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(1934 - 2006)

February 2, 2010

**VIA COURIER and RESS FILING**

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street  
27<sup>th</sup> Floor  
Toronto ON M4P 1E4

Dear Ms. Walli

**Re: EB-2009-0397 Filing Requirements: Distribution System Plans  
Under the Green Energy Act  
Comments of Power Workers' Union**

The Power Workers' Union ("PWU") represents a large portion of the employees working in Ontario's electricity industry. Attached please find a list of PWU employers.

The PWU is committed to participating in regulatory consultations and proceedings to contribute to the development of regulatory direction and policy that ensures ongoing service quality, reliability and safety at a reasonable price for Ontario customers. To this end, please find the PWU's comments on the Filing Requirements: Distribution System Plans Under the Green Energy Act (EB-2009-0397).

We hope you will find the PWU's comments useful.

Yours very truly,

**PALIARE ROLAND ROSENBERG ROTHSTEIN LLP**

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File 10329

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**List of PWU Employers**

Algoma Power  
AMEC Nuclear Safety Solutions  
Atomic Energy of Canada Limited (Chalk River Laboratories)  
BPC District Energy Investments Limited Partnership  
Brant County Power Incorporated  
Brighton Beach Power Limited  
Brookfield Power – Lake Superior Power  
Brookfield Power – Mississagi Power Trust  
Bruce Power Inc.  
Capital Power Corporation Calstock Power Plant  
Capital Power Corporation Kapuskasing Power Plant  
Capital Power Corporation Nipigon Power Plant  
Capital Power Corporation Tunis Power Plant  
Coor Nuclear Services  
Corporation of the City of Dryden – Dryden Municipal Telephone  
Corporation of the County of Brant, The  
Coulter Water Meter Service Inc.  
CRU Solutions Inc.  
Ecaliber (Canada)  
Electrical Safety Authority  
Electrical and Utilities Safety Association  
Erie Thames Services and Powerlines  
ES Fox  
Grimsby Power Incorporated  
Halton Hills Hydro Inc.  
Hydro One Inc.  
Independent Electricity System Operator  
Inergi LP  
Innisfil Hydro Distribution Systems Limited  
Kenora Hydro Electric Corporation Ltd.  
Kincardine Cable TV Ltd.  
Kinectrics Inc.  
Kitchener-Wilmot Hydro Inc.  
London Hydro Corporation  
Middlesex Power Distribution Corporation  
Milton Hydro Distribution Inc.  
New Horizon System Solutions  
Newmarket Hydro Ltd.  
Norfolk Power Distribution Inc.  
Nuclear Waste Management Organization  
Ontario Power Generation Inc.  
Orangeville Hydro Limited  
Portlands Energy Centre  
PowerStream  
PUC Services  
Sioux Lookout Hydro Inc.  
Sodexo Canada Ltd.  
TransAlta Generation Partnership O.H.S.C.  
Vertex Customer Management (Canada) Limited  
Whitby Hydro Energy Services Corporation

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**Filing Requirements:  
Distribution System Plans under the  
Green Energy Act (EB-2009-0397)  
Power Workers' Union's Comments**

**1 BACKGROUND**

On June 16, 2009, the Ontario Energy Board (the "OEB" or "Board") issued Guidelines entitled *Deemed Conditions of Licence: Distribution System Planning* ("Guidelines") which provides guidelines on the deemed conditions of licence regarding distribution system planning as provided for in the *Green Energy and Green Economy Act, 2009* ("GEA"). On December 18, 2009 the Board issued for comment: *Filing Requirements: Distribution System Plans Under the Green Energy Act* ("Filing Requirements"). This document creates Filing Requirements based on the Guidelines.

The Board notes that the Filing Requirements are transitional and will be updated as needed to reflect legislation and regulation. The Filing Requirements focus on plans related to the smart grid and renewable generation connection.

The Filing Requirements describes:

1. **The purpose of System Plans under the Green Energy Act ("GEA"),**
2. **Filing of GEA Plans,**
3. **Content of GEA Plans including proposed content, GEA Plan approval and recording and recovery of Capital, Operating, Maintenance and Administration ("OM&A") Deferral Accounts for GEA related expenditures.**

The Board has requested stakeholder input on the proposed Filing Requirements.

The Power Worker's Union ("PWU") appreciates the opportunity provided by the Board for comment on the issues raised in the Filing Guidelines. The PWU's input stems from its energy policy statement:

**Reliable, secure, safe, environmentally sustainable and reasonably priced electricity supply and service, supported by a financially viable energy industry and skilled labour force is essential for the continued prosperity and social welfare of the people of Ontario. In minimizing environmental impacts, due consideration must be given to economic impacts and the efficiency and sustainability of all energy sources and existing assets. A stable business environment and predictable and fair regulatory framework will promote investment in technical innovation that results in efficiency gains.**

The following is the PWU's input on the questions on which stakeholder comment is sought.

## **2 THE PURPOSE OF SYSTEM PLANS UNDER THE GREEN ENERGY ACT**

The transitional nature of the Filing Requirements can create uncertainty and risk for local distribution companies ("LDC") as well as renewable energy project proponents. The PWU recognizes that the development of the smart grid will span over a number of years, and therefore notes the need for the OEB to provide sufficient lead time to allow for rational scheduling and to ensure that the LDCs are treated fairly when changes are introduced.

The Filing Requirements states:

**The size of a distributor, and the characteristics of the territory served by that distributor, will be significant factors in the scope and design of a GEA Plan. The GEA Plan, and distribution system investments proposed within it, should be appropriate to the size and resources of the distributor and the anticipated demand for renewable generation connection in the service area of the distributor.**

The PWU believes that the scope of the anticipated distributed generation in an LDC's service area should be the primary factor in its GEA Plan design. Regardless of a distributor's size and resources it will need to meet the likely demand for connecting distributed generation that its system can accommodate.

Further, the Filing Requirements states:

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**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.**

The PWU recognizes the need for co-ordinated planning if practical, where parties will benefit from lower capital cost and or improved efficiency in the operation of their distribution systems. However, the PWU notes that confidentiality provisions will be needed around the sharing of information between the distributors to ensure the ongoing secure and safe operation of the system in creating economic benefits for each LDC.

As part of the purpose of system plans under the GEA, the Filing Requirements states:

**To be clear nothing in this document should be construed as limiting a distributor’s obligation to proceed with the connection of renewable generation facilities.**

However, the Filing Requirements provides for conditions which limit the ability of LDCs to proceed with renewable generation projects under acceptable terms and conditions. The PWU therefore submits that the statement cited above ought to be re-written in the final version of the Filing Requirements to reflect the provisions under which it is accepted that a distributor’s ability and therefore obligation is limited.

### **3 FILING OF GEA PLANS**

The Filing Requirements proposes the following materiality threshold for the filing of a Detailed GEA Plan:

**... The materiality threshold is reached, for the purposes of these Filing Requirements, in two circumstances:**

- 1. the costs of all a distributor’s GEA-related projects in any one year exceed \$100,000, and in addition:**
  - Exceed 3% of the distributor’s distribution rate base; or
  - Exceed \$10,000,000.
- 2. the costs of all a distributor’s planned GEA-related projects over five years exceed \$100,000, and in addition:**
  - Exceed 6% of the distributor’s distribution rate base; or
  - Exceed \$20,000,000.

The PWU believes that the materiality threshold for the filing of a GEA Plan should be the same for all LDC’s to provide equitability between distributors with regard to the

need to file GEA Plans. Therefore the costs of a distributor's GEA-related projects as a percentage of its rate base ought not to be a consideration in the determination of the materiality threshold.

At page 7 the Filing Requirements states:

**In preparing a detailed DEA Plan, a distributor must seek detailed information from the OPA regarding the level of interest in Feed in Tariff contracts in the distributor's service area, and transmission constraints that may affect the capacity to connect renewable generation facilities. Distributors filing a Detailed GEA Plan must also send the Plan to the OPA for comment.**

To ensure that the planning process works in an efficient and timely manner the Board should require the Ontario Power Authority ("OPA") to provide consulting support to LDCs in the development of their GEA plans. This would be in line with the OPA's responsibility for long-term system planning which requires working with the LDC's on their distribution system plans.

At page 7 the Filing Requirements states:

**GEA Plans must be filed as part of the distributor's cost of service rate application. This requirement applies to applications for rates for 2011 and subsequent rate years.**

There may be circumstance where GEA plan related projects, in particular developmental work, may need to be undertaken in 2010. On page 5 the Filing Requirements states that a distributor does not need to wait for approval of a plan to begin work to connect renewable generation and that a distributor may make expenditures relating to renewable generation connections and smart grid development work that they believe are appropriate. The Filing Requirements goes on to state that the prudence of these expenditures and recovery of their costs will be subject to Board review in the normal course. The PWU notes that the Board has made provision for LDC deferral accounts for GEA related expenditures and commends this provision as consistent with the GEA's assurance for LDC recovery of GEA related costs. However, where early expenditures related to a distributor's GEA are of such magnitude that the distributor would prefer to mitigate regulatory risk by seeking approval prior to 2011, the Board ought to consider such applications. Not doing so, could hinder the timelines of the GEA plans.

In some places the language used in the Filing Requirements is too ambiguous. As an example on page 8 the Filing Requirements states that the distributor should describe its view of its outlook and objectives for accommodating renewable generation over the next five years “to the best of the distributor’s ability”. In the PWU’s view the filing requirements should specify that distributors should be required to file detailed descriptions of practical, pragmatic and cost effective plans that the LDC are capable of producing with the information that they have been provided by the OPA, the upstream transmitter and the GEA applicant. This helps ensure that the plans are ones which the LDCs are capable of completing within the proposed capital budget.

At Page 9, where the distributor is seeking to recover GEA-related costs from ratepayers, the Filing Requirements states that:

**...the level of detail should be sufficient for the Board to assess the need for and prudence of the planned projects and activities.**

Given that the Board and the Government have set the requirements for the LDCs to implement the GEA, the requirement to assess the need and prudence of the planned projects and activities appear to be superfluous and the level of detail and review excessive in circumstances where the majority of the applications have been approved by the OPA under the Feed-in Tariff (“FIT”) or microFIT program.

The prudence standard, if one is necessary should allow the LDCs to provide the required information with minimal incremental effort. The first component of the prudence standard could be the inclusion of a GEA forecast for new renewable generation connections based on OPA projections and or targets. Incremental activity above this level based on the LDC’s specific information should provide for a sufficient second component. The above two filing components should provide a reasonable framework for the review of costs in the disposition of balances in the proposed GEA plan deferral accounts.

At page 11 of the Filing Requirements, the LDCs are required to set out the method and criteria for the selection of projects. In the PWU’s view, this requirement should be straightforward and based on physical system configuration, mix of projects, cost and timing of build out. The LDCs are also required to set out an estimated construction

schedule and completion date for each project. In the PWU's view, this may be impractical to forecast for a five-year plan with little historical data to work from (other than those OPA approved projects that have a 2-3 year horizon). LDCs could make reasonable forecasts based on projections of generic projects by zone areas for years 4 and 5 or where they anticipate activity in years 1-3 that is greater than that provided by the OPA. Project costing should be done on a generic basis except where the LDC identifies projects with costs that are materially different from generic costs. The Board should allow for cost recovery (i.e. disposition of deferral accounts) for large projects upon completion of the project, if the project is completed earlier than the distributors next cost of service proceeding.

At page 15 the Filing Requirements states:

**the Board intends to maintain an on-line repository of smart grid study and demonstration project reports. To maximize the utility of this repository, the Board expects distributors to avoid to the maximum extent possible any restrictions on the disclosure of information. Distributors must in all cases ensure that any information disclosure restrictions that cannot be avoided will not hinder meaningful reporting or replication of the results of the study or demonstration project.**

The PWU notes that sharing of privileged information could raise the cost of smart grid projects given that suppliers providing competitive bids will not wish to disclose its competitive position. This could result in uncompetitive bids that could raise the cost of smart grid projects. Therefore this requirement should only be imposed where it can be demonstrated that the benefits would be shared among the LDCs and that the benefits exceed the incremental costs. Free riders should not be allowed access to privileged shared information at the expense of the originating LDCs. An alternative if the Board wishes to pursue this matter would be for all costs of shared reports to be recovered through the provincial fund.

At page 17 the Filing Requirements states that:

**...the Board expects distributors to exercise prudence, and recognize that amounts recorded in the deferral accounts may not necessarily be recovered from customers.**

Given the potential magnitude of the balances in the GEA and Smart Grid Deferral accounts, LDCs must be given assurance that prudently incurred costs that are within the LDCs GEA Plan scope and cost projections will be fully recovered in a timely manner. It would appear that adding uncertainty and risk related to cost recovery in the



Filing Requirements in the absence of providing the LDCs with specific criteria that the Board intends to use in the proposed prudence review creates an unnecessary barrier to LDC investment in a GEA Plan.

**All of which is respectfully submitted.**

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