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July 27, 2012

Our File Number: 74994

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
Suite 2700, P.O. Box 2319
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Hydro One Networks Inc. - Transmission Rate Application
EB-2012-0031**

Pursuant to the Board's Procedural Order No. 1, all parties were required to submit comments on the draft issues list by July 23, 2012. Hydro One Networks Inc. ("Hydro One") did so, as did other intervenors. No issue was taken with respect to the draft issues list, other than by intervenor Goldcorp Canada Limited and Goldcorp Inc. ("Goldcorp").

By letter dated July 23, 2012, Goldcorp, through its counsel, Mr. Blue, requested that a further issue be added to the draft issues list. That issue was framed as follows:

9.2

Should the Board establish an interim rate for Goldcorp in order to recover any bypass compensation due in an appropriate amount over the remaining life of the Red Lake Transformer Station?

Hydro One opposes the addition of this issue as framed by Goldcorp, or at all, in relation to the bypass compensation that the Transmission System Code ("the Code") will obligate Hydro One to charge if bypass occurs in the future. The reasons for Hydro One's opposition are outlined below.

Background

The history surrounding Goldcorp's request is outlined in the combined decision of the Board in EB-2011-0361 and EB-2011-0376 ("Decision"). Briefly, in the EB-2011-0361 application, Goldcorp requested that certain provisions of the Code be declared *ultra vires*. In particular, the bypass compensation provisions were being challenged.

Ultimately the Board concluded that Goldcorp's application was a collateral attack on the Board's previous decision on Goldcorp's leave to construct application respecting its Red Lake mines project.

Instead, the Board identified three alternative options that Goldcorp could pursue, at its own choosing, to address the issue. The Board ruled that Goldcorp could:

1. Seek to amend or vary the decision of the Board in the Section 92 leave to construct case by way of a properly constituted motion for review;
2. Seek an amendment to Hydro One's transmission licence to exempt it from having to apply the bypass provisions of the Code; or
3. Seek amendments to the Code itself.

Hydro One notes that the Board's decision dated January 23, 2012, was appealed by Goldcorp to the Divisional Court. That appeal was dismissed by the Divisional Court on June 5, 2012.

Current Application

The within application is Hydro One's application pursuant to Section 78 to establish just and reasonable rates for the transmission of electricity for 2013 and 2014. In doing so, a uniform transmission rate will ultimately be established. Those are rates that apply to all transmission system customers. There are four different rate categories. What Hydro One does not do is establish individual customer transmission rates.

Reasons for Opposing Goldcorp's request

1. Goldcorp is seeking to characterize its request as a request to create a personalized customer-specific transmission rate. As noted, transmission rates are not determined on that basis. Moreover, the issue of bypass

compensation is not a rates issue. It is an issue specific to Goldcorp, subject to the Transmission System Code. Hydro One does not believe that this rate application is the proper venue to address Goldcorp's concerns.

2. Hydro One notes that Goldcorp will be required to pay Hydro One bypass compensation in an immediate lump sum once the bypass occurs. The effect of granting Goldcorp's request would be to have those funds paid over time rather than immediately. That money is due to ratepayers immediately when bypass occurs, not over time. An interim rate would serve to act as a loan by ratepayers to Goldcorp, which Hydro One does not believe is in the best interests of ratepayers.
3. Adding this issue as proposed by Goldcorp would only complicate this rate application. Further evidence will be required. It will occupy hearing time and add to the time and expense of the application. Both Hydro One and intervenors alike will be required to respond. The hearing may be delayed as a result. Hydro One does not wish to significantly delay this matter as it hopes to have new rates effective January 1, 2013.

In addition, unlike the initial application brought by Goldcorp, Hydro One is the applicant in this case. Thus, for those intervenors who are eligible for an award of costs, Hydro One bears the cost, not Goldcorp. It would be unfair to complicate Hydro One's rates application by an issue that is solely Goldcorp's, at Hydro One's expense. That is not a cost that the utility, and ultimately the ratepayers, ought to bear.

4. Goldcorp's application is premature. The Transmission System Code requires a transmitter to charge bypass compensation as set out in the Code when the triggering event occurs. The triggering event is the bypass. In this case, the bypass has not yet occurred. It is only at that time that the transmitter will calculate the amount of bypass and it then becomes due and payable.

The best information Hydro One currently has, is that the earliest that construction will be complete and bypass might occur is at the end of August 2012.

5. In its January 23, 2012, Decision, the Board provided Goldcorp with three options to address this issue. The option now being pursued by Goldcorp is not one of the options identified by the Board. Goldcorp's attempt to deal

with the issue in this fashion appears to be an attempt to get around the Board's prior decision. This may be viewed as an abuse of process.

6. Hydro One also submits that Goldcorp's proposal has significant implications relating to the Code and should not be dealt with in the context of a rate application by a transmitter.

In summary, Hydro One submits that Goldcorp's request to add the issue of bypass compensation for the Red Lake transformer station should be declined by the Board.

Yours very truly,


Donald H. Rogers, Q.C.

amv/ap