



By electronic filing and by e-mail

July 15, 2010

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Board Secretary
Ontario Energy Board
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Dear Ms Walli,

**Hydro One Networks Inc. (“Hydro One”)
2011-2012 Transmission Rate Case
CME Submissions – Motion to Sever “High 5 Proposal”
Board File No.: EB-2010-0002
Our File No.: 339583-000057**

This letter contains the submissions of Canadian Manufacturers & Exporters (“CME”) pertaining to Hydro One’s Motion to be argued orally on Tuesday, July 20, 2010.

A. Hydro One’s Motion is to Vary Parts of a Prior Board Decision and is subject to Rules 42, 44 and 45

Hydro One’s Motion is, in substance, a Motion to Vary directives contained in the Board’s May 29, 2009, EB-2008-0272 Decision with Reasons (the “Decision”).

The Decision recites various criticisms of the “High 5 Proposal” (the “Proposal”) of Association of Major Power Consumers in Ontario (“AMPCO”) made by Hydro One and other intervenors in those proceedings. Despite these criticisms, the Decision concludes that, overall, the Proposal has merit.

The criticisms that the Board considered, before rendering the Decision, included all of the criticisms upon which Hydro One relies to support its Motion, including criticisms pertaining to the alleged complexities and technical nature of the Proposal, the need to properly assess the Proposal by conducting detailed analysis into the method of calculating the charge, the likely cost in load shifting, impact on commodity costs, and impacts on transmitters, LDCs and generators.

These various criticisms prompted the issuance of directives in the Decision (the “Directives”) in the following terms:

“Board Findings

The Board finds that, overall, AMPCO’s proposal has merit. ...

While the Board accepts that not all customers would respond the same way as Gerdau Ameristeel, the fact that at least some would respond by load shifting leads the Board to conclude that the proposal should be given further consideration. What is uncertain is the magnitude of the

shift, the benefits of the shift, and the resulting impact on other customers.

The Board will therefore direct Hydro One to come forward at its next application with:

- 1. further analysis of AMPCO's proposal; and,*
- 2. a suitable proposal for implementation for the Board's consideration in the event the Board decides to change the charge determinant.*

In its further analysis, Hydro One should address the various criticisms which have been made about the AMPCO's analysis (and its expert's analysis) and should attempt to conduct some sensitivity analysis around the potential impacts on commodity prices.

The Board also expects Hydro One to provide a comprehensive analysis of the transmission rate impacts for customers as well as an assessment of any potential adverse impacts on local conditions due to load shifting as described by VECC. Hydro One should also consult with the OPA and the IESO as to any interactions with other demand response programs.

Hydro One has suggested it would not be possible to monitor such a program and measure its effect on commodity prices. The Board believes that it should be possible to do so to some extent and directs Hydro One to include this as part of its analysis." (emphasis added)

Hydro One now requests an Order varying the Directives by transferring the consideration of the Proposal to a, yet to be constituted, generic proceeding.

The provisions of Rules 42, 44 and 45 of the Board's *Rules of Procedure* apply to every Motion that seeks to vary part of a prior Board Decision. Under Rule 44, Hydro One must establish that there are circumstances that call into question the correctness of the Directives contained in the Board's prior Decision. However, nothing has changed with respect to the Proposal since the Board issued the Directives. The correctness of the Directives is not challenged by Hydro One.

Hydro One took little or no action in response to the Directives until November 2009 and did not retain an expert to conduct the further analysis described in the Directives until March 2010. Hydro One cannot rely upon its own dilatory response to the Directives to support its Motion varying the Directives by severing the Proposal from this Application.

Since Hydro One has lead no evidence calling into question the correctness of the Directives, there is no principled basis upon which its Motion to Vary the Directives can be granted by transferring consideration of the Proposal to another, yet to be constituted, generic proceeding. There is no principled basis upon which the Directives can be varied to remove consideration of the Proposal from the ambit of this proceeding

For these reasons, the Motion to sever matters pertaining to the Proposal from this proceeding should be denied. Instead, a Procedural Order should issue, in this proceeding, scheduling any pre-hearing steps that need to be completed and an oral hearing pertaining to the Proposal to follow completion of the oral hearing of other matters in issue in this Application.

Having regard to the range of criticisms made of the Proposal, there should be an oral hearing, rather than a written hearing, to consider all matters related to its implementation.

B. The Request that the Existing Charge Determinant Methodology be made “Interim” as of January 1, 2011 is Premature

As a result of Hydro One’s delays in responding to the Directives, all matters in issue in this proceeding, including the Rate Design matters that the Board directed be considered in this Application, may not be determined in time to be implemented in rates effective January 1, 2011.

The risks that Hydro One faces as a result of delays, for which it alone is responsible, include the risk that its existing 2010 Rates will be made interim as of January 1, 2011, and that the commencement date for higher 2011 test year rates will be later than January 1, 2011.

We submit that nothing should be done, at this time, to dilute the risk that Hydro One faces of a start-up date for higher 2011 rates that is later than January 1, 2011. Matters pertaining to the need for and the nature of any interim rates that are to be made effective January 1, 2011, should be addressed much later in this proceeding and, ideally, after the hearing of evidence pertaining to all of the matters in issue, including Rate Design matters.

We submit that only then can the Board reasonably determine all matters relevant to the approval of interim rates, effective January 1, 2011, including the question of whether existing 2010 rates should be made interim effective January 1, 2011, and remain in force until such time as all matters pertaining to Hydro One’s 2011 test year rates have been determined by the Board, including matters pertaining to the Proposal.

For these reasons, we submit that it is premature to determine the nature of any interim relief that should be granted effective January 1, 2011. Hydro One’s request that the existing charge determinant methodology be made interim as of January 1, 2011, is premature and should be denied.

C. Costs

CME requests an award of its reasonably incurred costs of participating in this proceeding.

Yours very truly,



Peter C.P. Thompson, Q.C.

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c. Anne-Marie Reilly (Hydro One)
Intervenors EB-2010-0002
Paul Clipsham (CME)

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