procedural Order No. 1 was issued on September 9, 2009 and contained a draft issues list. Submissions on the draft issues list were received from the following parties:

Vulnerable Energy Consumers Coalition ("VECC")
Energy Probe ("EP")
Association of Major Power Consumers in Ontario ("AMPCO")
Consumers Council of Canada ("CCC")
Pollution Probe ("PP")
School Energy Coalition ("SEC")
Canadian Manufacturers and Exporters ("CME")
Green Energy Coalition ("GEC")

On September 18, 2009, VECC, Energy Probe and CCC provided further submissions on the draft issues list as well as procedural matters.

Hydro One provided two submissions, dated September 15, 2009 and September 18, 2009, respectively. The first submission dealt with concerns that the draft issues list

was overly broad and that such a broad list of issues would detract from a thorough and focused examination of the key issues most relevant to the 2010-2011 rate application. Hydro One maintained that the core issues are the Green Energy Plan, the Board's directions from previous proceedings and proposed increases in OM&A and capital spending. On this basis, Hydro One suggested a streamlined issues list focusing on these core issues. Hydro One argued that many of the issues on the draft issues list concerned methodologies and practices that had already been reviewed and approved by the Board in previous cases.

The Board is of the view that a more detailed issues list than that submitted by Hydro One is appropriate for reviewing a large and complex rates application such as this one. Even though methodologies and practices may have been reviewed in previous proceedings, each new application will apply these practices in a manner which may have specific cost implications for the test years. It is for this reason that the Board has determined that the streamlined issues list suggested by Hydro One will not be adopted in this proceeding.

The Board has considered all submissions in establishing a final issues list which is attached as Appendix B. The parties, with the exception of the Applicant, were generally satisfied with the draft issues list, however several changes and clarifications were requested. These are reviewed below along with the Board's rationale in addressing each of these requests.

1. GENERAL

- 1.1 Has Hydro One responded appropriately to all relevant Board directions from previous proceedings?
- 1.2 Are Hydro One's economic and business planning assumptions for 2010/2011 appropriate?
- 1.3 Is service quality, based on the OEB specified performance indicators, acceptable?
- 1.4 Has Hydro One appropriately addressed the revenue consequences of implementing new rates effective January 1, 2010, rather than the conventional May 1 effective date?

VECC sought confirmation that Issue 1.2 included Hydro One's forecast AFUDC rates. The Board confirms that the AFUDC rates are included under Issue 1.2.

With regard to Issue 1.4, both CCC and VECC requested that the issue be expanded to include whether the proposal to change the effective date itself is appropriate, not just the revenue consequences. The Board agrees that the proposal to change the effective date of the new rates is an important aspect of this case and that this should be explicitly stated on the issues list. Therefore, the Board will change draft Issue 1.4 to:

Is Hydro One's proposal to change the effective date for implementation of its proposed distribution rates to January 1, 2010 rather than the conventional May 1st effective date appropriate and has Hydro One appropriately addressed the revenue consequences of proposed change?

SEC and AMPCO both raised the issue that revenue requirement was not explicitly mentioned on the Issues List. The Board agrees that this is an important issue, particularly in the context of impact on customers as argued by SEC. Therefore, the Board will add Issue 1.5:

Is the overall increase in 2010 and 2011 revenue requirement reasonable given the impact on consumers?

2. LOAD and REVENUE FORECAST

- 2.1 Is the load forecast and methodology appropriate and have the impacts of Conservation and Demand Management initiatives been suitably reflected?
- 2.2 Is the proposed amount for 2010/2011 external revenues, including the methodology used to cost and price these services, appropriate?

There were no specific comments regarding Issues 2.1 and 2.2.

3. OPERATIONS, MAINTENANCE and ADMINISTRATION COSTS

- 3.1 Are the overall levels of the 2010/2011 Operation, Maintenance and Administration budgets appropriate?
- 3.2 Is the 2010/2011 vegetation management budget appropriate?
- 3.3 Is the proposed level of 2010/2011 Shared Services and Other O&M spending appropriate?
- 3.4 Are the methodologies used to allocate Shared Services and Other O&M costs to the distribution business and determine the distribution overhead capitalization rate for 2010/2011 appropriate?
- 3.5 Are the 2010/2011 Human Resources related costs (wages, salaries, benefits, incentive payments, labour productivity and pension costs) including employee

levels, appropriate? Has Hydro One demonstrated improvements in efficiency and value for dollar associated with its compensation costs?

- 3.6 Is Hydro One's depreciation expense appropriate?
- 3.7 Are the amounts proposed for capital and property taxes appropriate?
- 3.8 Is the amount proposed for income taxes, including the methodology, appropriate?
- 3.9 Is the proposed spending on loss reduction efforts appropriate?

There were no specific comments regarding Issues 3.1 to 3.9, however VECC expressed its assumption that Affiliate Service Agreements would be considered under Issues 3.3 and 3.4. The Board confirms this assumption. The Board does not agree with CCC that an issue regarding the Low Income Energy Assistance Plan (LEAP) is warranted at this time.

4. CAPITAL EXPENDITURES and RATE BASE

- 4.1 Are the amounts proposed for Rate Base appropriate?
- 4.2 Are the amounts proposed for 2010/2011 Capital Expenditures appropriate including the specific Sustaining, Development and Operations categories?
- 4.3 Is the proposed level of 2010/2011 Shared Services and Other Capital expenditures appropriate?
- 4.4 Are the methodologies used to allocate Shared Services and Other Capital expenditures to the distribution business and determine the Working Capital component of the Rate Base consistent with the methodologies approved by the Board in previous Hydro One rate applications?
- 4.5 Does Hydro One's Asset Condition Assessment information and Investment Planning Process adequately address the condition of the distribution system assets and support the O&MA and Capital expenditures for 2010/2011?
- 4.6 Are the proposed capital expenditures to reduce electricity system losses appropriate?

The only comments received on these issues were comments provided by VECC and Energy Probe regarding a more specific treatment for working capital. In the interest of defining the issue more precisely, the Board will accept these suggestions and amend Issue 4.4 to read:

Are the methodologies used to allocate Shared Services and Other Capital expenditures to the distribution business consistent with the methodologies approved by the Board in previous Hydro One rate applications?

In addition the Board will add new Issue 4.5:

Are the inputs used to determine the Working Capital component of the Rate base appropriate and is the methodology used consistent with the methodologies approved by the Board in previous Hydro One rate applications?

5. CAPITAL STRUCTURE and COST OF CAPITAL

- 5.1 Is the proposed Capital Structure and Rate of Return on Equity for Hydro One's distribution business appropriate?
- 5.2 Are Hydro One's proposed costs and mix for its short and long-term debt for the 2010/2011 test years appropriate?

There were no specific comments regarding Issues 5.1 and 5.2.

6. DEFERRAL and VARIANCE ACCOUNTS

- 6.1 Is the proposal for the amounts, disposition and continuance of Hydro One's existing Deferral and Variance Accounts appropriate?
- 6.2 Are the proposed new Deferral and Variance Accounts appropriate?

There were no specific comments regarding Issues 6.1 and 6.2.

7. COST ALLOCATION and RATE DESIGN

- 7.1 Is Hydro One's cost allocation appropriate including the analysis of the relationship between density and cost allocation?
- 7.2 Are the proposed revenue to cost ratios for each class appropriate?
- 7.3 Are the fixed-variable splits for each class appropriate?
- 7.4 Are the proposed rate impact mitigation plans appropriate?

7.5 Are the proposed Retail Transmission Service rates appropriate?

7.6 Is the proposal for regulatory asset rate rider #6 appropriate?

The Board agrees with the VECC submission that the need for rate impact mitigation arises when the initial bill impacts are considered to be unacceptable and it follows that after mitigation, that rate impacts should be reasonable. Therefore the Board will amend Issue 7.4 to read:

Are the proposed rate impact mitigation plans appropriate and are the resulting customer bill impacts reasonable?

The Board also agrees that the Interim TOU Rates and Hopper Foundry rates are relevant to this application and should be recognized and as such, should be considered to be part of the revised Issue 7.4. The Board also agrees that Loss Factors require specific issue recognition in this proceeding and will add Issue 7.7:

Are the proposed Distribution Loss Factors appropriate?

8. SMART METERS

8.1 Is the 2010/2011 smart meter O&M and Capital budget appropriate?

8.2 Are the amounts for Smart Meter related variance accounts appropriate?

8.3 Is the treatment of stranded meter costs appropriate?

8.4 Is Hydro One's regulatory treatment of Smart Meter costs appropriate including the smart meter funding adders proposed for 2010/2011?

VECC questioned whether the inclusion of Smart Meter costs up to December 2009 in rate base is included in Issues 4.1 and/or 8.4. The Board confirms that this will fall under Issue 8.4.

AMPCO argued for a separate issue regarding metering for non-residential customers. The Board will not create a separate issue but will consider non-residential metering under the metering components of OM&A and Capital Expenditures.

9. GREEN ENERGY PLAN

- 9.1 Does Hydro One's Green Energy Plan meet the Board's filing guidelines and the objectives set out in the Green Energy and Green Economy Act, 2009?
- 9.2 Has Hydro One appropriately addressed the Green Energy Plan expenditures in the context of its overall Capital and O&M budgets?
- 9.3 Is Hydro One's methodology for allocating Green Energy Plan O&M and Capital costs between the OPA (Global Adjustment Mechanism) and Hydro One appropriate?
- 9.4 To what extent should the Board approve any projects or expenditures relating to the Green Energy Plan that are scheduled to occur beyond the test years (i.e. 2010 and 2011) in the current application?
- 9.5 What is the Board's role with regard to the approval of the Green Energy Plan? What criteria should the Board use when determining whether to approve the Green Energy Plan? If the Board approves the plan, what are the impacts of that approval?

VECC and CCC, supported by CME, argued that draft Issues 9.4 and 9.5 were general policy issues that apply to all electricity distributors. VECC noted that in the past, it has been the Board's practice not to deal with policy issues that will affect all distributors within the context of an individual application. VECC maintained that draft Issues 9.4 and 9.5 fall into this category and argued that it would be inappropriate for the Board to consider them without due notice and provision for input from a wider range of stakeholders (both other electricity distributors and other industry participants) who are not participating in the current proceeding.

Hydro One, in its second submission, argued against a generic proceeding, as the submitted Green Energy Plan is integrally linked with the Cost of Service application and cannot be separated or dealt with outside of this context.

The Board notes that several Board proceedings have recently been announced to address a number of generic issues for all distributors with regard to the formulation Green Energy Plans:

- EB-2009-0326 will deal with the determination of a just and reasonable rate to recover the costs associated with embedded generators having a nameplate capacity of 10kW or less.

- EB-2009-0077 is a DSC amendment process that will determine the classes of costs that qualify as an eligible investment.
- EB-2009-0349 is a consultation with the goal of determining the direct benefits that accrue to the consumers of a distributor when that distributor has incurred costs to make an eligible investment in its distribution system to accommodate a renewable energy generation facility.

However, the Board agrees with Hydro One that its Plan is closely tied to its rate application. The Board feels that an individual review of this “real world” Green Energy Plan will benefit all parties, and is key to the appropriate review of this rates application. The Board agrees with the CCC assertion that Hydro One’s Green Energy Plan and the related draft issues are important to this case as these issues have rate-making implications.

If the proceedings noted above and/or other proceedings yield information or policies that are of assistance in the review of Hydro One’s Plan, the Board will ensure that this input will be appropriately reflected in this rates proceeding. The panel in this case will continue to monitor developments in this area, and, if necessary shall provide further direction on this issue.

The Board does not agree with VECC’s submission that consideration of these issues within this application should not occur without enhanced notice. Notice for this proceeding was published widely and explicitly mentioned that a Green Energy Plan was submitted as part of the rates application.

Several intervenors mentioned that CDM is a key component of any Green Energy Plan and noted that Hydro One, in its evidence, stated that it may develop a CDM portfolio by the end of 2009 which could contain a mix of current OPA core programs and new program offerings. The Board considers rate-funded CDM as a component of the Green Energy Plan and any issues on this topic are to be assumed under the Green Energy Plan issues. If the issue of an LRAM, as noted by GEC, does arise, it would also be treated under the Green Energy Plan issues.

Process

Hydro One has indicated that it will file additional evidence on vegetation management. Intervenorors have also noted a possible update of CDM evidence. There is always a possibility that further evidence updates will be provided by the Applicant. The Board sees no reason to amend the schedule as set out in Procedural Order No. 1 at this time, but will ensure that reasonable accommodation will be made to allow for appropriate discovery, depending on the filing date and scope of any updated evidence.

With regard to Intervenor evidence, the Board expects to be informed as soon as possible regarding the possible filing of intervenor evidence but acknowledges the reasonableness of waiting until interrogatory responses are filed and reviewed by the intervenors. A date for filing of intervenor evidence was set in Procedural Order No. 1.

The Board acknowledges the submissions of many parties, that determination of issues that can be dealt with on either an oral or written basis is best determined in the settlement conference. The Board notes that Hydro One has also supported this manner of dealing with this matter. The Board will proceed on this basis.

Procedural Order No. 2

The schedule for filing interrogatories and responses to interrogatories as set out in Procedural Order No. 1 remains valid. Interrogatories should indicate the issue number to which they relate and all references to Exhibits should be clearly indicated as to exhibit, tab, schedule, page and if appropriate, line numbers.

The Board considers it necessary to make provision for the following matters related to this proceeding. The Board may issue further procedural orders from time to time.

THE BOARD ORDERS THAT:

1. Written interrogatories and any evidence filed in relation to Hydro One's application must relate to one or more of the issues on the Board approved Issues List attached as Appendix B to this Order.

All filings to the Board must quote file number EB-2009-0096, be made through the Board's web portal at www.errr.oeb.gov.on.ca, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.oeb.gov.on.ca. If the web portal is not available you may email your document to the address below. Those who do not have internet access are required to submit all filings on a CD or diskette in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

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ISSUED at Toronto, September 25, 2009**ONTARIO ENERGY BOARD***Original Signed By*Kirsten Walli
Board Secretary

APPENDIX A

**HYDRO ONE NETWORKS INC
DISTRIBUTION RATE HEARING**

EB-2009-0096

**APPLICANT & LIST OF INTERVENORS
& OBSERVERS**

**Appendix A
EB-2009-0096
Hydro One Network Inc. –
2010 - 2011 Distribution Rate Application**

List of Applicant and Intervenors

Updated – September 23, 2009

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**Appendix A
EB-2009-0096
Hydro One Network Inc. –
2010 - 2011 Distribution Rate Application**

List of Applicant and Observers

Updated – September 22, 2009

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APPENDIX B

**HYDRO ONE NETWORKS INC
DISTRIBUTION RATE HEARING**

EB-2009-0096

**Approved Final
ISSUES LIST**

**Appendix “B”
Hydro One Networks Inc.
EB-2009-0096**

APPROVED ISSUES LIST

1. GENERAL

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- 3.3 Is the proposed level of 2010/2011 Shared Services and Other O&M spending appropriate?
- 3.4 Are the methodologies used to allocate Shared Services and Other O&M costs to the distribution business and determine the distribution overhead capitalization rate for 2010/2011 appropriate?
- 3.5 Are the 2010/2011 Human Resources related costs (wages, salaries, benefits, incentive payments, labour productivity and pension costs) including employee levels, appropriate? Has Hydro One demonstrated improvements in efficiency and value for dollar associated with its compensation costs?
- 3.6 Is Hydro One's depreciation expense appropriate?

- 3.7 Are the amounts proposed for capital and property taxes appropriate?
- 3.8 Is the amount proposed for income taxes, including the methodology, appropriate?
- 3.9 Is the proposed spending on loss reduction efforts appropriate?

4. CAPITAL EXPENDITURES and RATE BASE

- 4.1 Are the amounts proposed for Rate Base appropriate?
- 4.2 Are the amounts proposed for 2010/2011 Capital Expenditures appropriate including the specific Sustaining, Development and Operations categories?
- 4.3 Is the proposed level of 2010/2011 Shared Services and Other Capital expenditures appropriate?
- 4.4 Are the methodologies used to allocate Shared Services and Other Capital expenditures to the distribution business consistent with the methodologies approved by the Board in previous Hydro One rate applications?
- 4.5 Are the inputs used to determine the Working Capital component of the Rate base appropriate and is the methodology used consistent with the methodologies approved by the Board in previous Hydro One rate applications?
- 4.6 Does Hydro One's Asset Condition Assessment information and Investment Planning Process adequately address the condition of the distribution system assets and support the O&MA and Capital expenditures for 2010/2011?
- 4.7 Are the proposed capital expenditures to reduce electricity system losses appropriate?

5. CAPITAL STRUCTURE AND COST OF CAPITAL

- 5.1 Is the proposed Capital Structure and Rate of Return on Equity for Hydro One's distribution business appropriate?
- 5.2 Are Hydro One's proposed costs and mix for its short and long-term debt for the 2010/2011 test years appropriate?

6. DEFERRAL and VARIANCE ACCOUNTS

- 6.1 Is the proposal for the amounts, disposition and continuance of Hydro One's existing Deferral and Variance Accounts appropriate?
- 6.2 Are the proposed new Deferral and Variance Accounts appropriate?

7. COST ALLOCATION and RATE DESIGN

- 7.1 Is Hydro One's cost allocation appropriate including the analysis of the relationship between density and cost allocation?

- 7.2 Are the proposed revenue to cost ratios for each class appropriate?
- 7.3 Are the fixed-variable splits for each class appropriate?
- 7.4 Are the proposed rate impact mitigation plans appropriate and are the resulting customer bill impacts reasonable?
- 7.5 Are the proposed Retail Transmission Service rates appropriate?
- 7.6 Is the proposal for regulatory asset rate rider #6 appropriate?
- 7.7 Are the proposed Distribution Loss Factors appropriate?

8. SMART METERS

- 8.1 Is the 2010/2011 smart meter O&M and Capital budget appropriate?
- 8.2 Are the amounts for Smart Meter related variance accounts appropriate?
- 8.3 Is the treatment of stranded meter costs appropriate?
- 8.4 Is Hydro One's regulatory treatment of Smart Meter costs appropriate including the smart meter funding adders proposed for 2010/2011?

9. GREEN ENERGY PLAN

- 9.1 Does Hydro One's Green Energy Plan meet the Board's filing guidelines and the objectives set out in the Green Energy and Green Economy Act, 2009?
- 9.2 Has Hydro One appropriately addressed the Green Energy Plan expenditures in the context of its overall Capital and O&M budgets?
- 9.3 Is Hydro One's methodology for allocating Green Energy Plan O&M and Capital costs between the OPA (Global Adjustment Mechanism) and Hydro One appropriate?
- 9.4 To what extent should the Board approve any projects or expenditures relating to the Green Energy Plan that are scheduled to occur beyond the test years (i.e. 2010 and 2011) in the current application?
- 9.5 What is the Board's role with regard to the approval of the Green Energy Plan? What criteria should the Board use when determining whether to approve the Green Energy Plan? If the Board approves the plan, what are the impacts of that approval?