

Hydro One Networks Inc.

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March 2, 2011

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

Dear Ms. Walli:

EB-2010-0332/0331 – Hydro One Networks & Hydro One Brampton Networks’ Board-Approved CDM Programs Application - Response to Submission of Consumers Council of Canada dated March 1, 2011

I am writing you as counsel for Hydro One Brampton Networks Inc. and Hydro One Networks Inc. (collectively, “the Applicants”) in the two above-noted proceedings. This letter is in response to the March 1st submission of counsel on behalf of the Consumers Council of Canada (“CCC”).

In the CCC’s March 1st submission, Mr. Warren has posed two questions that he submits are issues that need to be resolved at the outset of the oral hearing commencing on March 4th. I shall address each question under the applicable heading below. (Where sections of a statute or code are cited, I have underlined and boldfaced the specific applicable portions.)

1. Criteria To Be Used by the Board in Considering and Approving the Costs of the Applicants’ CDM Programs

Mr. Warren asks whether the test used by the Board will be whether the costs are “just and reasonable.”

The Applicants draw the Board’s attention to the fact that subsection 78(3) of the *Ontario Energy Board Act, 1998* (“the Act”) reads as follows:

The Board may make orders approving or fixing just and reasonable rates for the transmitting or distributing of electricity or such other activity as may be prescribed and for the retailing of electricity in order to meet a distributor's obligations under section 29 of the *Electricity Act, 1998*.

Furthermore, subsections 4.1.1 and 4.1.2(c) of the Board's Conservation and Demand Management Code for Electricity Distributors ("the Code") read as follows:

4.1

A distributor may only apply to the Board for the approval of CDM programs that are cost effective. Cost effectiveness shall be measured by using the OPA's Cost Effectiveness Tests.

4.1.2(c)

Despite section 4.1.1, a distributor may apply to the Board for approval of CDM programs where cost effectiveness cannot be demonstrated if the program is designed for educational purposes.

Additionally, subsections 1.(1)1, 1.(1)2 and 1.(1)3 of the Act read as follows:

The Board, in carrying out its responsibilities under this or any other Act in relation to electricity, shall be guided by the following objectives:

1. To protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service.
2. To promote economic efficiency and cost effectiveness in the generation, transmission, distribution, sale and demand management of electricity and to facilitate the maintenance of a financially viable electricity industry.
3. To promote electricity conservation and demand management in a manner consistent with the policies of the Government of Ontario, including having regard to the consumer's economic circumstances.

Regarding the above-cited s. 78(3) of the Act, the Applicants submit that there can be no doubt that the CDM activities that are the subject matter of the Applications are "prescribed" by legislation, by the Code, and by the CDM amendments to the Applicants' respective distribution licences.

Therefore, based on the above-cited sections from both the Act and the Code, the Applicants submit that the tests to be used by the Board are whether the costs of the Applicants' programs are "just and reasonable" in light of the Board's statutory objectives and, except in the case of the Applicants' Community Education Program, whether the Applicants' programs are "cost-effective."

2. Can the Board Consider Whether the Cost of the OPA's Province-Wide Programs Is Just and Reasonable?

The Applicants draw the Board's attention to the fact that the Applicants are not applying for approval of the OPA's programs, nor are they applying for funding of the OPA's programs. The Applicants therefore submit that it is clear that the scope of the Applications does not include an analysis of the OPA's programs or their cost.

Yours very truly,

ORIGINAL SIGNED BY MICHAEL ENGELBERG

Michael Engelberg

cc: Intervenors
Board Staff