



EB-2012-0181

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

AND IN THE MATTER OF an application under section 74
of the *Ontario Energy Board Act, 1998* for a licence
amendment.

By delegation, before: Viive Sawler

DECISION ON MOTION AND PROCEDURAL ORDER NO. 3

August 22, 2012

Orangeville Hydro Limited (“OHL”) filed an application with the Ontario Energy Board on March 30, 2012, under section 74 of the *Ontario Energy Board Act, 1998* to amend Schedule 1 of its service area under electricity distribution licence ED-2002-0500. To complete its application, OHL filed supplementary information on May 10, 2012.

The service area amendment is sought by OHL in order to expand its distribution service area to include specific lands owned by Thomasfield Homes Ltd. (the “developer”). The subject lands are located in the former Village of Grand Valley and currently vacant farmland but designated for residential development (the “Development Lands”). OHL wishes to supply and provide electricity distribution services to a proposed entire residential development which is expected to have 154 lots. The Development Lands are within Hydro One Networks Inc.’s (“HONI”) licensed service area. By letter filed with the Board on June 5, 2012, HONI advised that it is contesting the application.

The Board issued a Notice of Written Hearing and Procedural Order No.1 on May 16, 2012. In accordance with the timelines set out in the Board’s Procedural Order No. 1, Board staff and HONI filed their respective interrogatories on June 11, 2012, and OHL filed its interrogatory responses on June 25, 2011.

On June 27, 2012, HONI filed a Notice of Motion for an order of the Board requiring OHL to provide further and better responses to its interrogatories. Specifically, HONI is requesting that the Board order OHL to respond to HONI's interrogatories numbered 4 and 8.

The motion generally asserts that the applicant has not included all the costs to service the proposed new development and should be required to produce further and better information in response to HONI's interrogatories in order to enable the Board to make a comparison of the total costs of connecting the development to the applicant's distribution system as opposed to HONI's.

On June 29, 2012, OHL responded to the motion by way of letter to the Board indicating that it has provided sufficient information in its responses to the interrogatories referred to in the Notice of Motion and requested "that the Board dispense with the motion."

The Board determined that it would hear the motion in writing, and provided dates for the filing of additional materials and written submissions in Procedural Order No. 2 issued on July 6, 2012.

The Basis for Compelling Interrogatory Responses

In assessing the merits of this motion the Board is guided by the principles articulated in the Board's Decision with Reasons in the combined service area amendments proceeding RP-2003-0044. In that decision, the Board concluded that "...significant weight should be given to economic efficiency when assessing the application for a service area amendment..." As part of the economic efficiency test, it is appropriate for the Board to collect evidence that is relevant to the decision it must make, specifically to review and understand projected costs associated with upgrade and expansion of the distribution system in order to connect the residential development by a distributor as well as the projected revenues for distribution services provided by the expanded distribution facilities.

The Board will direct a party to provide a response to an interrogatory only if the Board is persuaded that the interrogatory relates to an issue in the application before it, and the response to the interrogatory is likely to elicit evidence that is relevant and helpful to the decision it must make. In considering the motion, I am therefore guided by the principles of relevance.

Interrogatory No 4

As noted on page 11, section 7.2.5, there are relocation and removal costs that would be chargeable to the developer to relocate the existing HONI assets on the subject property that are servicing existing HONI customers, but it appears that OHL has not included these costs in its Offer to Connect. HONI estimates these costs to be \$175,853.80. If the OEB determines that these costs should be included in the total costs to service the subdivision, what would be the impact on OHL's Application?

The application indicates that three of HONI's line pole spans servicing a farmhouse to the west of the subject development would need to be removed upon construction of the development regardless of which distributor services the development, and that in addition the developer intends to relocate an overhead section of HONI's F3 line. This interrogatory references the cost associated with the proposed line removal and relocation. In its submission HONI asserts that the line relocation cost is a cost associated with servicing the subject development and therefore should be included in OHL's economic evaluation.

In its response, OHL argued that because the developer wants to relocate HONI's poles in order to eliminate an easement when registering the plan of subdivision, the line relocation cost should be classified as an easement cost rather than contestable or non-contestable cost of servicing the subject area. OHL further argued that it will not own the relocated line and has no role in reviewing or approving these costs. Therefore these costs should not be included in OHL's economic evaluation and should be treated as any other civil work costs that are direct to the developer.

In its reply submission HONI reiterated that despite OHL's assertion that all connection cost have been included in OHL's connection costs associated with OHL's proposal to service the development, HONI remains of the view that the line relocation cost is not an easement cost and should be treated as a cost to service the proposed development. In support of its position HONI stated that the developer specifically requested HONI to remove the line because this line runs across the location of the proposed Lot #6 and also because this line interferes with condominium town homes that are planned for the future. HONI further stated that the line relocation is also driven by HONI's need to maintain supply to HONI's customers and therefore should not be treated as just a cost of removing an easement.

Findings

I agree with OHL that the line relocation costs should not be categorized as non-contestable or contestable costs associated with servicing the development. Section 3.2.15 of the Distribution System Code (the "DSC") lists the following expansion activities that are non-contestable:

- (a) *distribution system planning; and*
- (b) *the development of specifications for any of the following:*
 - (i) *the design of an expansion;*
 - (ii) *the engineering of an expansion; and*
 - (iii) *the layout of an expansion.*

The line relocation activities do not fall under any of these categories and are occurring because of the developer's need to register the subject development, rather than to energize it.

With respect to contestable costs, section 3.2.14 of the DSC states:

The distributor shall require the customer to use a qualified contractor for the work that is eligible for alternative bid provided that the customer agrees to transfer the expansion facilities that are constructed under the alternative bid option to the distributor upon completion.

I agree with OHL's statement that it will not own the relocated line when the proposed subdivision is complete and therefore the line relocation cost cannot be transferred to OHL to be subsequently included in its economic evaluation.

HONI argued that without registering of the Lot #6 by the developer that is contingent on removal of the pole line, OHL would not be able to service the subject development and therefore the line relocation costs should be included in the total connection costs. However HONI also stated in its submission dated July 16, 2012 that it will require relocation and removal of these assets as well. It is evident that HONI's ability to service the development is also contingent on its pole line relocation and regardless of which distributor would connect the subject development, the line relocation costs would occur and would be paid for by the developer.

For the reasons noted above, I have determined that information sought in HONI's interrogatory 4 is not relevant to the comparison of costs associated with servicing the

subject development. Accordingly, HONI's request that OHL be directed to provide an interrogatory response is denied.

Interrogatory No 8

In its interrogatory 8, HONI asked OHL to provide an updated economic evaluation based on the considerations and charges set out by HONI for an upstream cost calculation. In its submission on the motion, HONI states that its Common Sub-Transmission lines, and the low voltage charges that OHL would have to pay HONI if OHL services the development, should be treated as costs of connecting of the subject development and should, therefore, be included in the Upstream Cost Calculation section of OHL's economic evaluation. HONI also submitted that OHL's treatment of low voltage charges as a pass through cost of power will result in these costs being considered as "free" to the developer.

In its response, OHL stated that the upstream cost calculation should capture system capacity enhancement costs required to connect a new development, and as no system capacity enhancements are required to service the proposed development OHL correctly shows \$0 for the upstream cost calculation in its economic evaluation. OHL further argued that HONI has confused low voltage charges with upstream costs, that the low voltage charges are in fact a matter of rates to the end use customers and it is OHL's practice to include incremental costs associated with new load in its low voltage charges, and that such costs are spread over the entire rate base.

Findings

I accept OHL's argument that low voltage charges cannot be costs associated with upgrading or expansion of OHL's distribution system to allow for connection of new load and therefore cannot be charged to the developer. Low voltage charges are clearly charges to the end users and should not be included in OHL's economic evaluation. There are no costs reported by OHL that relate to OHL's system capacity enhancements. Accordingly, OHL is not required to update its economic evaluation as requested in HONI's interrogatory 8.

NEXT STEPS

In its submission on the motion, OHL introduced new evidence stating that the developer has recently submitted a revised request for connection which excludes 40

lots and brings the number of lots down to 114. In its reply submission, HONI stated that the developer also requested from HONI a new offer to connect that would reflect a change in the number of lots as well as various design changes. HONI argued that OHL's attempt to elicit new evidence in the main application, by way of a submission in this motion, was inappropriate. OHL's application included an offer to connect and economic evaluation based on 154 lots.

In the light of this new information, OHL will be required to file a revised offer to connect and economic evaluation reflective of all changes to the size and nature, if applicable, to the subdivision plan.

The Board is conscious of the need to render a timely decision in this application. However, the Board notes that the filing of an incomplete application by OHL, hearing of the motion filed by HONI, and changes by the developer to the design of the development and the number of lots have inevitably extended the length of the proceeding.

I have made provisions for the remaining steps in this proceeding, as set out below.

IT IS THEREFORE ORDERED THAT:

1. Orangeville Hydro Limited will be required to file on or before August 24, 2012 a revised offer to connect and economic evaluation based on 114 lots. The economic evaluation must include:
 - a. a detailed description of all capital costs, both non-contestable and contestable;
 - b. assumptions for projected revenue calculation; and
 - c. the amount of capital contribution the customer must pay.
2. Intervenors and Board staff who wish to submit evidence regarding the application must file that evidence with the Board and deliver it to the applicant and all intervenors on or before August 28, 2012.
3. Any party (intervenors, Board staff or Orangeville Hydro Limited) who wishes information and material from a party who submitted evidence that is in addition to the evidence filed with the Board, and that is relevant to the hearing, shall request it by written interrogatories filed with the Board and delivered to the party who submitted the evidence on or before September 4, 2012.

4. Responses to interrogatories on intervenor and/or Board staff evidence shall be filed with the Board and delivered to all intervenors on or before September 10, 2012.
5. If intervenors and/or Board staff wish to file a written submission, the written submission must be filed with the Board and delivered to Orangeville Hydro Limited on or before September 17, 2012.
6. If Orangeville Hydro Limited wishes to respond to the submission(s), the written response must be filed with the Board and delivered to all intervenors on or before September 20, 2012.

Please note: late filings for the procedural steps above will not be accepted.

All filings to the Board must quote file number EB-2012-0181, be made through the Board's web portal at www.errr.ontarioenergyboard.ca, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and email address. Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.ontarioenergyboard.ca. If the web portal is not available you may email your document to the BoardSec@ontarioenergyboard.ca. Those who do not have internet access are required to submit all filings on a CD or diskette in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies. All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date. Parties must also include the Case Manager, Irina Kuznetsova (irina.kuznetsova@ontarioenergyboard.ca), on all electronic correspondence related to this case.

DATED at Toronto August 22, 2012

ONTARIO ENERGY BOARD

Original signed by

Viive Sawler
Manager, Conservation and Reporting

