

**Ontario Energy
Board**
P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto ON M4P 1E4
Telephone: 416- 481-1967
Facsimile: 416- 440-7656
Toll free: 1-888-632-6273

**Commission de l'énergie
de l'Ontario**
C.P. 2319
27e étage
2300, rue Yonge
Toronto ON M4P 1E4
Téléphone; 416- 481-1967
Télécopieur: 416- 440-7656
Numéro sans frais: 1-888-632-6273



BY EMAIL

April 15, 2011

Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto ON M4P 1E4

Dear Ms. Walli:

**Re: Application by the Ontario Waterpower Association Pursuant to Section 74(1)(b) of the Ontario Energy Board Act, 1998 to Amend Hydro One Networks Inc.'s Electricity Distribution Licence to Exempt Hydro One from Sections 6.2.4.1(e)(i) and 6.2.18(a) of the Distribution System Code in Respect to Waterpower Generation Facilities.
Board File No.: EB-2011-0067**

Please see attached Board Staff Interrogatories respecting the above referenced application. Please forward the attached along with this cover letter to the Applicant and all intervenors in this proceeding.

Yours truly,

Original signed by

Gona Jaff
Case Manager

Board Staff Interrogatories

**Application by the Ontario
Waterpower Association Pursuant
to Section 74(1)(b) of the *Ontario
Energy Board Act, 1998* to Amend
Hydro One Networks Inc.'s
Electricity Distribution Licence to
Exempt Hydro One from Sections
6.2.4.1(e)(i) and 6.2.18(a) of the
Distribution System Code in
Respect to Waterpower Generation
Facilities.**

EB-2011-0067

1. Reference:

Section 13.4, OPA FIT Program Rules

From October 1, 2009 to November 30, 2009, the OPA accepted applications for its first round of contracts awarded under the FIT program the so-called "Launch Period".

Applications received by the OPA during this period were able to specify the project's Commercial Operation Date Acceleration Days, defined as: "a number of days by which the Applicant is willing to reduce the time between the Contract Date and the Milestone Date for Commercial Operation from that which it would otherwise be under the FIT Contract." (Section 13.4 of the FIT rules). The acceleration days offered by the applicant were in turn used to rank projects, with preference given to those projects which were willing to offer the highest acceleration days.

Questions:

- 1.1. Have any of the 27 waterpower projects listed at Exhibit A, Tab 3 of OWA's pre-filed evidence (the "Impacted Projects") received OPA FIT contracts during the Launch Period? If so, what were the acceleration days bid by each of the Impacted Project?

2. Reference:

Section 6.3, OPA FIT Program Overview

Section 6.3, of the FIT Program Overview made specific comments with respect to timelines to apply for a Connection Impact Assessment ("CIA"). The OPA stated in the overview that:

Each contract will be issued with a specific time in which you should apply for your impact assessment (referred to as the "impact assessment priority start and stop time"). You are not permitted to apply for a connection impact assessment before the start time. You may apply for your impact assessment after the specified window. However, submitting your impact assessment application within the window will ensure that the connection capacity that has been reserved for your project through the OPA is secured for your project.

Questions:

- 2.1. Please confirm that the FIT contracts of each of the Impacted Projects contained an “impact assessment priority start and stop time”.
- 2.2. For each of the Impacted Projects, please provide the “impact assessment priority start and stop time”.
- 2.3. In general, was the CIA window provided by OPA a driver for the OWA’s waterpower generator proponents to advance their requests for CIAs? If so, please comment with respect to the Impacted Projects specifically and indicate whether this resulted in the completion of CIAs earlier in the planning process than desired, given the long build times for waterpower FIT projects.

3. Reference: Hydro One Materials:

- Connection Process for distribution connected generators under FIT
<http://www.hydroone.com/Generators/Pages/ConnectionProcess.aspx>
- Connection Impact Assessment
<http://www.hydroone.com/Generators/Pages/ConnectionImpactAssessment.aspx>
- Available Capacity on Hydro One’s system (updated April 1, 2011)
<http://www.hydroone.com/Generators/Pages/AvailableCapacity.aspx>

Hydro One publishes the available capacity at each Distribution Station (DS) on its system on its public website, as well as the applications for capacity on each feeder.

Questions:

- 3.1. For each Hydro One DS affected by the Impacted Projects, please provide a table reflecting the information listed below along with explanatory notes where necessary:
 - 3.1.1. total Station Capacity;
 - 3.1.2. available Capacity;
 - 3.1.3. total MW of Capacity requested as listed under “List of Applicants”;
 - 3.1.4. any other FIT projects, including but not limited to other waterpower FIT project applicants, that would be able to use the capacity allocation that is currently allocated to the Impacted Projects.

4. Reference: Notice of Proposal to Amend a Code, EB-2009-0088, dated May 14, 2009

On May 14, 2009, the Board issued a Notice of proposal to amend the Distribution System Code, moving from a first-come-first-served queuing approach to a capacity availability and ability-to-connect approach. The Board strongly expressed its views with respect to what Board Staff refers to as project readiness, and how capacity allocation should be held and released by proponents in the Code, and in conjunction with the operation of the FIT program. With some modifications, the proposed amendments were adopted in September 2009.

Questions:

- 4.1. Why did the OWA and the proponents of the Impacted Projects allow such a prolonged period of time to elapse before applying for relief from the Board?
- 4.2. Have any of the Impacted Projects gone beyond 6 months of the date on which the generator received a capacity allocation without signing a connection cost agreement with Hydro One? If so, for each project, please provide reasons for not signing the connection cost agreement with Hydro One within the prescribed timelines?
- 4.3. Can the OWA provide evidence demonstrating that each of the Impacted Projects will likely meet the expected Commercial Operation Date? If yes, please do so. If no, please provide a detailed explanation.

5. Reference:

- Exhibit A, Tab 3 (redacted) of OWA's Pre-filed Evidence
- Exhibit B, Tab 1, Page 1-2 of OWA's Pre-filed Evidence
- Notice of Amendment to a Code, EB-2009-0088, Dated September 21, 2009
- CanSIA Letter of Comment, Dated August 28, 2009
- CanWEA Letter of Comment, Dated August 28, 2009

The OWA has cited numerous issues with the quanta of the Connection Cost Deposit (CCD).

The Board made several comments with respect to deposits required for projects, and the proponents, at page 3 of its Notice of Amendment to a Code (EB-2009-0088):

Excerpt 1:

Since the amount of any **connection cost deposit is used by the distributor to pay for costs allocated to the applicant and related to the connection of the generation facility** to the distribution system and since any excess amounts not used for this purpose are returned to the applicant at the time of connection, **proponents of viable projects should not be concerned with this deposit.** (Emphasis added)

Excerpt 2:

Similarly, since **capacity allocation deposits and additional capacity allocation deposits are fully refundable (including interest, if applicable) following the connection of a generation facility to the distribution system, these deposits should not be of concern to proponents of viable projects.** (Emphasis added)

Excerpt 3:

While the Board understands that **cash flow and creditworthiness are issues that may arise** for some legitimate project proponents in securing the necessary deposits, **these costs are not disproportionate relative to overall project costs and should not be prohibitive for legitimate generation developers.** Further, any burden to project proponents associated with raising the necessary funds or obtaining the necessary credit is outweighed, in the Board's view, by the need to ensure that capacity is allocated to projects that are most likely to be viable. (Emphasis added)

In response to the Board's Notice, CanSIA provided comments on August 28, 2009 directly related to the quanta of the CCD required at the time that the CCA is completed, stating that:

the initial payment should be no more than 25% of the total deposit, with the balance to be paid in stages over the distributor's construction program, and the purchase of major equipment.

The Canadian Wind Energy Association (CanWEA) also registered its concern with the amount of the Code required CCD, on August 28, 2009 stating that:

...as this revised proposed amendment does not address the issue that requiring 100% (even if reduced) of the total allocated costs of connection may be too onerous for some proponents, we therefore resubmit that the amount available upon execution of the

Connection Cost Agreement("CCA") should be reduced to 30% and the remaining 70% payable upon commencement of construction.

Questions:

- 5.1. The total average CCD for the Impacted Projects is approximately \$256,000/MW. Using the best information available, can OWA provide in \$/MW the CCD for typical wind and solar FIT projects? If yes, please provide the information. If no, explain why not.
- 5.2. Please provide the overall capital investment for each of the Impacted Projects.
- 5.3. Please provide the CCD as a percentage of the overall capital investment for each of the Impacted Projects.
- 5.4. With respect to waterpower generation projects, is it OWA's position that a standardized CCD payment schedule with payments based on specific milestone dates in FIT contracts would be more suitable than the DSC provisions relating to CCDs? If so, please provide a detailed proposal. If this is not OWA's position, what sort of schedule does OWA propose other than the one proposed in its pre-filed evidence.

6. Reference: Ministry of Energy Letter from Deputy Minister David L. Lindsay, dated January 28, 2011.

The OPA received a letter from the Minister of Energy on January 28, 2011 which noted that "a number of [FIT] applicants have experienced project delays that could jeopardize their ability to bring their projects on line in the time specified in their FIT Contract or their Conditional Offer of microFIT Contract." The letter further instructed the OPA to allow for extensions to the timelines for commercial operation, and to connect the affected FIT projects so as to avoid the risk of these projects losing their FIT Contracts or Conditional Offers.

It is possible that the OWA may have sought similar remedy from the Ministry of Energy in the subject of its current application.

Questions:

- 6.1. Did the OWA consult and/or seek relief from the OPA, in concert with the Ministry of Energy for its concerns regarding challenging timelines?

6.2. What alternative approaches, if any, were used to resolve the issues that are the subject of the application currently before the Board prior to filing the application with the Board?

7. Reference: Exhibit B, Tab 1, page 10. Lines 17-19, of OWA's Pre-filed evidence.

The OWA states that 46 waterpower projects were issued FIT contracts on April 8, 2010 of which 27 projects have aligned themselves to support the OWA in this Application.

Questions:

- 7.1. Please indicate whether any of the other 19 waterpower developers with FIT contracts are members of the OWA.
- 7.2. Please explain why the other 19 waterpower developers with FIT contracts are not part of this application.
- 7.3. Please indicate whether any of the other 19 waterpower developers with FIT contracts were able to make the CCD payment in accordance the subject sections of the DSC. If this information cannot be provided, please provide reasons.
- 7.4. Please provide a list of specific issues faced by each of the Impacted Projects including but not limited to other regulatory approvals/permits and explain how these issues are unique to water power projects.
- 7.5. Please summarize the specific differentiating factors with respect to the financing, permitting and regulatory project schedules faced by waterpower projects that differ from wind and solar FIT projects.
- 7.6. Can the OWA provide specific examples where the post Environmental Assessment Permitting and Approvals process has taken much longer than wind or solar projects? If yes, please do so.

8. Reference:

- **Notice of a Proposal to Amend a Code, EB-2009-0088, dated May 14, 2009**
- **Notice of Amendment to a Code, EB-2009-0088, Dated September 21, 2009**

Some aspects of the risk to lenders and proponents associated with the CCD for FIT projects was described by the Board in its Notice of a Proposal to Amend a Code (EB-2009-0088):

The Connection Cost Deposit would represent an estimate of the costs of connection allocated to the applicant and would be used by the distributor to offset any allocated costs incurred by the distributor for the connection of the applicant's project to the distribution system. Any amount of the Connection Cost Deposit that was not used for the purpose of doing the work required to connect the project in question would be refundable upon connection to the applicant. **If the applicant's project is not connected to the distribution system, the amount of the Connection Cost Deposit would be refunded** to the applicant less any costs actually incurred by the distributor for any connection work completed in respect of the applicant's project. (Emphasis Added).

The Board further noted at page 3 of the Notice of Code Amendment that:

Since the amount of any connection cost deposit is used by the distributor to pay for costs allocated to the applicant and related to the connection of the generation facility to the distribution system and since any excess amounts not used for this purpose are returned to the applicant at the time of connection, proponents of viable projects should not be concerned with this deposit.

Questions:

- 8.1. Please indicate whether specific objections have been raised by potential lenders as to why credit will not be extended to allow payment of the CCD? If so, provide full particulars, including supporting documentation which would support the applicant's position.
- 8.2. Since the CCD is fully refundable if a project does not proceed, have potential lenders been made aware that the risk of extending funding/credit to allow payment of the CCD is virtually nil?
- 8.3. Have lenders sought significant securitization with respect to CCD which developers are unable to cover? If this is an over-simplification, please explain any complicating factors.
- 8.4. Please provide evidence that would demonstrate that lenders are unwilling to provide any project financing for waterpower projects until the conditions listed page 12, Exhibit B, Tab 1 of OWA's pre-filed evidence are satisfied? Please provide any letters, communications, or other materials to this effect which may support the OWA's position.

9. Reference: NA

Questions:

- 9.1. Please complete the table attached to this document as Appendix "A". If useful, add additional columns to explain other events.

APPENDIX A – Board Staff Interrogatory #9 – EB-20110067

[illegible]

APPENDIX A – Board Staff Interrogatory #9 – EB-20110067

Four Slide Falls Ltd. 1713400														
Wabageshik Rapid at Outlet Lake 1723377														
Allen and Struthers 2130769														
Ivanhoe River, The Chute 2124750														
Marter Twp, Blanche River 2154070														
McCarthy Chute 1713399 Ltd.														
Larder Lake & Raven Falls 2118966														

** Please provide details regarding any implications on the project*