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File 10329

VIA RESS FILING and COURIER

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
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Toronto, Ontario
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Dear Ms. Walli

**Re: Hydro One Networks Distribution Request for Approval of USGAAP
for Rate Setting, Regulatory Accounting & Reporting Purposes
(EB-2011-0399)**


The Power Workers' Union ("PWU") represents a large portion of the employees working in Ontario's electricity industry. Attached please find a list of PWU employers.

The PWU is committed to participating in regulatory consultations and proceedings to contribute to the development of regulatory direction and policy that ensures ongoing service quality, reliability and safety at a reasonable price for Ontario customers. To this end, please find the PWU's comments on Hydro One Networks Distribution Request for Approval of USGAAP for Rate Setting, Regulatory Accounting & Reporting Purposes (EB-2011-0399).

We hope you will find the PWU's comments useful.

Yours very truly,

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP


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cc: J. Kwik
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HONORARY COUNSEL

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(1934 - 2006)

List of PWU Employers

Algoma Power
AMEC Nuclear Safety Solutions
Atomic Energy of Canada Limited (Chalk River Laboratories)
BPC District Energy Investments Limited Partnership
Brant County Power Incorporated
Brighton Beach Power Limited
Brookfield Power – Mississagi Power Trust
Bruce Power Inc.
Atlantic Power - Calstock Power Plant
Atlantic Power - Kapuskasing Power Plant
Atlantic Power - Nipigon Power Plant
Atlantic Power - Tunis Power Plant
Coor Nuclear Services
Corporation of the City of Dryden – Dryden Municipal Telephone
Corporation of the County of Brant, The
Coulter Water Meter Service Inc.
CRU Solutions Inc.
Ecaliber (Canada)
Electrical Safety Authority
Erie Thames Services and Powerlines
ES Fox
Great Lakes Power Limited
Grimsby Power Incorporated
Halton Hills Hydro Inc.
Hydro One Inc.
Independent Electricity System Operator
Inergi LP
Innisfil Hydro Distribution Systems Limited
Kenora Hydro Electric Corporation Ltd.
Kincardine Cable TV Ltd.
Kinectrics Inc.
Kitchener-Wilmot Hydro Inc.
Lake Superior Power Inc. (A Brookfield Company)
London Hydro Corporation
Middlesex Power Distribution Corporation
Milton Hydro Distribution Inc.
New Horizon System Solutions
Newmarket Hydro Ltd.
Norfolk Power Distribution Inc.
Nuclear Waste Management Organization
Ontario Power Generation Inc.
Orangeville Hydro Limited
Portlands Energy Centre
PowerStream
PUC Services
Sioux Lookout Hydro Inc.
Sodexo Canada Ltd.
TransAlta Generation Partnership O.H.S.C.
Vertex Customer Management (Canada) Limited
Whitby Hydro Energy Services Corporation

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 Hydro One Networks Inc. for an order or orders approving a distribution revenue requirement and rates and other charges for the distribution of electricity;

AND IN THE MATTER OF a request by Hydro One Networks Inc. for Approval for the use of the USGAAP accounting standard for Rate Setting, Regulatory Accounting and Regulatory Reporting, as of January 1, 2012, in its Distribution business.

Submissions of the Power Workers' Union

1. INTRODUCTION

On November 23, 2011, the Ontario Energy Board (the "Board") issued its EB-2011-0268 Decision with Reasons granting approval for Hydro One Networks Inc. ("Hydro One") to utilize United States Generally Accepted Accounting Principles ("USGAAP") instead of the modified International Financial Reporting Standards ("MIFRS") for rate setting, regulatory accounting and regulatory reporting for its transmission business.

On December 1, 2011 Hydro One submitted an application for approval to adopt USGAAP for rate setting, regulatory accounting and regulatory reporting for its distribution business as of January 1, 2012. Hydro One has indicated that it is not requesting any change to its approved distribution rates in this application, but expects its currently approved 2011 distribution rates to continue into 2012. Hydro One has also indicated that all appropriate costs will continue to be tracked in Board approved deferral and variance accounts, including its Green Energy related expenditures for Smart Grid, Express Feeders and other Renewable Generation Investments.

In addition to the request for approval for the utilization of USGAAP as its framework for rate setting, regulatory accounting and regulatory reporting commencing January 1, 2012 for its distribution business, Hydro One also seeks approval to:

- Discontinue the Impact for Changes in International Financial Reporting Standards (“IFRS”) Account;
- Continue with the IFRS Incremental Transition Costs Account (with revised scope); and
- Establish the Impact for USGAAP Account.

On December 13, 2011, the Board issued a Notice of Hearing and Procedural Order #1.

The following is the submission of the Power Workers’ Union (“PWU”).

2. PWU’s SUBMISSION

The PWU submits that the Board’s approval of Hydro One’s application for the use of USGAAP instead of MIFRS for Hydro One’s distribution business effective January 1, 2012 is in the public interest for the reasons set out below.

2.1 Material Benefit for Ratepayers

Hydro One estimates that the 2012 notional Hydro One Distribution revenue requirement would be \$166 million higher under MIFRS compared to USGAAP. As a result, MIFRS would result in a rate impact of approximately 14% higher in 2012 than under USGAAP. In fact, Hydro One’s projection indicates that if MIFRS were used rather than USGAAP, Hydro One Distribution’s revenue requirement would be about \$700 million higher over the five year period from 2012 to 2016. The PWU notes that in recent proceedings on Hydro One rate

applications, total bill impact, including bill impacts which arise from a host of factors beyond Hydro One's control such as the Ontario Government's Green Energy Policy, has been a major concern for the Board and stakeholders. Given the substantially lower rate impact that results from the adoption of USGAAP relative to MIFRS, the PWU concludes that it is in the public interest to permit Hydro One Distribution to use USGAAP, effective January 1, 2012. Moreover, under USGAAP, customers will continue to benefit from rate stability and smoothing using deferral and variance accounts and rate riders/adders to address rate impact as allowed for under Canadian GAAP.

2.2 Hydro One's Application is Consistent with the Board's Decision in EB-2011-0268

In its Decision in EB-2011-0268, issued on November 23, 2011, the Board not only approved Hydro One's request to utilize USGAAP for rate setting, regulatory accounting and regulatory reporting for its transmission business, but specifically concluded that Hydro One should not be precluded from applying to use USGAAP for its distribution business:

The Board notes that its policy states that a cost-of-service application is required for approval to transition to USGAAP. However, given the unique circumstances of Hydro One Transmission and Hydro One Distribution, the Board does not believe this applicant should be precluded from applying to extend the use of the USGAAP accounting standard to the Distribution business on appropriate terms and conditions, as a stand-alone application. That application would, of course, have to be considered on its own merits if and when it is made.¹

Further, the Board commented on why it would be appropriate for Hydro One to adopt USGAAP for its distribution business:

The Board agrees that on the basis of the record presented in this application, it may be appropriate for Hydro One to adopt USGAAP for distribution rate applications and regulatory reporting. This finding is consistent with the Board's policy in its Addendum Report, which reaffirmed the principle in the original Report of the Board: that to require a

¹ EB-2011-0268, Decision with Reasons: Hydro One Networks Transmission Request for Approval of USGAAP for Rate Setting, Regulatory Accounting & Reporting Purposes Effective January 1, 2012, Page 14

utility to file and report in MIFRS when that utility is performing financial reporting under a different accounting standard is generally not desirable. In addition, as the Board has found that Hydro One transmission rates should be set on the basis of USGAAP, it would generally be inefficient to require the distribution utility to use MIFRS for regulatory reporting and rate making.²

Moreover, it should be noted that one of the major reasons why the Board approved Hydro One's request in EB-2011-0268³ is Ontario Regulation 395/11⁴ which requires Hydro One to prepare its financial statements in accordance with USGAAP for any financial year on or after January 1, 2012. The Board noted in that Decision that if the Board were to insist on the use of MIFRS, for regulatory purposes, the company would necessarily incur additional expense in maintaining two separate sets of books, reflecting two separate accounting regimes. The PWU submits that the Board's reasoning is equally applicable to the current application, if not more so because the Board has already approved the adoption of USGAAP for Hydro One's transmission business.

The PWU notes that in EB-2011-0268, there were some concerns expressed by Board staff that the adoption of USGAAP by Hydro One's distribution business would increase the difficulty in benchmarking Hydro One Distribution with other Ontario electricity distribution utilities. Board staff also requested Hydro One to provide an example of a reconciliation to effectively compare Hydro One Distribution, with rates set on a USGAAP basis, to Ontario electricity distribution utilities that set rates based on MIFRS. In its response, Hydro One indicated that it would continue to be able to benchmark with other distributors with respect to OM&A cost comparisons with appropriate top-down adjustments to Hydro One's actual OM&A costs to adjust them to an MIFRS basis. Hydro One agreed that total cost benchmarking presented more of a challenge over time due to the inclusion of depreciation expense in total costs.

² Ibid., page 13

³ In addition to Hydro One's exemption from the Ontario Securities Commission ("OSC") to enable it to conduct its financial reporting in the USGAAP until January 1, 2015.

⁴ ONTARIO REGULATION 395/11, made under the FINANCIAL ADMINISTRATION ACT, Printed in The Ontario Gazette: September 10, 2011

As Hydro One indicated in its Reply Argument in EB-2011-0268 and in response to Board staff interrogatory #10 in the current application,⁵ no matter what adjustments are made, they would not resolve the historical difficulties inherent in benchmarking Hydro One's very large and essentially rural distribution business with other Ontario LDCs that primarily operate urban systems. Hydro One pointed out that the Board's own consultant, Pacific Economics Group, when establishing benchmarking of costs amongst all Ontario electricity distributors, indicated that unit cost appraisal on Hydro One cannot be done due to the lack of comparably-scaled Ontario peers.⁶ In other words, it would be wrong to assume that any meaningful comparison of Hydro One with other Ontario LDCs would be made possible by simply requiring Hydro One to modify its financial information to be consistent with Ontario distributors using MIFRS.

In the PWU's view, the advantages of allowing Hydro One Distribution to adopt USGAAP far outweigh any disadvantages related to attempts at benchmarking Hydro One Distribution against other Ontario distributors. Moreover, in the PWU's view, benchmarking studies that are not based on total cost comparison are flawed regardless of similarities in the accounting standard adopted by the utilities. The PWU has always made the case that benchmarking studies that have attempted to compare Hydro One with other utilities in the past have not been based on total cost and have ignored the unique nature of Hydro One's service territory. It is not convincing therefore to assume that a meaningful and objective comparison could be made simply because utilities follow similar accounting standards. On the other hand, it could be argued that having Hydro One Distribution report on the basis of USGAAP might improve the ability to benchmark Hydro One against comparable large North American utilities using USGAAP.

⁵ EB-2011-0399, Exhibit I, Tab 1, Schedule 10, Page 1 of 1

⁶ "Benchmarking the Costs of Ontario Power Distributors", Pacific Economics Group, LLC, March 2008, Page vii.

2.3 Approval of Hydro One's request will not prejudice future adoption of the IFRS by Hydro One

Hydro One indicates that its IFRS conversion effort was substantially completed in 2011 and the project has been mothballed in an orderly fashion that will allow an orderly future restart.⁷ Be it as a result of a potential convergence of USGAAP and IFRS or a potential recognition by IFRS of rate regulated accounting ("RRA"), Hydro One will be in a better position to make a smooth transition without incurring significant conversion costs because of the efforts it has already made on IFRS. Approval of Hydro One's request to adopt USGAAP therefore will not impede the future adoption of IFRS. However given Ontario Regulation 395/11 Hydro One Distribution would still need to maintain its USGAAP accounting system.

2.4 Hydro One's application is consistent with the Board's Filing Requirements for USGAAP Application

The Board, in its Addendum Report, in considering the possibility that a utility could adopt USGAAP for regulatory purposes, stated that the Board would require utilities filing a cost of service application using USGAAP to file a letter in advance of making the rate application to indicate the utility's intention to file under USGAAP; the utility must be able to demonstrate its eligibility under the relevant securities legislation to report financial information under USGAAP; and, it must identify the benefits and potential disadvantages of adopting USGAAP.⁸ Hydro One's application is consistent with the filing requirement as Hydro One has met all the Board's requirements.

⁷ EB-2011-0268, Exhibit I, Tab 1, Schedule 13, Page 1, IR response II

⁸ Ibid., page 19

3. CONCLUSION

The PWU submits that allowing Hydro One Distribution the option of adopting USGAAP for January 1, 2012 through January 1, 2015 will provide the Board and the utilities with the opportunity to monitor future IFRS developments such as the potential recognition of RRA and convergence of USGAAP and IFRS which avoids the regulatory uncertainty that would result with the adoption of MIFRS in January 2012.

For all the reasons above and those included in Hydro One's application, the PWU submits that it is reasonable and in the public interest for the Board to approve the adoption of USGAAP for ratemaking, regulatory reporting and regulatory accounting commencing January 1, 2012 for Hydro One's Distribution business as requested.

All of which is respectfully submitted.