

By electronic filing and e-mail



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Dear Ms Walli,

Draft Filing Requirements: Distribution System Plans under the *Green Energy Act*
Board File No.: EB-2009-0397
Our File No.: 339583-000060

The following comments are provided on behalf of Canadian Manufacturers & Exporters ("CME"). They pertain to the Board's December 18, 2009, draft "Filing Requirements for Distribution System Plans under the *Green Energy Act*". Throughout this letter, we refer to this document as the "Filing Requirements".

The major concern we have with the Filing Requirements is the lack of a section in Part IV "Content of *GEA* Plans" that requires Board-regulated utilities to file a multi-year total price and bill impact analysis showing, year-by-year, over the five year planning horizon, the likely impact of the total integrated *GEA* and traditional spending being proposed on all elements of the "all in" electricity price consumers pay.

The relevant legislation that gives rise to Filing Requirements calling for this type of integrated total price and bill impact analysis is Section 1, paragraph 3 of the *Ontario Energy Board Act, 1998* (the "*OEB Act*"). This provision requires the Board, in carrying out its responsibilities in relation to electricity, to protect the interests of consumers with respect to electricity prices. An agency responsible for protecting consumers with respect to electricity prices cannot fulfill its responsibilities without monitoring all of the elements of the price, even though that agency does not control all of them.

Because of its extraordinarily high costs, the greening of Ontario's integrated power system exposes the Ontario economy to material risks if the Board does not control the transition in an integrated manner. The Filing Requirements recognize the need for planning on an integrated basis. The document states at page 5:

"Co-ordinated planning among distributors and transmitters and the Ontario Power Authority (the "OPA") will be essential in achieving the goals of the *GEA* in a timely and cost-effective manner." (emphasis added)

Regulation of the co-ordinated plans on an integrated basis is equally essential. In the absence of the regulation of these spending plans on an integrated basis, there is a real risk of creating an overbuilt power system at an exorbitant cost. In combination with the very high prices that the OPA is agreeing to pay for renewable energy and the large amounts of money that are being directed to Conservation and Demand Management ("CDM"), an overbuilt power system will produce prices for electricity in Ontario at levels that will likely be intolerable for many consumers.

Take the manufacturing sector as an example. This sector, which is critical to the economy, is very dependent on electricity and, as a result of the recession, is in an economically fragile state. Before approving the year-by-year levels of utility expenditures for traditional and *GEA* plans, the Board should consider, on an integrated basis, the likely levels of increase in the "all in" electricity price that will result during the five year planning horizon. For example, before determining whether spending levels are just and reasonable, the Board needs to consider information pertaining to the likely impact on the Ontario economy if the "all in" price for electricity doubles in ten years or less compared to the economic impact of a doubling of the price in 15 or 20 years. The Board cannot carry out its responsibilities in a manner that protects consumers with respect to electricity prices without some awareness of the sensitivity of the various sectors of the economy to various levels of increase in the "all in" electricity price at five year intervals over the next 20 years.

In our view, the Filing Requirements need to recognize that utility spending levels that produce multi-year price and bill increases that are likely to cause material harm to the economy are neither economically feasible nor prudent.

This letter of comment reiterates the need for complete total price and bill impact analysis on an integrated basis for the purposes of evaluating economic feasibility. We initially discussed this concept in our January 15, 2010 letter of comment pertaining to the Board's December 14, 2009 Discussion Paper entitled "Proposed Framework for Determining the Direct Benefits Accruing to Customers of a Distributor under O.Reg. 330/09". That letter notes that the criteria the Board should apply when considering distributor requests for approval of their green energy plans is an issue in the Application by Hydro One Networks Inc. for 2010 and 2011 Distribution Rates EB-2009-0096 ("Hydro One's Case"). In that Argument, which we will be filing later this week, we will be asking the Board to accept that an integrated forward looking multi-year price and bill impact analysis concept is essential for measuring, on an integrated basis, the annual and multi-year total price and bill increases that are tolerable and affordable and unlikely to cause material harm to the economy.

The fact that the Board does not control all of the elements of the "all in" electricity price does not relieve it from considering both the direct and indirect implications that its actions and the actions of others are likely to have on each of the elements in the "all in" price. In this new regulatory era, the determinations the Board will be making include the following:

- (a) utility-specific rates for distributors and transmitters;
- (b) amounts recoverable for the services the OPA and the Independent Electricity System Operator ("IESO") provide; and

- (c) amounts for *GEA* initiatives and Ministry of Energy Conservation and Demand Management ("CDM") programs to be recovered province-wide from all consumers.

In the electricity pricing regime that has now emerged, the price protection objective under Section 1 of the *OEB Act* cannot be achieved without the adoption of an integrated forward looking multi-year total price and bill impact analysis approach. At a conceptual level, the Filing Requirements are deficient because they are silent with respect to the information that is essential for the Board to discharge all of its responsibilities in accordance with Section 1 of the *OEB Act*.

Information requirements of the type that we submit should be added to the Filing Requirements with respect to *GEA* and the other spending plans the utilities present to the Board for approval are described in Schedule A to this letter. The text we suggest is provided to illustrate the concepts we outline in this letter and will be describing in greater detail in the Written Argument we submit on behalf of CME later this week in Hydro One's Case.

If the essential coordination planning among distributors, transmitters, the OPA, and the IESO to which the Filing Requirements refer, is taking place, then the information that should be filed should be readily available. Separately and in combination, those engaged in the coordinated planning exercise have the information in their possession that is needed to produce a reliable estimate of total price and bill impacts over the five year planning horizon.

We are hopeful that these comments and the submissions we make in Hydro One's Case will prompt the Board to amend its Filing Requirements so that they will operate in a way to assure that the Board receives all of the information it needs to develop, publish and apply an integrated multi-year total price and bill impact analysis when considering whether any of the plans submitted for approval need to be scaled back or implemented over a longer duration in order to avoid the risk of serious economic harm.

We appreciate being afforded the opportunity to participate in this consultation and hope that these submissions, along with the submissions to be filed later this week in Hydro One's Case, will help the Board understand CME's concerns. We request that CME be awarded 100% of its reasonably incurred costs of participating in this matter.

Yours very truly,



Peter C.P. Thompson, Q.C.

PCT\slc

c. Paul Clipsham (CME)
Vince DeRose

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SCHEDULE A

CME'S SUGGESTED AMENDMENTS TO THE FILING REQUIREMENTS

2. Section I – Introduction, "Legal and Regulatory Framework": This section should be broadened to refer to the Board's mandatory obligation to carry out its responsibilities with respect to electricity in a manner that protects consumers with respect to electricity prices. We suggest that the text should also recognize that, in this new electricity pricing era, an integrated multi-year total price and bill impact analysis is essential to the discharge of this statutory obligation.
3. Section IV – "Content of GEA Plans": After item 4 "Smart Grid Development" and before item 5 "Appendices" a section entitled "Integrated Multi-Year Total Price and Bill Impact Analysis" should be added.

We suggest that the text of this new section read something to the following effect:

"Integrated Multi-Year Total Price and Bill Impact Analysis

In conjunction with the co-ordinated planning among distributors, transmitters and the Ontario Power Authority ("OPA") that is essential to achieving the goals of the *GEA* in a timely and cost-effective manner, the electricity utilities the Board regulates shall file, with their rate applications and *GEA* plans, an integrated multi-year total price and bill impact analysis showing, year-by-year over the five year planning horizon, the likely impact on all elements of electricity prices of the integrated total *GEA* and traditional spending being proposed by the utilities the Board regulates. These impacts are to include the likely implications of the connection of renewable generation contemplated in the co-ordinated plans on all of the components of the Global Adjustment Mechanism and any other special charges in the electricity price, such as the province-wide *GEA* recovery mechanism and any special charge for recovering amounts paid to the Ministry of Energy to fund its Conservation and Demand Management ("CDM") programs."

The integrated multi-year total price and bill impact analysis should be accompanied by an expert report showing the likely effects on the various sectors of the Ontario economy of different percentage increases in the total price of electricity in Ontario at five year intervals over the next 20 years.

This information is required to enable the Board to consider the likely impact on the Ontario economy if the "all in" price for electricity doubles in 10 years or less compared to the likely economic impacts of a doubling of the price in 15 or 20 years. The total price and bill impact analysis and the sensitivity of the Ontario economy to electricity price increases will be used by the Board to consider whether any *GEA* and traditional spending plans of the utilities it regulates should be scaled back or implemented over a longer duration in order to avoid the risk of serious economic harm.