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November 1, 2010

VIA MAIL and E-MAIL

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

Dear Ms. Walli:

**Re: Vulnerable Energy Consumers Coalition (VECC)
Final Submissions: EB-2010-0228
Hydro One Networks – Application for Fees for Distribution Generation
Projects**

Please find enclosed the submissions of the Vulnerable Energy Consumers Coalition (VECC) in the above noted proceeding.

Thank you.

Yours truly,

Michael Buonaguro
Counsel for VECC

cc: Hydro One Networks

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act*, 1998, S.O. 1998, c. 15, Sch.B, as amended;

AND IN THE MATTER OF an Application by Hydro One Networks pursuant to section 78 of the *Ontario Energy Board Act* for an Order or Orders approving new rates and fees for distribution generation projects.

FINAL SUBMISSIONS

On Behalf of The

VULNERABLE ENERGY CONSUMERS COALITION (VECC)

November 1, 2010

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Vulnerable Energy Consumers Coalition (VECC)

Final Argument

1. Introduction

On June 30, 2010 Hydro One Networks filed an Application with the Ontario Energy Board (the “Board” or the “OEB”) requesting approval¹ for:

- New joint use fees for electricity generation companies that attach their electrical circuits to Hydro One Networks’ distribution poles, and
- New fees for Connection Impact Assessments.

Hydro One Networks also sought a determination by the OEB as to whether the joint use fees required Board approval².

The Board’s consideration of the Application included a round of interrogatories and a technical conference. VECC participated in both. The following sections set out VECC’s final submissions regarding these requests.

2. Joint Use Fees

2.1 Need for Board Approval

Hydro One Networks’ Position

Hydro One Networks claims³ that joint use is a competitive service for which generators have two viable economic alternatives (self-build and joint use). As a result, the charges should be considered as commercially negotiated fees that do not require Board approval.

¹ Exhibit A/Tab 1/Schedule 2, page 1

² Exhibit B/Tab 1/Schedule 1, ;pages 1-2

³ Exhibit B/Tab 1/Schedule 1, pages 7-8 and Argument-in-Chief, pages 3

VECC's Submissions

VECC submits that the joint use fees charged to generation companies by Hydro One Networks (and any other electricity distributors) should be regulated by the OEB. VECC's position is based on the following considerations:

- The joint use rates charged by Hydro One Networks to telecommunication companies and other LDCs are currently approved by the Board. Given that they are regulated there is no obvious reason why joint use rates for generators shouldn't be. To some extent these entities have the same choices (joint use or self-build) as do generators.
- Hydro One Networks has stated that it plans on applying a standard methodology and sliding rate scale of fees to all generators. Furthermore, the underlying methodology is based on the telecom methodology approved by the Board⁴ and utilizes the current LDC joint use rate which is also approved by the OEB⁵. Given that the same rate will be common to all generators and is based on charges/methodologies which are subject to Board approval there is no compelling reason to treat them differently. Indeed, Hydro One Networks has indicated that the same rate will apply whether it is regulated or not⁶. Clearly, if unregulated, the rate would not be "market-based".
- While generators do have an "economic choice" to self-build the evidence presented by Hydro One Networks indicates that they would just as soon not do so and would rather establish a joint use agreement⁷. At the same, many townships don't want twin sets of poles/lines⁸ and may, in VECC's view, may create impediments to generators constructing and owning their own. Finally, Hydro One Networks has indicated that were generators to build their own lines then it would likely have to make arrangements for (joint) use of the generator owned poles, which could lead to delays restoring service to

⁴ Exhibit B/Tab 1/Schedule 1, page 3

⁵ Exhibit B/Tab 1/Schedule 1, page 3

⁶ Technical Conference, pages 70-71

⁷ Technical Conference, pages 51 and 76

⁸ Technical Conference, page 73

distribution load customers⁹. As result, while generators may have choice in principle, there a number of reasons why it is likely (and preferable) for this to remain a monopoly service, with the corresponding requirement for rate regulation.

2.2 Base Joint Use Rate

Hydro One Networks' Position

Hydro One Networks' joint use rate proposal utilizes a sliding scale that starts with a base rate for a 50' pole¹⁰. The 50' pole was used to set the "base joint use rate" as this starting size for a pole that would typically be used if Hydro One Networks was sharing the pole with one other power user – be it an LDC or a generator¹¹. It is also the poles size used to establish the current joint use rate for LDCs. The proposed base rate for a generator requiring 10' of space on a 50' pole is \$28.61 which is equivalent to the current LDC joint use rate¹².

VECC's Submissions

VECC agrees with Board Staff's submissions¹³ regarding the principles that should guide the setting of the joint use rate, namely:

- Similar treatment of distributors and generators requesting joint use.
However, in VECC's view this principle should apply to all parties requesting joints use, including street lights and telecom operators.
- All generators should be treated fairly and equally,
- No undue cross subsidization should exist between generators and electricity distribution service, and
- Fees should be substantiated by appropriate costs.

⁹ Technical Conference, page 74

¹⁰ Exhibit B/Tab 1/Schedule 1, pages 4-6 and Technical Conference, pages 11-12

¹¹ Exhibit B/Tab 1/Schedule 1, pages 4-6 and Technical Conference, pages 10-11 and page 16

¹² Technical Conference, pages 11 and 15

¹³ Board Staff Submission, page 2

However, VECC notes that the application of these principles can yield different results depending upon the starting point used. Clearly, if the rate is to be comparable to current joint use rate applied to LDCs for 10' of power space then \$28.61 is appropriate base rate.

However, if one attempts to use the current telecom joint use rate (\$22.35) and the approved telecom methodology the results are different. VECC notes that during the course of the proceeding there was some uncertainty as to what the approved telecom methodology was and how the Board¹⁴ arrived at a 21.9% allocation factor for each telecom attachment¹⁵. After carefully reviewing the Board's RP-2003-0249 Decision, it is VECC's view that the 21.9% is based on assigning each telecom connection the following space: a) a portion of the 5.25' of telecom required space (actual space plus separation requirement) assuming 2.5 attachers – yields 2.1' plus b) a portion of the 23.25' of common use pole¹⁶ based on 3.5 users (i.e., 2.5 telecom attachers plus the LDC¹⁷) – yields 6.64' for a total space requirement of 8.74' which is 21.9% of 40'.

Applying this same methodology to a 50' poles yields a 15.2% allocation factor for each of the telecom users and 31% allocation factor for each of the two power users¹⁸ requiring 10' of space. If the 15.2% space allocation to telecom is worth \$22.35¹⁹ then the 31% for either generators or LDCs is worth \$45.58.

If one applies the telecom methodology to Hydro One Networks' current costs as reported in Exhibit KT2 and assumes the 2.5 telecom attachers per RP-2003-0249, then the costs for 10' of space on a 50' pole are:

- Indirect Costs – $31\% \times \$93.11^{20} = \28.86

¹⁴ RP-2003-0249 Decision, page 13

¹⁵ VECC #1 d), Staff Submissions, page 4 and Hydro One Networks Argument in Chief, page 4, footnote 1

¹⁶ Based on a 40' poles less 5.25' for Telecom and 11.5' for the LDC per page 9 of the Decision

¹⁷ Page 7 of the decision calls for an equal (as opposed to proportional) sharing of common costs.

¹⁸ Per Exhibit KT3, there are 25.25' of committed space (5.25' for telecom plus 10' for each of the LDC and the generator) and 24.75' of common space. Each "power user" then requires 10' plus 5.5' of the common space (assuming there are 2.5 telecom attachers and two power attachers) which equals 15.5' which is 31% of 50'.

¹⁹ Technical Conference, page 24 – The \$22.35 applies regardless of pole size.

²⁰ Using the 31% as calculated in the previous footnote

- Direct Costs - \$ 2.23²¹
- Total Costs - \$31.09

However, if one applies the telecom methodology and adopts Hydro One Networks' assumption that there are only two telecom attachers then the space allocation factor increases to 32.4% and the rate would be \$32.37.

These differences arise from the fact that telecom methodology uses a different set of assumptions than Hydro One Networks used for its base joint use rate (e.g., 40' vs. 50' pole and 2.5 vs. 2 telecom attachers). Furthermore, it appears that the \$28.61 LDC joint use rate was developed by using the 21.9% factor established for telecom users but then applying it to a totally different set of circumstances²².

Out of the foregoing alternatives VECC submits that the one based on Hydro One Networks current costs and the approved telecom methodology is the most appropriate. This yields a rate of between \$31.09 and \$32.37 depending upon the number of telecom attachers assumed. In the interest of maintaining consistency with the telecom methodology, VECC recommends that the rate should be \$31.09.

2.3 Resetting the Base Rate

Hydro One Networks' Position

Hydro One Networks proposes to reset the base rate every five years based on current costs²³. The first re-set would occur in 2015²⁴.

VECC's Submissions

VECC notes that Hydro One Networks' current joint use agreements with LDC expire shortly and a new rate will need to be established and approved by the

²¹ Note: KT2 was revised during the Technical Conference – page 15

²² Technical Conference, pages 20-24

²³ Exhibit b/Tab 1/Schedule 1, page 7

²⁴ Technical Conference, page 80

Board²⁵. Given the problems noted above regarding the proposed joint use base rate in terms of its link to costs, its link with other joint use rates and its link to the telecom methodology VECC submits that Hydro One Networks should be directed to rebase and seek approval for its joint use rate for generators at the same time as it rebases and seeks approval for its LDC joint use rate. This would ensure that both rates are established using the same cost base and a consistent methodology. Indeed, in VECC's view, it would be ideal if the telecom joint use rate was updated at the same time, as it has not be revised since the original 2003 decision²⁶. Following this re-setting, Hydro One Networks' proposals to reset every five years and to escalate the approved base rate by inflation appear reasonable. In the interest of maintaining consistency with the Board's IRM methodology, the GDP-IPOI FDD index is a more appropriate inflation factor for determining year over year rate adjustments.

2.4 Proposed Sliding Scale for Higher Poles

Hydro One Networks Position

For generators that require more than 10' of space on the distribution pole, the applicable rate will be calculated on a sliding scale that is based on; a) the power space for the generator divided b) by the power space for the generator plus Hydro One Networks times c) \$57.22 (i.e., twice the \$28.61 – initial rate)²⁷. Furthermore, this rate applies regardless of the overall height of the pole²⁸.

VECC's Submissions

The sliding scale means that the joint use rate does not increase linearly with the space requirement; rather the increase is somewhat less²⁹. Hydro One Networks claims that the reason this is that OM&A costs do not increase proportionally as

²⁵ Technical Conference, page 48

²⁶ Technical Conference, page 58

²⁷ Technical Conference, page 31

²⁸ Technical Conference, page 24

²⁹ Technical Conference, page 32

the pole size increases³⁰. However, VECC notes that the majority of the poles costs are related to capital (not OM&A)³¹ and that the capital costs of a pole increase in more than a linear fashion (e.g., increasing pole size for 50' to 60' (20%) increases the cost of pole from \$617.47 to \$1,522.26 (146%)³²). As a result, VECC seriously questions the appropriateness of using a sliding scale such as that proposed by Hydro One Networks.

Hydro One Networks has indicated that in virtually all situations it will be applying the capital contribution policy (as per the DSC) to recover any incremental costs associated with the higher poles required to allow for generator connections³³. As a result, it appears that the main effect of using the lower rates produced by Hydro One Networks' sliding scale will be to increase the capital contributions required from generators (as opposed to resulting in cross-subsidization of generators by load customers)³⁴. In VECC's view, this issue needs to be revisited when the rates are reset and serves to accentuate the reason why the rates should be reset sooner than 2015.

3. Connection Impact Assessment Fees

Hydro One Networks' Position

Hydro One Networks is requesting the following new fees for Connection Impact Assessments³⁵:

- All Capacity Allocation Exempt (CAE) Projects - \$3,000
- All Reassessed Projects – 50% of the Otherwise Applicable Fee
- All Net Metering Projects - \$3,000

Hydro One Networks is also requesting confirmation that it may continue to apply the fees previously approved in EB-2009-0096 and which the Board declared as

³⁰ Technical Conference, page 33

³¹ Exhibit KT2

³² Technical Conference, page 36

³³ Technical Conference, pages 41-42

³⁴ Technical Conference, pages 64-65

³⁵ Exhibit C/Tab 1/Schedule 1, pages 2-3

interim on August 18, 2010 for Large Projects (\$10,405) and for Mid-sized & Small Projects (\$10,335)³⁶.

Hydro One Networks had originally requested approval for a lower set fees for Small, Mid-sized and Large projects (\$3,000, \$5,000 and \$6,000 respectively) but dropped this request in its Argument in Chief³⁷ .:

VECC's Submissions

In VECC's view, Hydro One Networks has adequately supported the cost basis for each of its proposed new fees and they should be approved by the Board³⁸.

VECC notes Board Staff's comments³⁹ regarding Hydro One Networks' interpretation of the Board's August 18, 2010 Procedural Order. VECC agrees with Board Staff's submission that as there have been no apparent objections to Hydro One Networks applying the higher (cost-based) rates there is no need for a phase-in of these rates.

4. Costs

VECC submits that its participation in this proceeding has been focused and responsible. Accordingly, VECC requests an award of costs in the amount of 100% of its reasonably-incurred fees and disbursements.

All of which is respectfully submitted this 1st day of November 2010

³⁶ Exhibit C/Tab 1/Schedule 1, page 3

³⁷ Page 6

³⁸ Argument-in-Chief, page 7

³⁹ Board Staff Argument, page 8