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March 10, 2010

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

Dear Ms. Walli:

Re: EB-2009-0349 – Further Written Comments of the London Property Management Association

On December 14, 2009, the Ontario Energy Board ("Board") released a Board Staff Discussion Paper on Proposed Framework for Determining the Direct Benefits Accruing to Customers of a Distributor under Ontario Regulation 330/09 and invited written comments on it.

On February 5, 2010, the Board issued a letter in which it scheduled a stakeholder meeting and invited parties to provide further written comments. These are the further written comments of the London Property Management Association ("LPMA").

Ex-Post vs. Ex-Ante

LPMA continues to support the use of an ex-post approach. This approach is simpler and provides the best level of rate protection to ratepayers. It also eliminates the need for detailed variance accounts that would be required to provide ratepayers with protection from erroneous forecasts under an ex-ante approach.

LPMA notes the apparent contradiction in sections 2 and 3(1) of Ontario Regulation 330/09. In particular, section 2 states that prescribed consumers or classes of customers are those customers that are served by a licensed distributor that **has incurred** costs to

make an eligible investment that has been approved by the Board. This would seem to imply that forecast costs, at least for the first such investment, do not result in the customers of that distributor being classified as prescribed customers until after the costs have been incurred.

Section 3(1), however, provides a formula of A = B – C where C is defined as the amount that the Board determines to represent the direct benefits that accrue to the prescribed consumers as a result of all or part of the eligible investment made **or planned to be made** by the distributor.

LPMA believes that the Board needs to provide rate protection that protects ratepayers from overly optimistic forecasts and distributors from overly conservative forecasts of the eligible investments. If forecast figures are used, LPMA submits a variance account needs to be established to true up the impact on the revenue requirement of actual eligible investments versus that forecast. This true up would account for difference in the level of expenditures and the timing of these expenditures (B in the formula) from that forecast and any differences between the actual and forecasted direct benefits (C in the formula).

Reduced Transmission and WMSC Charges

At the stakeholder meeting held on February 26, 2010, some participants indicated that reductions related to reduced transmission and WMHS charges should not be included in the calculation of direct benefits

For example Hydro One has stated that there is a limited reduction in transmission charges due to generation characteristics, benefits are not significant during the initial implementation and that micro-generators should be excluded. LPMA disagrees. Any and all benefits should be included in the determination by the Board of direct benefits. There is nothing in the regulation that indicates that the direct benefits are related only to distribution costs or that changes in transmission costs should be excluded.

Failure to exclude these benefits could result in some distributors incurring proportionately higher costs than they should. For example, a distributor that has eligible

investments that result in larger than average reductions in transmission related billing determinants should not expect to keep those benefits for its own ratepayers and at the same time recover a greater portion of the revenue requirement impact of the eligible investments through the provincial recovery mechanism from ratepayers of other distributors.

There will also be distributors that end up with higher transmission costs as a result of the regulation. In fact, any distributor that has a reduction in transmission billing determinants that is zero or less than that relative to other distributors may well see an increase in their overall transmission costs. This is because the unit rate for transmission is likely to increase as the transmission costs (which are not expected to decline under the *Green Energy Act*) will need to be recovered over a smaller number of kW's (reflecting the reductions resulting from the eligible investments). This increase in cost would be in addition to the costs recovered from the ratepayers of the distributors through the provincial recovery mechanism.

LPMA submits that these increased transmission related costs that will result for some distributors should be taken into account in the direct benefit calculation and be shown as a negative direct benefit. In the same way that a positive direct benefit reduces the amount of the eligible investment that will be recovered through the provincial recovery mechanism, a negative direct benefit should increase the amount to be recovered through the provincial recovery mechanism. Failure to take these negative benefits into account will result in some distributors having higher transmission costs, not because of what they have done, but because of what other distributors have done and what they have done relative to one another. LPMA does not believe that this was or is the intent of Ontario Regulation 330/09.

In order to minimize the unintentional impact of increased transmission related costs for some distributors, LPMA submits that the Board should ideally calculate any direct benefits (positive or negative) related to the re-allocation of transmission costs between distributors as a result of the eligible investments and include benefits as an offset (positive benefits) to the costs of the eligible investments or as an addition (negative

benefits) to the costs of the eligible investments to be recovered through the provincial recovery mechanism.

At a minimum, should the Board decide that it cannot take into account the negative direct benefits that will accrue to some distributors, LPMA submits that Board needs to take into account the impact on transmission rates of changes in the transmission billing determinants that may result from the eligible investments across all distributors in the province. If the Board did not take the impact on transmission rates into account it would be overestimating the transmission-related direct benefits for all distributors.

Improved System Capability

LPMA agrees with the comments of Hydro One that the default position is that eligible investments have zero benefits to distributor customers unless these benefits can be quantified and monetized. LPMA also agrees that the same level of detail should apply to all distributors when it comes to the calculation of these benefits.

LPMA submits that the Board may want ignore any benefits to distributor customers from asset replacements. Unless the assets that are being replaced are at the end of their useful lives, there is a timing difference between when the asset will be replaced and when it would have needed to be replaced. This can result in increased costs to customers in the near term followed by lower costs later on. For example, if an asset has an expected life of 20 years and is currently 10 years old and will be replaced, the cost to the customers will be higher for the first 10 years and lower for the second 10 years. This is because the total cost of capital will be higher during the first 10 years since the net asset value included in rate base will be higher than for the existing asset over this period. Over the second 10 year period, the cost will be lower for the new asset since the old asset will be replaced at the end of its useful life with a new asset which will then have a higher net book value. The net present value of the increased costs over the first 10 years and the decreased costs over the second 10 years will almost always result in an increase in costs to ratepayers. In other words, the direct benefits would be negative.

If the cost of the new asset is higher than the cost of the asset that is being replaced (which would be expected because of the difference in when the cost was incurred), the depreciation expense will also be higher, adding to the additional costs to customers.

In summary, the net benefits associated with asset replacements change from year to year and the net present value of the stream of these benefits may, in fact, be negative. The stream of benefits (negative and positive) also raises the issue of intergenerational equity.

Investment Specific Allocations

LPMA believes that each distributor needs to estimate the share of direct benefits from each individual investment rather than using an average. While the use of an average would be simpler easier to apply, it will also be less accurate. This is especially the case if the average used is based on an allocation from one distributor or a number of distributors that may not have the same characteristics as does the distributor for which the percentage is to be applied.

LPMA submits that each distributor will have unique circumstances that should be reflected in its own allocation of the direct benefits between local ratepayers and the provincial recovery mechanism. No two distributors are alike. Eligible investments are likely to as different from one another as are the distributors.

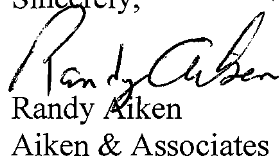
This is not to suggest that the average calculated for any given distributor will not eventually converge to a level that is relatively stable. However, what that level is needs to be estimated based on an individual investment allocation.

LPMA therefore submits that investment specific allocations should be the norm until such time as it is demonstrated that the total allocation for all eligible investments is converging or remaining near a certain level. This level is likely to be different by distributor and will reflect the unique circumstances and characteristics of the distributors and the type of eligible investments being made in different parts of the province. As each distributor gains experience it may be the case that an average can be used for

additional eligible investments on a going forward basis. To assume that an average exists for all projects before any analysis of any projects is undertaken is not appropriate.

LPMA thanks the Board for the opportunity to comment.

Sincerely,



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