

September 28, 2012

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Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, Suite 2700
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EB-2012-0031

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Dear Ms. Walli:

Hydro One Networks Inc. – Transmission Rates (EB-2012-0031)

Please find attached a Notice of Motion filed on behalf of the Association of Power Producers of Ontario ("APPrO"). The motion seeks an order requiring Hydro One Networks Inc. ("Hydro One") to provide full answers to certain interrogatories that were posed by APPrO to Hydro One.

Please do not hesitate to contact me should you have any questions or concerns.

Yours very truly,

Original signed by

John Beauchamp

JB/mnm

cc: David Butters, APPrO
Pasquale Catalano, Hydro One
Donald Rogers, Counsel for Hydro One
Anita Varjacic, Counsel for Hydro One
All Interested parties

[DOCSTOR: 2457023\1](#)

ONTARIO ENERGY BOARD

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

AND IN THE MATTER OF an Application by Hydro One Networks Inc. for an Order or Orders approving just and reasonable rates and other service charges for the transmission of electricity, effective on January 1, 2013 and January 1, 2014.

AND IN THE MATTER OF Rules 8 and 29.03 of the *Rules of Practice and Procedure* of the Ontario Energy Board

NOTICE OF MOTION

September 28, 2012

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The Association of Power Producers of Ontario (“APPrO”) will make a motion to the Ontario Energy Board (the “Board”) in accordance with a schedule to be established by the Board.

PROPOSED METHOD OF HEARING

APPrO proposes that the motion be dealt with in writing.

THE MOTION IS FOR:

- 1 An order requiring Hydro One Networks Inc. (“Hydro One”), the Independent Electricity System Operator (“IESO”) or Charles River Associates (“CRA”), as applicable, to provide proper answers to APPrO Interrogatories No. 4, 5(a) and 7.
- 2 Such further and other relief as APPrO may request and the Board may grant.

THE GROUNDS OF THE MOTION ARE:

- 3 Pursuant to Procedural Order No. 1 issued July 12, 2012, APPrO delivered written interrogatories to Hydro One, all of which relate to Issue 23 in this proceeding: “*What is the appropriate level for Export Transmission Rates in Ontario?*”. In its covering letter accompanying the interrogatories, APPrO indicated that its interrogatories, although directed to Hydro One, should be answered by the IESO or CRA as appropriate.
- 4 APPrO submits that its Interrogatories No. 4, 5(a) and 7) are relevant to the Board’s and Parties’ understanding of Issue 23, and that the answers provided are not fully responsive.

APPrO Interrogatory No. 4 (Exhibit I, Tab 23, Schedule 11.04 APPrO 4, Page 1)

- 5 APPrO Interrogatory No. 4 and the response read as follows:

In the ETS Tariff Study, CRA states:

“It appears that the differentials in baseload variable costs between Ontario sources and US baseload generation, which is mainly coal based, are so large that none of the proposed tariff changes would alter export decisions during SBG events”

Please provide the price of energy for each of Ontario, NY-ISO, MISO, PJM, NE, in each of the load blocks for each year, for each ETS case, for each of the 2 SBG management assumptions. Further, please identify which load blocks are on-peak and off-peak as identified in the study.

Response

*As part of the ETS Stakeholder Engagement process, stakeholders were consulted and given the opportunity to provide input on the tariff scenarios to be modeled, the metrics to be assessed and the information to be generated. The nature and scope of CRA’s ETS study was the result of this process. **This interrogatory request would require significant time and effort and it is unlikely CRA could complete this in accordance with the Board’s timeline for answering interrogatories. In addition, the information***

requested is considered by CRA to be proprietary in nature. For these reasons, this and similar interrogatory questions will not be answered. [emphasis added]

- 6 CRA gives two reasons for the refusal to answer this interrogatory: (a) it would require “significant time and effort and it is unlikely CRA could complete this in accordance with the Board’s timeline for answering interrogatories”; and (b) CRA considers the information requested to be “proprietary in nature”.
- 7 With respect to CRA’s contention that this interrogatory request would require “significant time and effort”, APPrO submits that the information on pricing in neighbouring jurisdictions is necessary in order for APPrO and the Board to properly analyze CRA’s findings.
- 8 CRA was engaged by the IESO to undertake a review of the ETS tariff options for Ontario. In order to do this, CRA utilizes its North American Electricity and Environment Model (“NEEM”) to simulate economic dispatch for North America. The outputs of the NEEM, together with information from the IESO, are the inputs used in the calculation of changes in surplus to Ontario market participants which forms the basis for the pro/con assessment of each proposed ETS. Central to the NEEM model is the power pricing in export markets (generated by the NEEM model). In the absence of any information about pricing in neighbouring jurisdictions, it is difficult to evaluate the NEEM results which are so central to the CRA report.
- 9 It should also be noted that the NEEM model used in the analysis is used precisely for developing prices. As CRA’s website states, “The output from NEEM is average peak and off-peak electricity price by region...” and as such it is difficult to understand how providing this data would require “significant time and effort” (see CRA website: <http://www.crai.com/consultingexpertise/Content.aspx?tID=828&subtID=842&tertID=894>).
- 10 APPrO submits that this interrogatory is a reasonable one and that CRA, through Hydro One and the IESO, be ordered to provide a proper response. Intervenors cannot properly assess or scrutinize CRA’s model – the basis of its entire study – without being given access to the data on which its findings are based.
- 11 Regarding CRA’s assertion that the information is “proprietary in nature”, this can be dealt with by way of a signed confidentiality undertaking, with which the Board is familiar. Hydro One is welcome (on behalf of the IESO/CRA), as set out in Rule 29.02, to “request that all or any part of a response to an interrogatory be held in confidence by the Board in accordance with Rule 10” and follow the process set out in the Board’s *Practice Direction on Confidential Filings*. This would allow the Board an opportunity to analyze the information and make a final determination as to whether or not it should remain confidential. Intervenors wishing to review the information

would be obligated to file a Declaration and Undertaking with the Board (barring them from disclosing the information except as permitted by the Board).

APPPrO Interrogatory No. 5(a) (Exhibit I, Tab 23, Schedule 11.05 APPPrO 5, Page 1)

12 APPPrO Interrogatory No. 5(a) and the response read as follows:

Upon completing a draft of the ETS Tariff Study, the IESO held a stakeholder meeting on May 24, 2012 where CRA discussed the report's findings and answered questions from stakeholders. Certain stakeholder questions not addressed in this stakeholder meeting were later answered and published on the IESO's website on June 22, 2012. Question #7 and the response read as follows:

7. Was any compensation included for spilled hydro at OPG's regulated hydro assets in determining the producer surplus?

Response:

Yes. The assumption with respect to OPG's regulated assets is that the rates prescribed by the Ontario Energy Board for generation from these assets compensate OPG for its costs, including costs associated with spilled hydro.

a) Please provide the hydro energy incrementally spilled relative to the status quo case by month for each of the non status-quo ETS rates.

Response

a) Attachment 1 shows hydro spillage by month, for each model scenario and model year. Attachment 1 is available in electronic form only at <http://www.hydroone.com/RegulatoryAffairs/Pages/2013-2014Tx.aspx>.

13 The table found at Attachment 1 (attached hereto as Exhibit A) has no labels to assist in understanding the content. Although APPPrO has been unable to fully understand the data provided in response to this interrogatory, initial indications are that the data is incomplete and APPPrO requests that the data be reviewed with respect to the question asked (as is, it is of no use to APPPrO and unresponsive to the interrogatory).

14 Consequently, APPPrO requests that the Board compel Hydro One, the IESO or CRA to provide a complete answer to Interrogatory No. 5(a) by completing the table.

APPPrO Interrogatory No. 7 (Exhibit I, Tab 23, Schedule 11.07 APPPrO 7, Page 1)

15 APPPrO Interrogatory No. 7 and the response read as follows:

In the ETS Tariff Study, CRA states:

"While we have calculated surplus for each group within the economy, it should be recognized that the allocation of that surplus is based on assumptions that are somewhat subjective, particularly in a system with a high degree of government ownership. By way of example, we have treated net income earned by OPG on its non prescribed hydro operations as producer surplus, but that revenue flows to OPG's bottom line, which in turn affects Ontario's fiscal balance to the benefit of Ontario taxpayers/consumers."

Please provide a specific breakdown of the portion of the producer surplus in each of the scenarios that is directly attributable to OPG's non-prescribed hydro production.

Response

CRA calculated changes in producer surplus associated with each ETS scenario. It did not calculate total producer or consumer surplus.

- 16 Based on the response provided, It appears as though APPrO's question was misunderstood. APPrO requested what portion of the identified producer surplus is attributable to OPG – not whether CRA calculated total producer or consumer surplus. CRA can complete this answer by indicating what portion of the changes in total producer surplus is attributable to OPG. This is straightforward.
- 17 As CRA explained above, CRA “treated net income earned by OPG on its non prescribed hydro operations as producer surplus, but that revenue flows to OPG's bottom line, which in turn affects Ontario's fiscal balance to the benefit of Ontario taxpayers/consumers.” Consequently, APPrO is interested in finding out exactly what portions of these producer surpluses flow to OPG's bottom line. APPrO thus requests that the Board direct Hydro One to provide a complete response to APPrO Interrogatory No. 7.

THE FOLLOWING DOCUMENTARY MATERIAL AND EVIDENCE WILL BE RELIED UPON AT THE HEARING OF THE MOTION:

- 18 The Record in EB-2012-0031, including Hydro One's responses to written interrogatories.
- 19 Such further and other documents as counsel may advise and the Board may permit.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

DATED: September 28, 2012

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Counsel for the Association of Power Producers of Ontario

TO: Ontario Energy Board
Attention: Kirsten Walli,
Board Secretary

AND TO:
Hydro One Networks Inc.
Attention: Pasquale Catalano, Donald Rogers, Anita Varjacic

AND TO:
All Parties of Record in EB-2012-0031

Exhibit A

		2013	2015	2017
Unilateral Elimination Nuclear Curtailment	Jan	2	1	2
	Feb	2	1	0
	Mar	2	9	-2
	Apr	-3	1	5
	May	-1	0	0
	Jun	0	2	1
	Jul	1	0	-3
	Aug	-1	-2	1
	Sep	1	0	2
	Oct	1	-1	0
	Nov	0	-1	-1
	Dec	1	-1	1
Equivalent Average Network Charge Nuclear Curtailment	Jan	2	-3	5
	Feb	-6	3	2
	Mar	-2	-49	0
	Apr	-3	4	2
	May	-104,941	-5	1
	Jun	-3	-3	2
	Jul	1	-7	-1
	Aug	0	0	2
	Sep	-1	-2	1
	Oct	-2	-1	0
	Nov	-1	-1	2
	Dec	0	-9	1
Two-Tiered Scenario A Nuclear Curtailment	Jan	0	1	0
	Feb	3	2	1
	Mar	-4	-1	-1
	Apr	-1	1	2
	May	0	2	0
	Jun	-2	1	4
	Jul	2	-1	0
	Aug	1	0	2
	Sep	1	0	0
	Oct	-1	0	2
	Nov	1	1	-1
	Dec	-1	1	1
Two-Tiered Scenario B Nuclear Curtailment	Jan	-1	-1	1
	Feb	-7	2	0
	Mar	-4	-12	-2
	Apr	-3	0	0
	May	2	-2	0
	Jun	-2	-2	2
	Jul	1	-1	0
	Aug	2	2	1
	Sep	0	3	0
	Oct	0	-1	1
	Nov	0	-1	0
	Dec	0	-3	1