



**EB-2010-0345**

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

**AND IN THE MATTER OF** an application by Niagara West  
Transformation Corporation for an Order or Orders pursuant to  
section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998,  
c.15, Schedule B, for Approval of 2011 Revenue Requirement  
and Change to the Uniform Electricity Transmission  
Transformation Connection Rate.

**BEFORE:** Ken Quesnelle  
Presiding Member

Paula Conboy  
Member

## **DECISION AND ORDER**

### **Application and Proceeding**

Niagara West Transformation Corporation ("NWTC") filed an application dated November 9, 2010 (the "Application") with the Ontario Energy Board (the "Board") under section 78 of the *Ontario Energy Board Act, 1998*, 1998 S.O.c.15, (Schedule B) seeking an Order of the Board approving its proposed 2011 transmission revenue requirement, and approving inclusion in, and an update to the provincial uniform transmission rate ("UTR") that is charged for electricity transmission transformation, to be effective March 1, 2011.

As originally filed, the Application sought to have NWTC integrated into the provincial UTR, though only to the electricity transmission transformation connection rate portion. NWTC sought approval of a transmission revenue requirement of \$838,672 for 2011, based on a 2011 forecast load of 432,175 kW.

In the course of the proceeding the Application was modified, and was summarized in the NWTC Argument-in-chief<sup>1</sup> as a request for approval of a Revenue Requirement of \$767,092 and a 432,175 kW (unchanged) load forecast, and a transformation connection rate of \$1.77 per kW. The application of the requested tariff (\$1.77 per kW) to the forecasted load of 423,175 kW produces revenue of \$648,262 per year, and therefore results in a revenue deficiency of \$118,830, which is intended be furnished by the shareholder through the diminishment of its return on equity.

## THE PROCEDURAL STEPS

The Board issued a Notice of Application and Written Hearing on December 6, 2010.

On January 12, 2011, the Board issued Procedural Order No.1, granting intervenor status to Hydro One Networks Inc. ("Hydro One") and the Independent Electricity System Operator ("IESO"), and provided a schedule for interrogatories.

In responding to interrogatories posed by Board staff, NWTC retracted its request to be included in the UTR. NWTC originally filed to be included in the UTR process as it was under the impression that this was the only option available to the Company. Understanding through the interrogatory process that this was not the case, NWTC stated that it would prefer to continue with the existing "stand alone" arrangement separate from the UTR process<sup>2</sup>. However, NWTC maintained its request for an approval to charge the provincial transformation connection rate.

On February 24, 2011, Hydro One filed a letter with the Board indicating that some of its interrogatories had been incompletely answered, and other interrogatory responses raised even further questions. Hydro One requested an opportunity to clarify and follow-up on some of the responses provided by NWTC.

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<sup>1</sup> Argument-in-chief July 25, 2011 page 5 paragraphs 22,23

<sup>2</sup> NWTC Responses to Board staff, February 8, 2011, interrogatory #25

On April 6, 2011, the Board issued Procedural Order No. 2 that scheduled a Technical Conference for April 26, 2011 which, at the request of NWTC, was later moved to, and held on, May 11, 2011 by way of Procedural Order No.3.

On May 16, 2011 the Board issued Procedural Order No. 4 providing for submissions by NWTC, Board staff and intervenors. The Order also provided an opportunity for NWTC to file a reply submission.

On May 25, 2011, newly appointed NWTC counsel Mr. H. Reginald Watson requested an extension to the date of submissions. The Board issued Procedural Order No. 5 on June 7, 2011 amending the schedule for NWTC and intervenor submissions. On July 4, 2011 NWTC filed its Argument-in-chief. On July 13, 2011 Board staff filed its submission and on July 18, 2011 the IESO and Hydro One filed their submissions. On July 27, 2011 NWTC filed its reply submission.

### **Evidence and Board Findings**

The Board has considered the full record of the proceeding and has made findings on the following matters.

### **Compliance Issues**

Board staff and intervenors raised several questions relating to NWTC's compliance with its Transmission Licence. Parties suggested that many compliance issues could be resolved by deeming NWTC's transmission assets as distribution assets under section 84 of the Act.

In its reply submission, NWTC noted that Board staff and intervenors had addressed both rate issues and licensing matters. As the current proceeding is a rate application, NWTC argued that the OEB should confine itself to opining on rate issues only.

### **Board Finding**

The Board agrees with NWTC that this proceeding is not an appropriate one for dealing with matters of licensing compliance. This is a rates case, the purpose of which is to determine NWTC's appropriate 2011 revenue requirement and a load forecast to set a

just and reasonable rate. To the extent there are concerns regarding NWTC compliance with licensing obligations these will have to be addressed in another forum.

### **UTR participation**

While initially requesting to participate in the UTR pool, NWTC withdrew its request during the course of the proceeding. NWTC confirmed in its reply submission a desire to provide a price signal to its customers that is consistent with the price they would pay if service was provided from the transmission rates pool.

No party argued that NWTC had to be part of the UTR. Indeed, Board staff argued<sup>3</sup> that including NWTC in the pool might distort the validity of the UTR formula weighting were it to lead to an influx of transmission rate applications by licensed transmitters that do not provide all the functions that are encompassed within the UTR formula. Hydro One supported<sup>4</sup> NWTC's amended request to continue with its stand alone arrangement apart from the transmission rates pool, but allowing NWTC charge the current provincial rate as "the best short-term solution under the circumstances." As noted further in the decision below however, Hydro One did not support NWTC's right to recover the full pool rate in return for providing transformation services.

Related to the UTR process, Board staff in its submission<sup>5</sup> expressed concern that NWTC seemed to assume that its "stand alone" arrangement would entitle NWTC to increases to its stand alone rate whenever the UTR is increased, through other transmitter rate hearings. NWTC did not respond to this concern in its reply submission.

### **Board Finding**

The Board finds that it is neither necessary nor desirable that NWTC participate in the UTR setting process at this time.

The Board concurs with the submission of staff that NWTC, in seeking changes to its rates in the future will need to apply to the Board on each occasion, and that its application will need to be supported by evidence on costs and load. Any subsequent approval by the Board of changes to the provincial transformation connection rate does

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<sup>3</sup> Board staff submission, July 13, 2011, page 13

<sup>4</sup> Hydro One submission, July 18, 2011, page 1 lines 26-29

<sup>5</sup> Board staff submission July 13, 2011, page 13

not trigger any automatic commensurate change to NWTC's transformation connection rate. The Board approves a stand alone rate, as described in further detail below.

### **Load Forecast**

The NWTC Application included a load forecast for 2011 of 432,175 kW. Board staff queried the methodology<sup>6</sup> in two respects. First, the actual load results of 2010 were not included in calculating the forecast but were replaced by an average of the actual 2007-2009 usage, and second, that a deduction was not made for Conservation and Demand Management targets. Board staff asserted that the correct approach should be to include actual 2010 data, which would result in a load forecast of 435,343 for 2011. In its interrogatory response and reply submission NWTC agreed that Board staff's different approach appeared to be reasonable and noted that it was content with either value<sup>7</sup>.

### **Board Finding**

The Board agrees that the methodology proposed by Board staff and accepted by NWTC is a correct methodology while that of NWTC is not acceptable, but given NWTC's amended request and the findings below pertaining to the transformation connection rate it is not necessary for the Board to approve a load forecast..

### **Expenditure Review**

NWTC is seeking approval of \$210,900 in Operating, Maintenance and Administration costs ("O, M and A"<sup>8</sup>).

Board staff expressed concern in respect of three operating and maintenance expenditure items namely, increased insurance premiums, volatility of NWTC's contracted maintenance costs and Hydro One Monitoring Service costs. Board staff provided its view that due to its lack of scale and asset diversity NWTC is exposed to large year over year cost variability and the inability to negotiate cost effective services.

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<sup>6</sup> Board staff Interrogatories January 21, 2011 interrogatory #23(d)

<sup>7</sup> NWTC Responses to Board staff, February 8, 2011, interrogatory #23(d)

<sup>8</sup> While NWTC's evidence refers to O and A costs, they include (contracted) maintenance costs and therefore the Board has referred to the costs collectively as O, M and A costs.

NWTC provided correspondence from the Company's insurer, the MEARIE Group, outlining the reason for the increases in insurance premiums to NWTC and other property Subscribers<sup>9</sup>, and argued that there is really no alternative in the case of monitoring by Hydro One<sup>10</sup>. In respect of maintenance NWTC indicated what actions it had taken to reduce its costs and improve service, and indicated that there have been significant savings from having contracted with Rondar.

### **Board Finding**

The Board finds that NWTC's proposed 2011 O, M and A costs are acceptable.

The Board agrees with staff that there is an onus on applicants to justify the reasonableness of its proposed expenditures and the basis upon which contracted out services are incurred. However, in this regard, the Board does not agree that NWTC has failed to meet its obligations in this Application.

The Board does not find the proposed expenditures of NWTC's insurance premiums to be unreasonable. The Board recognises that a significant component of insurance premiums is beyond the control of individual companies.

The Board recognises that NWTC has achieved significant savings relative to its previous station maintenance contract. The Board accepts that NWTC's proposed maintenance costs appear to be reasonable and as further explained in the findings below regarding the approval of the transformation connection rate expects that NWTC will take all reasonable actions within its control to lower costs while maintaining the expected level of service.

### **Transformation Connection Rate**

NWTC proposed that it be allowed a monthly transformation connection rate of \$1.77 per kW. This rate, using Board staff's load forecast, would allow NWTC to recover approximately \$770,557 per year, although the Application indicated that its full revenue requirement is \$838,672, for a deficiency of \$68,115. NWTC proposed to make up this shortfall by foregoing a portion of its cost of capital, specifically a portion of its return on equity. NWTC indicated that there will be little or no need to attract capital during the

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<sup>9</sup> NWTC Reply Submission July 25, 2011, page 3 paragraph 13

<sup>10</sup> NWTC Reply Submission, July 25, 2011, page 3 paragraph 18

2011 test year, which means having a lower return on equity will not impact the Company.

In response to Hydro One's interrogatory 7 (b) NWTC confirmed that the equivalent rate for transformation service based on the full revenue requirement (i.e. \$838,672) and load forecast, would be a monthly \$1.94 per kW. Hydro One argued that a correct economic signal, however, would be to allow NWTC to recover only a monthly "reference price" \$1.73 per kW, which reflects the least alternative cost to the pool supply of transformation service, and is the rate at which Hydro One could provide transformation service to NWTC customers. Hydro One claimed that this would be the appropriate signal to those distributors contemplating self-service of transformation. The difference between the pool rate and the reference price, Hydro One argued, would contribute to keeping the pool rate lower for all participants.

Hydro One further argued<sup>11</sup> that because NWTC has a higher proportion of debt than under the deemed capital structure of 60/40 debt equity making its capital lower cost than the deemed, NWTC's revenue requirement is unusually overstated and it is deriving a financial benefit at the expense of its customers.

Board staff expressed concern that the utility is prepared to accept less than the allowed return on equity and urged that in the long term the situation should be monitored. However, staff acknowledged that there is currently no evidence that a lower return would cause NWTC any difficulty in serving existing debt or attracting capital to invest in facilities.

### **Board Finding**

The Board recognizes the unique circumstances regarding NWTC's business and operational realities. The Board has found that under the current circumstances it is appropriate to administer a stand alone rate setting regime separate and apart from the UTR process. As a stand alone rate setting process the Board need not approve the revenue requirement as is the case in the UTR process. As a stand alone rate setting exercise the Board would typically establish a rate that when applied to the forecasted load produces a revenue amount that matches the expected future costs that the Board has determined to be reasonable.

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<sup>11</sup> Hydro One submission, July 18, 2011, page 3 line 24

In this case NWTC has requested a rate based on its desire to have its customers not pay any more than they would be charged if they were charged the UTR rate. NWTC is prepared to offset the shortfall in revenue with a lower return on equity.

The Board has satisfied itself that the costs (excluding ROE) that NWTC expects to incur appear to be reasonable and more importantly they are exceeded by the revenue that will be generated with the rate requested. As well, the Board is satisfied that NWTC will not be in jeopardy in the short term if it receives a return on equity that is less than the maximum allowed rate. NWTC has indicated that it has little or no need to attract capital during the 2011 test year and as such a lower return on equity would not affect the financial viability of the Company.

The Board does not consider it necessary to establish an appropriate price signal for those distributors that may be contemplating self-service of transformation as submitted by Hydro One. NWTC has requested a rate that matches what its customers would pay if they were otherwise charged the UTR. It is doing so irrespective of the fact that the requested rate does not cover its forecast costs. The revenue deficiency is to be made up by a diminished return on equity. The Board does not accept the hypothesis raised by Hydro One regarding the need to send an appropriate price signal to other distributors by applying a rate of \$1.73. Given the very unique circumstances of this application the Board is not concerned that other distributors will be guided in their business planning by this decision.

Given the forecasted shortfall in revenue that will result in a lower than allowed ROE the Board does not consider it necessary to address Hydro One's concern regarding NWTC's actual versus the deemed capital structure at this time.

Based on the aforementioned reasons the Board finds that the request for a monthly \$1.77 per kW transmission transformation connection charge is acceptable.

In that the approved rate is not based on a proxy of NWTC's ongoing future revenue requirements the Board will require annual filing of NWTC's audited financial statements clearly illustrating the costs of operation and revenues collected. In this way the Board will be informed as to whether or not the approved rate is generating an appropriate level of revenue.



**THEREFORE THE BOARD ORDERS THAT:**

1. Niagara West Transformation Corporation is granted a monthly transmission transformation connection rate of \$1.77 per kW effective March 1, 2011.
2. Niagara West Transformation Corporation shall provide to the Board annually, by April 30, audited financial statements for the preceding calendar year for the corporate entity regulated by the Board. Where the financial statement of the corporate entity regulated by the Board contain material businesses not regulated by the Board, or where the regulated entity conducts more than one activity regulated by the Board, the distributor shall disclose separately information about each operating segment. The statement shall be submitted to the Manager, Conservation and Reporting.

**ISSUED** at Toronto on August 25, 2011

**ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary