

March 12, 2010

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VIA E-MAIL

File 10606.00038

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

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**

On Thursday, March 11, 2010, we sent to you a letter containing our client's comments in this matter. We are advised that there was an error in that letter. Specifically, in the first full paragraph on page 2, in the sixth line, the word, "ex-ente" should be "ex-post".

We are attaching hereto a corrected version of the original letter. We would appreciate your substituting a corrected version for the version sent to you yesterday.

Your co-operation in this matter is appreciated.

Yours very truly,

**WeirFoulds LLP**



Robert B. Warren

RBW:ms

Encls. 2

cc: Chris Cincar  
Julie Girvan

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12 March 2010

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Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
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P.O. Box 2319  
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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**

We are Counsel to the Consumers Council of Canada ("Council"). On September 25, 2009 the Ontario Energy Board ("Board") issued a letter initiating a consultation process to determine what constitutes the direct benefits that accrue to the consumers of an electricity distributor as a result of an eligible investment made or planned to be made by the distributor to accommodate a renewable energy generation facility. On December 14, 2009, the Board released a Board Staff Discussion Paper regarding the determination of such direct benefits, and invited written comment on it. The Council submitted comments on the Discussion Paper and attended the stakeholder information session on February 26. These are the further comments of the Council.

At a high level the concepts set out in Regulation 330/09 seem logical. To the extent an LDC's customers benefit directly from the connection of new renewable generation in their service territory, those benefits should be recognized when determining the amounts related to renewable investments to be recovered province-wide. The diverse submissions of the parties and the discussion that took place at the stakeholder session on February 26 demonstrate that determining an appropriate methodology consistent with the regulation is not an easy task. In addition, there is clearly no consensus as to how this policy should be implemented.

From the Council's perspective the Board must approve a methodology that is fair to all Ontario ratepayers (those paying the full cost of new renewable generation) to the extent possible, while not creating a process that is unduly complex and onerous for the LDCs and the Board itself.

The Council supports an approach that would allow for a forecast of the benefits to be incorporated in rates, but is also of the view that there should be a true-up once actual benefits are known. This approach would, from the Council's perspective, provide adequate rate protection for Ontario ratepayers and ensure that actual costs are ultimately recovered from ratepayers. The alternative would be to adopt the ex-post approach, calculating benefits after the investments have been undertaken. Either approach would protect customers from forecasting risk, and given the uncertainty around these investments, forecasting risks may be significant.

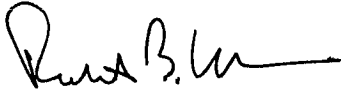
At the stakeholder session there was considerable debate about how to treat reduced network transmission charges and wholesale market service charges ("WMSC"). Board Staff is of the view that the reduction in these charges that result from distributor generation constitute "direct benefits" that are subject to consideration under the regulation. Other parties did not support this approach as these reductions are outside of an LDC's revenue requirement. Although renewable generation within an LDC's service territory will result in reduced transmission and WMSC for the LDC's customers, transmission rates across the Province may increase given the resulting reduction in billing determinants (less units to recover fixed costs). So, from the Council's perspective Board Staff's approach may not be as simple as it seems. The Council submits that the Board should give further consideration to how transmission and WMSC recovery should be adjusted in light of the concerns raised by parties regarding this issue.

On the issue of improved capability of the distribution system for load customers the Council generally supports the proposed guiding principles set out in the Board Staff discussion paper. In particular, it is important that the benefit be directly attributable to only the customers of the distributor making the investment and that the benefit is readily quantifiable. The Council does not support, however, a mechanism that attempts to quantify service quality or reliability enhancements, as such quantification would be extremely difficult to do.

As noted above, the Council acknowledges that the concept embedded in the Regulation 330/09 regarding costs and benefits is logical at a high level, but will be very problematic to implement. Separate streams of costs and benefits will have to be developed and accounted for. This will add to what is already becoming a complex regulatory framework. The Council notes the approach advanced by Hydro One Networks that a transition phase be established and the methodology revisited once experience is gained. The Council supports this approach.

Yours truly,

**WeirFoulds LLP**

A handwritten signature in black ink, appearing to read "Robert B. Warren", with a long horizontal flourish extending to the right.

Robert B. Warren

RBW/mb

c: Chris Cincar  
Julie Gervan

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