

Rogers Partners LLP

Barristers & Solicitors

January 18, 2010

Our File Number: 72738

Ms. Kirsten Walli
Secretary
Ontario Energy Board
Suite 2700, 2300 Yonge Street
PO Box 2319
Toronto, ON M4P 1E4

Dear Ms. Walli:


EB-2009-0096 - Hydro One Networks' 2010 and 2011 Distribution Rate Application

Further to the Board's direction provided on January 14, 2010, attached is Hydro One's proposal for dealing with outstanding issue 9.3 in this proceeding relating to the allocation of direct benefits of the proposed Green Energy Plan.

As the Board will see, Hydro One's proposal is that the issue be dealt with in this proceeding without awaiting the Board's report on that issue as part of EB-2009-0349. Hydro One is proposing that the argument schedule on all other issues proceed as outlined. In the meantime, Hydro One is proposing that it produce its witness panel on issue 9.3 at the Board's convenience. The panel can be available as early as January 25, 2010.

Hydro One notes that the Board initially anticipated that intervenors make their submissions on how to deal with issue 9.3 as part of the regular argument schedule which has been established. In light of Hydro One's proposal, the Board may wish to invite intervenor submissions on this issue earlier than initially contemplated.

Yours very truly,


Donald H. Rogers

DHR/smg

c: Intervenors

**PROPOSAL FOR DISPOSITION OF ISSUE 9.3
ALLOCATION OF DIRECT BENEFITS IN HYDRO ONE'S
GREEN ENERGY PLAN**

In accordance with the Board Panel's direction on January 14, 2010, Hydro One is submitting its proposal for the disposition of Issue 9.3, in EB-2009-0096, namely, the allocation of the Green Energy plan costs.

BACKGROUND

On September 25, 2009, the Ontario Energy Board launched EB-2009-0349, a policy initiative dealing with Rate Protection and the Determination of Direct Benefits under Ontario Regulation 330/09 and Section 79.1 of the *Ontario Energy Board Act, 1998* ("the Act"). The Board Staff draft discussion paper was issued on December 14, 2009 and comments are due on January 18, 2010.

Meanwhile, Hydro One Distribution's Green Energy Plan, updated September 25, 2009, was filed as part of Hydro One's distribution rates application EB-2009-0096 (Exhibit A, Tab 14, Schedule 2). The Green Energy Plan ("GEP") identifies, estimates and proposes the allocation of direct benefits of certain eligible "green energy" investments, in a manner that Hydro One believes is consistent with and meets the expectations of the Regulation 330/09 and of Section 79.1 of the Act.

HYDRO ONE'S PROPOSAL

Hydro One proposes that the GEP allocations filed by Hydro One be reviewed by the Board, as Issue 9.3 in EB-2009-0096, as soon as possible and without awaiting the Board's final policy in EB-2009-0349.

Hydro One would welcome an early examination of its proposal and can put forward a witness panel to provide evidence on this matter as early as Monday, January 25, 2010, so that it may be orally examined.

Hydro One believes that it is unnecessary to delay the review of its proposal for the 2010 and 2011 allocation of direct benefits. As indicated in the Board Staff discussion paper, there is insufficient evidence to develop a standardized approach at this time. Hydro One's filed proposal is consistent with the "transitional" approach, principles and criteria recommended in the Board Staff paper. Once a standardized approach is developed, and if it is inconsistent with Hydro One's approved allocation, the Company would, through its next Cost of Service proceeding, adopt the Board's Policy for all future eligible investments.

Hydro One believes that this proposed course of action would be of benefit to the Board, to Hydro One, its customers, and to other interested parties.

RATIONALE

Hydro One's proposal is largely consistent with the Staff Paper

Board Staff's discussion paper in EB-2009-0349, issued December 14, 2009, proposes principles and criteria that define a "framework" for estimating the direct benefits attributable to a distributor's load customers. The Board Staff proposal leaves it up to each individual distributor to determine how to specifically apply these proposals, as the paper recognizes that it is premature for the Board to develop a standardized approach at this time. The Staff Paper does not include a specific methodology that would determine an allocation between a distributor's customers and provincial consumers. Further, there is no expectation that the Board will issue such a standardized approach for a few years. Hence, the paper outlines a "transitional and evolutionary policy".

Hydro One suggests that proceeding now to hear and test Hydro One's allocation of direct benefits is consistent with the approach that is proposed by Board Staff – i.e. until a standardized approach can be developed, each distributor would file its own assessment of the direct benefits using the guiding principles and criteria outlined in the discussion paper. The methodology proposed and applied in Hydro One's GEP for determining the direct benefits are, in Hydro One's assessment, consistent with the principles and criteria outlined in the paper.

If on January 18, 2010, one or more parties submit(s) feedback that radically deviates from Board Staff's proposed approach, then Hydro One's proceeding will provide an appropriate forum for these views to be heard and tested.

As noted below, the early examination of Hydro One's proposal cannot be of harm to any party, but would instead be of benefit to all interested parties – Hydro One, the Board, other distributors and intervenors.

Hydro One requires an early determination in this matter

While Hydro One commends the Board for initiating the EB-2009-0349 proceeding, it notes that the urgency of arriving on a policy and methodology through that initiative is not acute. As evidenced by the GEPs filed by Toronto Hydro and Orangeville Hydro, not all distributors require provincial funding of their green energy investments. It is unclear how many distributors other than Hydro One will need to access the Board's policy in the coming months.

The issues that are raised in the Board Staff paper are complex and merit careful consideration. It would be unwise for the Board to expedite this initiative to meet Hydro One's rate-setting timelines, if expediting the paper and the consultation comes at the expense of developing a manageable and well thought-out policy.

While the Board may need time to consider and decide upon its Policy, Hydro One should not be required to wait for that policy. The Company has undertaken the vast majority of activity related to applications for connecting renewable energy generation under the Renewable Energy Standard Offer Program ("RESOP") and expects to continue to experience a heavy workload in

this area over the coming years. As such, while a policy may not be needed urgently, Hydro One does require a determination by the Board that would allow the determination of the rates to be charged to Hydro One distribution customers and to the all customers in Ontario.

Hydro One expects to play a key role in the delivery of the objectives of the Green Energy and Green Economy Act, 2009, especially as these relate to connection of renewable energy generators. However, in doing so, the company must have certainty regarding the necessary funding and the cash flows needed to execute an ambitious investment program. Failure to have the needed determination of how Green Energy Program costs will be recovered, and from whom, could reduce Hydro One's credit rating and put the program's delivery at risk.

Hydro One is very concerned about a potential delay in developing a regulatory policy. Hydro One submits that a decision is needed on its current rates application as soon as reasonably possible, so that the company can move forward with the necessary investments. It will of course, track and report those costs to the Board if required.

There is no harm in setting Hydro One's "direct benefits" prior to the Board Policy

Hydro One proposes that there would be no harm done by implementing the Hydro One approach for the purposes of the current Application.

Hydro One notes that the Board's decision in Hydro One's rate case need not bind the Board in developing an approach for EB-2009-0349. The ultimate approach may differ from the approach proposed by Hydro One and/or from the approach that this Panel approves for Hydro One for 2010 and 2011. As long as the risk of advantaging or disadvantaging customers is small and is not skewed in one direction or the other, then there is no reason to be concerned about setting an initial approach which could evolve as more experience on customer benefit is available. Hydro One is convinced that there is no such risk in this case.

As stated in Closing Argument by Hydro One (January 14, 2010), the rate adder that would recover the allocated direct benefits from Hydro One's distribution customers, to fund their share of the proposed Green Energy investment costs, would be 0.040 cents per kWh and 0.054 cents per kWh in 2010 and 2011 respectively. The corresponding share allocated to provincial ratepayers would be 0.005 cents per kWh and 0.021 per kWh in those two years. The materiality of these amounts, and any added benefit from increased precision, do not justify delaying a decision on Hydro One's allocation methodology in search of a "better" methodology, which is unlikely to emerge for "some time" as noted in the Staff Paper.

A materially different outcome for Hydro One is unlikely to result, even if this case is heard later. That is – Hydro One does not believe that a more precise and accurate allocation of direct benefits would emerge even if examination and approval of Hydro One's allocation were to be delayed to a later date, after the policy is set. In any case, a utility-specific consideration is consistent with the current Board staff proposal for identifying direct benefits.

Addressing Hydro One's case allows more consultation before policy is set

By addressing Hydro One's allocation of direct benefits first, the Board and other parties will gain additional information and benefit prior to the setting of policy. In fact, the Board may choose to delay its own policy further, not only until Hydro One's case is decided, but perhaps until the decision is implemented and can be 'field tested' by Hydro One.

The parties are sufficiently informed and prepared now to address Issue 9.3

Intervenors have already been exposed to and informed about the issues pertaining to the allocation of direct benefits, as part of EB-2009-0349. Specifically, to date, the parties have benefited from the Board Staff paper, and from responding to it, and as of today they will be further informed by others' comments. The timing is thus very appropriate, and perhaps even ideal, for a meaningful and informed examination of this last issue in Hydro One's proceeding.

Aligning Hydro One's Approach with Board Policy

There is a possibility that once the Board proceeds with Hydro One's case and determines the appropriate allocation of direct benefits, the Board's policy for determination and allocation of direct benefits may be different from the Hydro One approval. Having reviewed the Board Staff's proposal, Hydro One believes that a marked departure from the company's position is unlikely. The Staff Paper is a high-level guideline that includes principles and criteria that are consistent with Hydro One's approach, and it allows flexibility for individual distributors.

Nonetheless, Hydro One expects that, in the event that the Board's generic policy is inconsistent with Hydro One's approved allocation, the Company would, at its next Cost of Service proceeding, adopt the Board's Policy for all future eligible investments.

CONCLUSION

For the reasons stated above, Hydro One is of the view that an early examination of Issue 9.3 as part of this current rates proceeding would be beneficial to all parties. It would promote timely delivery of the Green Energy Plan work program, address Hydro One's financial challenges, facilitate improved, more informed and participative development of Board Policy, and increase regulatory efficiency.

Hydro One looks forward to the opportunity to present and defend its evidence as early as January 25, 2010.

All of which is respectfully submitted.

Hydro One Networks Inc.
January 18, 2010