

October 26, 2009

BY COURIER (2 COPIES) AND EMAIL

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, Suite 2700
Toronto, Ontario M4P 1E4
Fax: (416) 440-7656
Email: boardsec@oeb.gov.on.ca

Dear Ms. Walli:

**Re: Pollution Probe – Submissions on Issues List
EB-2009-0139 – Toronto Hydro – 2010 Rates**

Pursuant to Procedural Order No. 1, we write to provide Pollution Probe's submissions on the draft Issues List for this proceeding.

Summary

Pollution Probe's submissions are limited to issues related to the two main topics that it intends to examine in this proceeding:¹

- distributed generation and combined heat and power ("CHP"); and
- conservation and demand management ("CDM").

With respect to the distributed generation and CHP, Pollution Probe supports proposed Issue 1.1 in light of the distributed generation study previously required by the Board. Pollution Probe also proposes two new additional issues related to distributed generation and CHP implementation, which would appear to be the next logical steps as a result of the study.

With respect to the second issue, Pollution Probe also proposes one new additional issue for clarity regarding the appropriateness of Toronto Hydro's CDM programmes and

¹ For the Board's reference, Pollution Probe takes no position with respect to other proposed issues in the draft Issues List.

budgets. Such a review is particularly important given key recent developments, including passage of the *Green Energy and Green Economy Act, 2009*.²

In the alternative, if the Board is of the view that the proposed new issues are covered by other issues on Issues List, Pollution Probe would accept a clear statement to that effect in lieu of its proposed new issues.

Distributed Generation and CHP Issues

1. *Support of Proposed Issue 1.1: “Has Toronto Hydro responded appropriately to all relevant Board directions from previous proceedings?”*

Given the Board’s previous direction regarding distributed generation, Pollution Probe supports proposed Issue 1.1 of the draft Issues List, particularly since Pollution Probe has questions arising from Toronto Hydro’s response to this direction.

The Board provided the following specific direction to Toronto Hydro in its EB-2007-0680 decision:

... [T]he Board directs the Applicant to conduct a study into the capability, costs and benefits of incorporating into the Applicant system, a significant (up to 300MW) component of bi-directional distributed generation in Toronto.³

In response, Toronto Hydro filed three reports by Navigant Consulting, Inc.,⁴ and these reports raise questions that Pollution Probe intends to ask as part of this proceeding to determine if the responses are appropriate.

Two non-exhaustive examples are provided for the Board’s reference. First, as required by the Board’s direction, Pollution Probe intends to explore whether the responding studies have appropriately assessed Toronto Hydro’s internal “capability” to add distributed generation to its distribution system. Second, Pollution Probe intends to examine whether the responding studies have over-estimated the cost of natural gas-fired CHP.⁵

Pollution Probe submits that these and other questions are appropriate inquiries in order to determine if Toronto Hydro has appropriately responded to the Board’s direction, and Pollution Probe thus supports proposed Issue 1.1 in the draft Issues List.

² S.O. 2009, c. 12

³ *Decision* in EB-2007-0680 dated May 15, 2008 at pg. 62. Available online at <http://www.rds.oeb.gov.on.ca/webdrawer/webdrawer.dll/webdrawer/rec/39961/view/>.

⁴ These reports can be found at Exhibit Q1, Tab 4, Schedules 1-1 to 1-3.

⁵ Based upon its review to date, Pollution Probe believes that the studies include such an overestimation since the studies appear to assume that the CHP units would not be sized to match their thermal loads. However, such an assumption needs to be critically explored since such matching would likely maximize CHP units’ energy efficiency while minimizing their costs, and thus the assumption may be incorrect.

2. *Proposed Additional Issue: “Are Toronto Hydro’s proposed programmes and budgets to reduce its distribution system constraints to the installation of distributed generation appropriate?”*

Pollution Probe proposes this additional issue as one of the next logical steps as result of the Board’s previous direction, Toronto Hydro’s responding studies, and other recent developments. This issue should be accordingly examined as part of this proceeding.

The Board previously noted in its EB-2007-0680 decision that:

... [T]he Board considers that the Applicant should facilitate connections for DG and self-generation, where they can be implemented practically and economically, both from the perspective of the generator and of the Applicant and its load customers.⁶

Now that the three studies have been filed, it is time and necessary to examine the next steps, particularly given the Board’s statement that Toronto Hydro should facilitate connections for distributed generation and self-generation.

As the Board is aware, distributed generation includes mainly small-scale renewable or natural gas-fired generation. Pollution Probe has also previously submitted that 300 MW of distributed generation would eliminate Toronto Hydro’s potential supply problem and the need for a proposed “third line” to transmit power to Toronto,⁷ particularly since natural gas-fired CHP appears to be the lowest cost source for new base-load supply in Ontario.⁸ The studies by Navigant Consulting, Inc. also appear to reveal that there is a large potential for CHP in Toronto.⁹

Pollution Probe submits that such CHP would likely also dramatically increase Toronto security of electricity supply in the event of a partial or full blackout. As an illustrative example, discussions with Toronto hospitals by Pollution Probe’s consultant reveal that most (if not all) of Toronto’s hospitals do not have sufficient diesel back-up generation to operate at full capacity during a blackout. Such distributed generation would also reduce dependence on outside sources of electricity supply. It would therefore appear imperative to ensure that all barriers to CHP (at least for hospitals) be removed as quickly as possible.

Pollution Probe also notes the impact of the Minister Smitherman’s decision to suspend the procurement process for two new nuclear reactors at Darlington.¹⁰ As result, Ontario

⁶ Decision in EB-2007-0680 dated May 15, 2008 at pg. 62.

⁷ See e.g. Decision in EB-2007-0680 dated May 15, 2008 at pg. 61.

⁸ See e.g. Ontario Clean Air Alliance – Research Report, *Powerful Options: A review of Ontario’s options for replacing aging nuclear plants* dated May 19, 2009 at pgs. 1, 2 & 11. Available online at <http://www.cleanairalliance.org/files/active/0/replacingnuclear.pdf>.

⁹ See e.g. Exhibit Q1, Tab 4, Schedule 1-1, pg. 4, Table 1.

¹⁰ See June 29, 2009 press release online at <http://www.news.ontario.ca/mei/en/2009/06/ontario-suspends-nuclear-procurement.html>

will need to procure large quantities of base-load supplies from other sources, and natural gas-fired CHP should be a key source, particularly given its relative low cost.

In light of all of the above, Pollution Probe submits that the Board needs to assess as part of this proceeding whether Toronto Hydro is taking all reasonable steps to eliminate constraints in its distribution system which would block the installation of potential distributed generation. Interrogatories and questions will need to be asked as a result. As a non-exhaustive example, the studies by Navigant Consulting, Inc. refer to some of Toronto Hydro distribution constraints, so interrogatories will likely ask for geographical quantifications of these constraints as well as what is being or needs to be done to eliminate the constraints. Pollution Probe thus submits that the proposed new issue should be added as an additional issue for the Issues List.

3. *Proposed Additional Issue: "Should Toronto Hydro's policies with respect to recovering its costs of adding CHP generation to its distribution grid be amended to encourage the development of CHP?"*

Pollution Probe proposes this additional issue as another logical step as a result of the Board's previous direction and Toronto Hydro's responding studies regarding distributed generation.

As noted above, the Board previously stated that:

... [T]he Board considers that the Applicant should facilitate connections for DG and self-generation, where they can be implemented practically and economically, both from the perspective of the generator and of the Applicant and its load customers.¹¹

A key practical question as a result is who should pay for the costs of connecting CHP to Toronto Hydro's distribution system. This issue seeks to examine this question.

This issue is particularly pertinent because Toronto Hydro's current policies require the CHP generator to pay all of Toronto Hydro's costs of connecting the CHP unit to Toronto Hydro's distribution system. As a result, this policy provides a significant barrier to facilitating CHP, particularly given the costs involved. Pollution Probe submits that this is not to in the public interest, particularly given the significant benefits of CHP distributed generation for all of Toronto Hydro's customers.¹²

Pollution Probe thus submits that the Board needs to examine and consider whether Toronto Hydro should be required to adopt new policies so that some or all of the CHP connection costs are recovered from all of its customers instead. For example, one possible solution may be to extend the recent amendments regarding the connection costs

¹¹ *Decision* in EB-2007-0680 dated May 15, 2008 at pg. 62.

¹² These benefits are more fully detailed in Pollution Probe's submissions regarding Item 2 above.

of renewable distributed generation costs to the connection costs of CHP distributed generation as well.¹³

Pollution Probe submits that such an examination is not a change to the Distribution System Code and thus does not require a generic hearing. For example, Section 3.2.5 only specifies the methodology for the maximum amount that a distributor *may* charge to connect a generator (i.e. it is not a required charge).¹⁴ Further, section 78(3.0.5) of the *Ontario Energy Board Act, 1998* provides that:

The Board may, in approving or fixing just and reasonable rates or in exercising the power set out in clause 70 (2) (e), adopt methods that provide,

- (a) incentives to a transmitter or a distributor in relation to the siting, design and construction of an expansion, reinforcement or other upgrade to the transmitter's transmission system or the distributor's distribution system; or
- (b) for the recovery of costs incurred or to be incurred by a transmitter or distributor in relation to the activities referred to in clause (a).¹⁵

Accordingly, the Board can and should examine whether and how Toronto Hydro's policy regarding the connection of CHP generators should be changed. Such changes may include allowing Toronto Hydro to recover some or all of such costs instead from all of its customers (likely by a deferral account). Pollution Probe's proposed issue should thus be included on the Issues List.

CDM Issue

4. *Proposed Additional Issue: "Are Toronto Hydro's proposed CDM programmes and budgets appropriate?"*

Pollution Probe submits that it is important for the Board to know what CDM is being done now and whether more should be done, particularly in light of various recent developments (including passage of the *Green Energy and Green Economy Act, 2009*). Pollution Probe accordingly proposes this additional issue to ensure clarity regarding the topics to be examined in this proceeding.

As the Board is aware, the Government of Ontario is committed to a conservation culture. Further, as a result of the *Green Energy and Green Economy Act, 2009*, the Board's

¹³ See e.g. Pollution Probe Submissions in EB-2009-0077 dated June 23, 2009 available online at <http://www.rds.oeb.gov.on.ca/webdrawer/webdrawer.dll/webdrawer/rec/135384/view/>

¹⁴ See *Distribution System Code* (last revised October 21, 2009) and available online at http://www.oeb.gov.on.ca/OEB/_Documents/Regulatory/Distribution_System_Code.pdf.

¹⁵ *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Sched. B, s. 78(3.0.5).

objectives with respect to electricity were recently amended to explicitly include the following:

To promote electricity conservation and demand management in a manner consistent with the policies of the Government of Ontario, including having regard to the consumer's economic circumstances.¹⁶

Pollution Probe submits that this amendment reinforces and puts greater emphasis on conservation and demand management, particularly given that they should “promoted” “in a manner consistent with the policies of the Government of Ontario”. As a result, Pollution Probe submits that the Board needs to examine Toronto Hydro's CDM programmes as part of this proceeding.

The following are some non-exhaustive examples regarding why CDM should be examined here. First, Pollution Probe has previously submitted that CDM could further reduce the potential requirement for a “third line” to transmit electricity to Toronto.¹⁷ Second, Pollution Probe submits that one of the consequences of the Ontario's suspension of the Darlington nuclear procurement program is that there now appears to be an increased need for CDM to ensure security and reliability of the electricity supply (i.e. keeping the lights on over the long-term). Finally, as Pollution Probe has advanced in many proceedings before the Board, cost-effective CDM ultimately lowers customers' bills overall.

For clarity, Pollution Probe submits the fact the OPA may fund some or all of the CDM programmes does not determine or preclude the Board's review of a distributor's CDM programmes to ensure that they are appropriate. Pollution Probe submits that it is the Board's fundamental role to evaluate whether proposed CDM programmes are appropriate and if more should be required. If the latter occurs, then the Board can then direct that the programs be funded through an OPA funding request, a variance account, or higher distribution rates. However, the mere potential presence of OPA funding does not displace the Board's fundamental role to review a distributor's CDM programmes.

Pollution Probe submits that all of the above is in accordance with the Board's electricity objectives to:

- promote CDM in accordance with the policies of the Government of Ontario;
- protect the interests of consumers with respect to prices, and the adequacy, reliability, and quality of electricity service; and
- promote efficiency and cost-effectiveness with respect to the distribution, sale, and demand management of electricity.¹⁸

¹⁶ *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Sched. B, s. 1(1), para. 3.

¹⁷ See e.g. *Decision* in EB-2007-0680 dated May 15, 2008 at pg. 61. At that time, the Board stated that it would be premature to comment on Pollution Probe's specific suggestions given the pending IPSP proceeding. However, the IPSP proceeding has since been adjourned since October 2, 2008 until further notice and pending a very substantial refiling of materials by the OPA.

¹⁸ *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Sched. B, s. 1(1), paras. 1-3.

Accordingly, Pollution Probe submits that the proposed issue should be added to the Issues List so it is clear that the Board will examine whether Toronto Hydro's CDM programmes are appropriate and whether more should be done.

Conclusion

Pollution Probe thus submits that it supports proposed Issue 1.1 of the draft Issues List. Pollution Probe also submits that the proposed additional issues discussed above should be added to the Issues List. In the alternative, Pollution Probe would be satisfied if the Board clearly states that the proposed additional issues are included as part of other issues on the Issues List.

We trust these submissions are of assistance, and please do not hesitate to contact the undersigned if you require further information regarding Pollution Probe's submissions.

Yours truly,

A handwritten signature in blue ink, appearing to read 'B. Alexander', with a stylized flourish at the end.

Basil Alexander

BA/ba

cc: Applicant and Intervenor by email per Appendix A to Procedural Order No. 1