



**EB-2012-0031**

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

**AND IN THE MATTER OF** a review of an application filed  
by Hydro One Networks Inc. for an order or orders  
approving a transmission revenue requirement and rates  
and other charges for the transmission of electricity for  
2013 and 2014.

## **ISSUES LIST DECISION AND PROCEDURAL ORDER NO. 2**

**August 13, 2012**

Hydro One Networks Inc. ("Hydro One") filed an application, dated May 28, 2012, with the Ontario Energy Board under section 78 of the *Ontario Energy Board Act, 1998*, c.15, Schedule B, seeking approval for changes to its 2013 and 2014 transmission revenue requirement and for changes to the provincial uniform transmission rates charged for electricity transmission, to be effective January 1, 2013 and January 1, 2014. The Board assigned File Number EB-2012-0031 to the application.

The Board issued a Notice of Application and Hearing dated June 20, 2012. The Board issued Procedural Order No. 1 on July 12, 2012 which approved a number of intervention requests and requests for cost award eligibility, included a draft issues list and provided for written submissions on the issues in this proceeding.

The Board received initial submissions on the draft issues list from Hydro One Networks Inc. (Hydro One), Energy Probe, Consumers Council of Canada (CCC), School Energy Coalition (SEC), the Association of Major Power Consumers in Ontario (AMPCO), Canadian Manufacturers & Exporters (CME) and Goldcorp Canada Limited and Goldcorp Inc. (together, Goldcorp).

The Board then received reply submissions from Hydro One, Board staff, CCC, SEC, AMPCO and CME, primarily regarding the initial Goldcorp submission requesting that the following additional issue regarding bypass compensation be added to the issues list:

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 (“RLTS”)?

The Board has reviewed and considered all submissions and reply submissions on the draft issues list.

Board staff and the intervenors that responded generally opposed the inclusion of the Goldcorp issue. Board staff submitted that this rate proceeding is not the appropriate forum in which to hear this issue. Staff pointed out that, under the current regulatory framework, a rate order is not required in order for a transmitter to recover bypass compensation from a customer. Bypass compensation is recoverable by a transmitter under the terms of the Transmission System Code (TSC).

Board staff submitted that the appropriate means of addressing any dispute(s) of this nature (i.e., whether a particular case is one that is covered by the bypass compensation provisions of the TSC or whether the bypass compensation methodology set out in the TSC has been properly applied) is to have the matter addressed under the dispute resolution process described in section 12 of the TSC or in the connection agreement between the transmitter and its customer, as applicable.

Board staff also submitted that the appropriate process to allow Hydro One to calculate bypass compensation in a manner other than that prescribed by the TSC is an application to amend Hydro One’s licence to exempt it from the mandatory application of the bypass compensation methodology set out in the TSC. Board staff noted that this is one of the 3 options specifically identified in the Board’s January 23, 2012 Decision with Reasons and Order (EB-2011-0361/EB-2011-0376) issued in relation to an earlier application made by Goldcorp.

Hydro One’s reply submission was along similar lines. CCC expressed its support for Board staff’s reply submissions, and VECC submitted that it would be inappropriate to use this rates case as a forum to determine a non-rate related dispute between Goldcorp and Hydro One.

SEC submitted that the Board should include the issue proposed by Goldcorp only to the extent of addressing the *method* of recovery of any bypass compensation.

AMPCO took no position on this issue.

## Findings

### *Goldcorp Proposal*

The Board declines to add the issue of bypass compensation for the Red Lake Transformer Station to the issues list for this proceeding.

Goldcorp is seeking a “fair and transparent process” in which to challenge Hydro One’s calculation of the bypass compensation payable by Goldcorp. Goldcorp submitted that “if it is to pay bypass compensation, it should be entitled to full and transparent disclosure of information and the right to test and challenge Hydro One’s estimate”. Goldcorp further submitted that “the best way to provide those rights is to hear the Interim Rate Issue in this proceeding”.

One issue raised by Goldcorp appears to be the appropriate method of paying bypass compensation (lump sum payment versus a transmission rate that would spread the payment over time). On another reading, it appears as though the issue is more that Goldcorp is dissatisfied with the amount of bypass compensation that it has to pay to Hydro One, as determined using the methodology set out in the TSC. Goldcorp goes on to submit that, “the best way to provide those rights is to hear the Interim Rate Issue in this proceeding.”

In its submissions, Goldcorp also asserted that adding the bypass compensation issue to this proceeding would effectively be bringing a licence exemption application, but “without the need to deploy the additional resources required for a new and separate proceeding”.

The Board does not agree that this proceeding, convened to determine a rate application filed under section 78 of the *Ontario Energy Board Act, 1998*, is the appropriate forum for resolving any dispute that Goldcorp may have with Hydro One about Goldcorp’s obligation to pay bypass compensation, whether that dispute relates to the method of payment or its quantum. The matters raised by Goldcorp relate to the operation of the TSC, and a rates case is not the appropriate forum for resolving

disputes of this nature. As indicated by Board staff, the matters of concern to Goldcorp may be addressed under the applicable dispute resolution process referred to in section 12 of the TSC. Another approach would be an application to amend Hydro One's licence to exempt it from the mandatory application of the bypass compensation methodology set out in the TSC. These are both appropriate avenues available to Goldcorp for the purposes of addressing its concerns. Therefore the Goldcorp bypass compensation issue will not be added to the issues list for this proceeding.

The Board also takes this opportunity to confirm that neither Goldcorp's liability to pay bypass compensation, nor the quantum of that payment, nor the method by which that payment is to be recovered by Hydro One are contingent on an order of the Board, irrespective of what the CCRA between Goldcorp and Hydro One might say on the matter.

#### *Energy Probe Proposal*

The Board notes the submission of Energy Probe which advocated the addition of the issue, "Are Hydro One's economic and business planning assumptions for 2013/2014 appropriate?" on the final issues list. CME supported the Energy Probe submission. The Board regards the additional issue as proposed by Energy Probe to be subsumed in the other general issues and will not include the proposed issue as a separate issue on the Issues List.

#### **Interrogatory Process**

As shown in Procedural Order No. 1, the Board has made provision for written interrogatories. The Board reminds parties that interrogatories must reference the pre-filed evidence and, in accordance with *Chapter 2 of the Filing Requirements for Transmission and Distribution Applications* ("Filing Requirements"), parties must sort their interrogatories and responses by issue. The Board encourages parties to use a continuous (sequential) numbering system to facilitate subsequent referencing of the interrogatories. For greater clarity this means that parties should not start at number "1" for each issue but rather have continuous numbering throughout all of the issues.

After its review of interrogatory responses, the Board will determine the next steps.

The Board considers it necessary to make provision for the following matters related to this proceeding. The Board may issue further procedural orders from time to time.

**THE BOARD ORDERS THAT:**

1. The Issues List for this proceeding, attached as Appendix A to this order, is approved by the Board.

**DATED** at Toronto, August 13, 2012

**ONTARIO ENERGY BOARD**

*Original Signed By*

Kirsten Walli  
Board Secretary

**Appendix 'A'**

**To**

**Procedural Order No. 2**

**Hydro One Networks Inc.  
Transmission**

**EB-2012-0031**

**Final Issues List**

**August 13, 2012**

**Appendix A**  
**Hydro One Networks Inc.**  
**Transmission Revenue Requirement and Rate Hearing**  
**2013 and 2014**  
**EB-2012-0031**  
**FINAL ISSUES LIST**

**GENERAL**

- 1) Has Hydro One responded appropriately to all relevant Board directions from previous proceedings?
- 2) Is the overall increase in 2013 and 2014 revenue requirement reasonable?

**LOAD FORECAST and REVENUE FORECAST**

- 3) Is the load forecast and methodology appropriate and have the impacts of Conservation and Demand Management initiatives been suitably reflected?
- 4) Are Other Revenue (including export revenue) forecasts appropriate?

**OPERATIONS MAINTENANCE & ADMINISTRATION COSTS**

- 5) Are the proposed spending levels for Sustaining, Development and Operations OM&A in 2013 and 2014 appropriate, including consideration of factors such as system reliability and asset condition?
- 6) Are the proposed spending levels for Shared Services and Other O&M in 2013 and 2014 appropriate?
- 7) Are the 2013/14 Human Resources related costs (wages, salaries, benefits, incentive payments, labour productivity and pension costs) including employee levels appropriate? Has Hydro One demonstrated improvements in efficiency and value for dollar associated with its compensation costs?
- 8) Are the methodologies used to allocate Shared Services and Other O&M costs to the transmission business and to determine the transmission overhead capitalization rate for 2013/14 appropriate?
- 9) Are the amounts proposed to be included in the 2013 and 2014 revenue requirements for income and other taxes appropriate?
- 10) Is Hydro One Networks' proposed depreciation expense for 2013 and 2014 appropriate?

**CAPITAL EXPENDITURES and RATE BASE**

- 11) Are the amounts proposed for rate base in 2013 and 2014 appropriate?
- 12) Are the proposed 2013 and 2014 Sustaining and Development and Operations capital expenditures appropriate, including consideration of factors such as system reliability and asset condition?
- 13) Are the proposed 2013 and 2014 levels of Shared Services and Other Capital expenditures appropriate?
- 14) Are the methodologies used to allocate shared services and other capital expenditures to the transmission business, appropriate?
- 15) Are the inputs used to determine the working capital component of the rate base and the methodology used appropriate?
- 16) Does Hydro One's Asset Condition Assessment information and Investment Planning Process adequately address the condition of the transmission system assets and support the O&MA and Capital expenditures for 2013/14?

**COST OF CAPITAL/CAPITAL STRUCTURE**

- 17) Is the proposed timing and methodology for determining the return on equity and short-term debt prior to the effective date of rates appropriate?
- 18) Is the forecast of long term debt for 2012-2014 appropriate?

**DEFERRAL/VARIANCE ACCOUNTS**

- 19) Are the proposed amounts, disposition and continuance of Hydro One's existing Deferral and Variance accounts appropriate?
- 20) Are the proposed new Deferral and Variance Accounts appropriate?

**COST ALLOCATION**

- 21) Is the cost allocation proposed by Hydro One appropriate?

**GREEN ENERGY PLAN**

- 22) Are the OM&A and capital amounts in the Green Energy Plan appropriate and based on appropriate planning criteria?



### **EXPORT TRANSMISSION SERVICE RATES**

- 23) What is the appropriate level for Export Transmission Rates in Ontario?

### **CONNECTION PROCEDURES**

- 24) Are the proposed modifications to the Hydro One transmission connection procedures appropriate?

### **ACCOUNTING STANDARDS**

- 25) Have all impacts of the conversion of regulatory and financial accounting from CGAAP to USGAAP been identified, and reflected in the appropriate manner in the Application, the revenue requirement for the Test Years and the proposed rates?