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VIA COURIER AND RESS FILING

Ms. Kirsten Walli, Board Secretary
Ontario Energy Board
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(1934 - 2006)

Dear Ms. Walli

Re: Proposed Framework for Determining the Direct Benefits Accruing to Customers of a Distributor under Ontario Regulation 330/09 (EB-2009-0349)

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, the PWU provided January 11, 2010 comments on the December 14, 2009 discussion paper entitled Proposed Framework for Determining the Direct Benefits Accruing to Customers of a Distributor under Ontario Regulation 330/09. Attached please find the PWU's second set of comments which takes into account the discussions that the PWU participated in at the OEB's February 26, 2010 stakeholder meeting.

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

Yours very truly,

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP

Original Signed by Richard Stephenson

Richard P. Stephenson

RPS:jr encl.

cc: Judy Kwik, John Sprackett

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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

Board Staff Discussion Paper

**Proposed Framework for Determining the Direct Benefits Accruing to
Customers of a Distributor under Ontario Regulation 330/09**

Power Workers' Union's Comments

1 BACKGROUND

The Green Energy and Green Economy Act, 2009 introduced section 79.1 of the *Ontario Energy Board Act, 1998* (the "Act") which provides a mechanism for the recovery of some or all of Ontario Energy Board ("OEB" or the "Board") approved costs incurred by a distributor in making an eligible investment for the purpose of connecting or enabling the connection of renewable energy generation to its distribution system from all provincial ratepayers. Ontario Regulation 330/09 ("O.Reg. 330/09") sets out the cost recovery framework related to section 79.1 of the Act.

On September 25, 2009 the Board initiated a consultation on direct benefits that accrue to the customers of an electricity distributor as a result of an eligible investment made or planned by the distributor to accommodate a renewable energy generation facility. The purpose of this consultation is to establish a Board policy that identifies:

- 1. the direct benefits that must be taken into account; and**
- 2. a standard methodology to be used in calculating or quantifying those direct benefits.**

On December 14, 2009 the Board issued for comment a Board staff Discussion Paper on a *Proposed Framework for Determining the Direct Benefits Accruing to Customers of a Distributor under Ontario Regulation 330/09* ("Discussion Paper").

The Discussion Paper sets out proposed guiding principles and criteria to be used in determining the direct benefits that accrue to the benefit of the customers of the distributor connecting new renewable generation.

The proposed guiding principles are as follows:

- **The benefit is directly attributable to only the customers of the distributor making the investment (i.e., limited to distribution system investments) and the benefit is readily quantified in monetary terms.**
- **The level of detail and analysis provided by a distributor underlying the estimation of the direct benefits should be commensurate with the circumstances of the distributor.**
- **Portions of certain eligible investments may not ultimately be used by only qualifying renewable generation facilities to which the Board's new cost responsibility policies apply. Consistent with O. Reg. 330/09, to the extent the investment is used for other purposes (e.g., connect a load customer(s), that portion of the investment would not be recovered through the provincial recovery mechanism.**
- **Where any existing distribution asset is replaced to accommodate qualifying renewable generation, customers of the distributor making the investment will realize a direct benefit of some magnitude and therefore a certain portion of the costs should not be recovered through provincial recovery mechanism.**
- **To the extent certain eligible investments (e.g., Renewable Enabling Improvements) that accommodate qualifying renewable generation are expected to improve service quality for the load customers of the distributor making the investment, such service quality improvements will represent a direct benefit to only the customers of that distributor (i.e., not paid for under the provincial recovery mechanism).**
- **Distributors should not be required to estimate certain benefits (e.g., line losses) that may, in theory, sometimes be associated with distributed generation in a generic sense, but do not take into consideration the practical circumstances unique to Ontario under the *Green Energy Act*.**

In its January 11, 2010 comments the PWU provided input on the questions posed in the Discussion Paper. The following are further comments formulated through the PWU's participation in the Board's February 26, 2010 stakeholder meeting held as a forum for discussions on the substantive policy matters to facilitate further stakeholder written comments.

1. Reduced Network Transmission and Wholesale Market Service Charges

The Discussion Paper identifies the following two direct benefits associated with connecting renewable energy generation that accrue to the customers of a distributor:

- 1. Reduced *network* transmission charges and reduced wholesale market service charges (WMSC) realized by the distributor as a consequence of electricity production from new renewable generation connected by an eligible investment; and**
- 2. Improved capabilities of the distribution system for load customers as a consequence of the eligible investments made by a distributor.**

In its January 18, 2010 comments and February 26, 2010 presentation the Coalition of Large Distributors (“CLD”) submits that Board staff’s identification of reduced network transmission charges and reduced WMSC as direct benefits is flawed. The CLD notes that treating reduced network transmission charges and reduced WMSC as direct benefits transfers transmission and wholesale market service revenue responsibility to the distributors’ revenue responsibility. Reductions in transmission and WMSC charges should therefore be excluded from the direct benefits analysis. The CLD goes on to state that nevertheless the transfer of upstream revenue responsibility “may represent a live policy issue deserving of the Board’s consideration and action”. In its February 26 presentation, the CLD noted that this policy issue is not appropriate for consideration in this consultation. Hydro One’s submission on reduced network transmission charges and WMSC as direct benefits is similar to that of the CLD.

In its January 11, 2010 comments the PWU stated that the two types of direct benefits identified in the Discussion Paper appear to account for the direct benefits associated with connecting renewable energy generation that might accrue to the customers of a distributor. However, the PWU agrees with the CLD and Hydro One that in considering the reduction in network transmission charges and reduced WMSC as direct benefits, there is an apparent mismatch in the transfer of upstream revenue responsibility to distribution revenue requirement. Essentially, upstream charges that are a pass through become part of the distribution revenue requirement in the context of direct benefits. The PWU therefore agrees with the CLD and Hydro One that the Board needs to address this policy issue in considering network transmission charges and WMSC as direct benefits under O.Reg. 330/09.

2. Ex-post Approach versus an Ex-ante (i.e., forward looking forecast) Approach

The PWU repeats its position forwarded in its February 26, 2010 comments that distributors that are prepared to deal with the complexity of an ex-ante approach and prepare evidence in support of its proposed ex-ante approach should be allowed to do so. The PWU agrees with Hydro One that the identification, quantification, review, approval and recovery of eligible investment costs should be made on an ex-ante, or forecast basis as that would be consistent with the approach used in the rate setting process in the regulatory forum.

If there is any question whether O. Reg. 330/09 allows for an ex-ante approach in the determination of the rate protection provided, the PWU would note that the definition for “C” in the calculation of the rate protection in section 3(1) “is the amount that the Board determines to represent the direct benefits that accrue to prescribed consumers or classes of consumers as a result of all or part of the eligible investment made or **planned to be made** [emphasis added] by the distributors”. The provision for eligible investments “planned to be made” is consistent with an ex-ante approach.

3. Improved Service Quality for the Load Customers of the Distributor

The PWU is of the view that improvement in service quality (including service reliability) up to the standards expected by consumers would be a direct benefit. However, the PWU does not see the OEB as being in a position to quantify such direct benefits at this time for the following reason.

To quantify direct benefits related to service quality the Board would need to have established levels of standards for service quality performance metrics for the province (or for specific distribution service territories) presumably established through a Willingness to Pay (“WTP”) study that identifies the value that consumers place on service quality. A distributor’s revenue requirement should provide for the sustainability of the service quality standard. Where a distributor’s service quality performance is below the required standard, any eligible investment that improves service quality performance up to the standard can be considered to contribute to direct benefits. Where the eligible investment contributes to service quality performance above the

standard, there would be no added value for the consumers and there would be no associated direct benefits from the consumers' perspective. Therefore the PWU submits that in order for the Board to be able to assess improved service quality direct benefits related to eligible investments, it would first need to establish service quality standards based on customer WTP studies. Any assessment of such direct benefits in the absence of service quality standards would be arbitrary and can result in consumers paying for service quality performance improvements that they neither want, need or value.

In the PWU's view, the dilemma faced by the Board with regard to attaching a value on improved service quality as a direct benefit related to eligible investments in this consultation, illustrates the need for the Board to develop a service quality regulatory framework, and not only for the integration into the Board's incentive regulation. The PWU is of the view that in the absence of Board service quality standards it would be futile to quantify or monetize the value of service quality enhancements. In its February 26th presentation the CLD forwards the position that the concepts of quantifying or monetizing the 'value' of service quality enhancements "are outside of the basis of ratemaking, which is strictly 'cost prudently incurred'". The PWU disagrees, noting that the costs are prudently incurred to sustain a standard of service that includes service quality performance consistent with the Board's legislated objective: to protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service. As the Board notes in its decision in RP-1999-0034:

Any reduction in the quality and/or reliability of a service represents a reduction in the value of that service. Therefore, as part of its function in regard to approving or fixing just and reasonable rates, the Board has a responsibility to oversee that service quality is preserved and improved.

The PWU submits that the time has come for the Board to initiate a consultation on a service quality regulatory framework in order to develop service quality standards that enhance the Board's regulation of service quality and holds distributors accountable for service quality performance to uphold the standards.

4. Determining Direct Benefits of Eligible Investments

In the PWU's view Hydro One's methodology used in determining the direct benefits of eligible investments in its 2010-2011 distribution rates application (EB-2009-0096) provides a reasonable approach to the determination of direct benefits. Given its experience in planning and connecting generation in its sizeable distribution service territory, Hydro One's methodology can serve at a minimum as an initial approach. The Asset Replacement criterion in particular provides the necessary robustness in the determination of the direct benefits. The assessment builds on information readily available to the distributor in its system planning process and would preclude the need for time and resource consuming information gathering, thus enhancing the efficiency of the process.

All of which is respectfully submitted.