

Hydro One Networks Inc.

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February 21, 2013

Ms Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, Ontario M4P 1E4

BY COURIER AND RESS

Dear Ms Walli:

**EB-2012-0047 – Horizon Utilities Corporation – Application for Service Area Amendment
– Written Submission of Hydro One Networks Inc.**

I am attaching two paper copies of the Written Submission of Hydro One Networks Inc. dated today.

An electronic copy of the Written Submission has been filed using the Board's Regulatory Electronic Submission System.

Yours very truly,

ORIGINAL SIGNED BY MICHAEL ENGELBERG

Michael Engelberg

c – Horizon Utilities Corporation (Electronic Only)
Intervenors (Electronic Only)

HYDRO ONE NETWORKS INC.'S FINAL SUBMISSIONS**Thursday, February 21**

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3
4 In all its aspects except for a portion of Part IV of this Application, the decision for which
5 the Applicant is asking the Board goes far beyond the boundaries of this Application.
6 The Board is being asked to change previous principles; to create new principles; to open
7 the door to more and more SAA applications; to make good planning a much more
8 difficult, if not impossible, task; and to change the landscape of electricity distribution in
9 Ontario. Hydro One submits that the Board should decline the invitation to do any of
10 those things. Saying that this is what the Board is being asked to do is not mere
11 speculation: I think we can assume that three LDCs-- Brant County Power, Enwin
12 Utilities and Essex Powerlines, all of which had no land at stake in this proceeding--
13 intervened in this proceeding for a reason. Were they simply interested bystanders, they
14 could have chosen to read the Board's upcoming decision on the Board's website, or they
15 could have become observers in this proceeding, rather than intervenors. Hydro One
16 suggests that this foreshadows the potential results of this profound decision.

17
18 The Application is unique in that it asks for the transfer of a development whose owner
19 has chosen to remain with its own LDC by contracting with its own LDC; it asks for the
20 transfer of numerous existing customers, most of whom have not come forward to
21 support the Application; and it asks for the transfer of vacant land that may be years away
22 from development. One of the issues to be addressed in looking at all of this
23 Application's unique aspects is whether the incumbent LDCs means of providing service
24 to its territory is an enhancement, as contrasted with an expansion. But other issues must
25 also be addressed: one of those issues is whether customers of one LDC should be forced
26 to be serviced by another LDC; a second issue is whether neighbouring LDCs should be
27 planning to serve not only their own territory but also their neighbours' territories
28 resulting in speculative duplicative costs, which is economically inefficient; a third issue
29 is whether suspicion and the questioning of motive should prevail over sworn testimony;
30 and a fourth issue is whether an LDC's solicitation of the customers of another LDC is an

1 activity that should be encouraged and rewarded on a going-forward basis or whether it
2 should be rejected as being economically inefficient.

3
4 Hydro One's evidence has been clear throughout this proceeding that all five parts of this
5 Application will be served as lie-alongs by Hydro One's 27.6 kV loop feed to the
6 Binbrook area, an enhancement project that was planned years ago and began being built
7 in 2012 and will be completed within the next few months, during 2013. Hydro One's
8 prefiled evidence included Appendix A, which is the Distribution Area Study for
9 Ancaster and Glanbrook Areas. (Glanbrook includes Binbrook.) Hydro One's prefiled
10 evidence also included Appendix B, the Hydro One Dundas Area Loop Feed to Binbrook
11 document. The evidence also showed that Hydro One had, years ago, even preframed a
12 portion of the line to Binbrook to 27.6 kV standards so that the enhancement would be
13 cost-efficient when the time came to do the work on the ground.

14
15 The enhancement by Hydro One is being completed as we speak and will be available
16 within the next few months to serve all portions of the SAA area. Hydro One therefore
17 states that the 27.6 kV loop feed is an existing facility and should be treated by the Board
18 as such in this proceeding. It is not "future"; it is not "planned"; it is not a "future
19 enhancement." It is existing. And, as Mr. Stevens testified, it will not be stopped,
20 because it is needed by Hydro One for its many customers in the fast-growing Binbrook
21 area. Once again, for Horizon to allege that granting the Application would reduce
22 duplication of assets is exactly contrary to the facts. Granting the Application won't
23 reduce the duplication of assets. Both sets of assets will be there, anyway. Hydro One is
24 not building a line to serve the SAA Area, which Horizon would have you believe. And
25 as Hydro One will state below, to the extent that there was duplicate planning, that
26 duplicate planning is not the fault of the incumbent utility, Hydro One, but rather the fault
27 of the adjacent utility, Horizon, which decided to do the planning for not only its own
28 territory and customers but for the territory and customers of an adjacent LDC. This type
29 of activity is not and cannot be in the interest of ratepayers or in the public interest.

1 Hydro One's evidence has been clear throughout this proceeding that Hydro One needed
2 to address the high five-year load growth in the Binbrook area, which Mr. Stevens
3 testified was almost 50%, and Hydro One needed to have adequate facilities to service
4 that load growth reliably, making an enhancement necessary.

5
6 Hydro One has stated that the 27.6 kV loop feed along Rymal Road and down to
7 Binbrook is an enhancement pursuant to the Distribution System Code, so I want to look
8 at that.

9
10 In s. 1.2 of the Code, "enhancement" is defined as a modification to the main distribution
11 system that is made to improve system operating characteristics such as reliability or
12 power quality or to relieve system capacity constraints resulting, for example, from
13 general load growth, but does not include a renewable enabling improvement. That is
14 exactly the case pointed out by Hydro One's pre-filed evidence, interrogatory answers,
15 and sworn evidence on the stand. Additionally, when we look at s. 3.3 of the Code,
16 which is entitled "Enhancements," and when we look at s. 3.3.1 thereunder, we read the
17 following:

18
19 A distributor shall continue to plan and build the distribution system for
20 reasonable forecast load growth. A distributor may perform enhancements
21 to its distribution system for purposes of improving system operating
22 characteristics or for relieving system capacity constraints. In determining
23 system enhancements to be performed on its distribution system, a
24 distributor shall consider the following:

- 25
26 (a) good utility practice;
27 (b) improvement of the system to either meet or maintain required
28 performance-based indices;
29 (c) current levels of customer service and reliability and potential
30 improvement from the enhancement; and
31 (d) costs to customers associated with distribution reliability and potential
32 improvement from the enhancement.
33

1 Additionally, when we read s. 3.3.3, we read that, “Subject to s. 3.3.4, the distributor
2 shall bear the cost of constructing an enhancement...and therefore shall not charge a
3 customer a capital contribution to construct an enhancement.”

4
5 An expansion, on the other hand, is something completely different. In s. 1.2 of the
6 Code, an “expansion” means a modification to the main distribution system in response
7 to one or more requests for one or more additional customer connections that otherwise
8 could not be made, for example, by increasing the length of the main distribution system,
9 and includes the modifications or additions to the main distribution system identified in
10 section 3.2.30 but in respect of a renewable energy generation facility excludes a
11 renewable enabling improvement. And when we look at s. 3.2.30, we see numerous
12 references to “the connecting customer.” Even 3.2.30(e), which doesn’t refer to
13 “connecting customer,” must be interpreted in the context of the other items (a) through
14 (h) and in the context of the definition of expansion in s. 1.2, which contains the limiting
15 words of “a modification...in response to one or more requests for one or more additional
16 customer connections.”

17
18 Hydro One’s evidence made it clear that the Hydro One loop feed to the Binbrook area
19 was not undertaken in response to one or more requests for one or more additional
20 customer connections. Horizon didn’t even allege that there was a request to Hydro One
21 from a customer or group of customers in the 1970s when the line was originally pre-
22 framed for 27.6kV along Highway 56. Horizon didn’t allege that there was a request to
23 Hydro One from a customer or group of customers in Binbrook for additional service.
24 There was no request from a customer or group of customers in the SAA areas which
25 caused this 27.6 kV line to be built. It is a planned enhancement, further enabled by
26 properly-timed enhancement of Nebo TS, and the work will be completed within the next
27 few months, to increase reliability to thousands of customers in the Glanbrook and
28 Binbrook areas and to have the added benefit of being able to serve the SAA areas. The
29 construction of the enhancement commenced in 2012, it continues to be built as we
30 speak, and will be ready within the next few months of 2013, in time to serve all the

1 territory and customers encompassed by this Application. To arbitrarily saddle Multi-
2 Area with the cost of this planned line would be unfair, unprecedented and perverse.

3
4 Horizon also seeks to have the DSC something that it does not say: in effect, Horizon
5 wishes the DSC to, in effect, be amended to say that whenever a customer along the route
6 of an enhancement will benefit by its proximity to the facility, part of the cost of the
7 enhancement should be charged to the customer; and by not charging it to the customer,
8 the customer is not paying “fully-loaded costs.” I say to you that the Code contains no
9 such provision. The Code is clear in not containing a provision to charge costs where a
10 customer benefits from an enhancement. There is no dispute that a customer does pay for
11 costs of an expansion, which is the case where a customer or group of customers made a
12 request for an expansion.

13
14 So what we have here is an “enhancement,” as stated by Hydro One. Hydro One knows
15 that upgrading the service to its existing customers in Binbrook is an enhancement under
16 the DSC; Horizon, on the other hand, for the purposes of this proceeding, needs to
17 convince the Board that the line is being built for the purpose of serving a specific
18 customer, Summit Park Phase 7, in an attempt to turn the line into an expansion to
19 Summit Park Phase 7.

20
21 Therefore, against Hydro One’s prefiled evidence and sworn testimony, Horizon has
22 based its case on suspicion-- suspicion that it was only after Horizon applied to the
23 Board for Summit Park Phase 7 that Hydro One decided to build a 27.6 kV loop feed to
24 Binbrook and chose the route that it chose. Horizon even sought to rely on an e-mail sent
25 by Mr. Messervey of Hydro One that, in Horizon’s view, included costs as if the line
26 were only an expansion. The fact is, Mr. Messervey wrote no such thing. His wording,
27 found in the preamble to Horizon’s IR #28 to Hydro One, was:

28
29 *“Based on the information I have seen on this site would this project not*
30 *fall into the category or be considered one that we should support the SAA*

1 *on? Isn't there approx. \$400K of expansion/enhancement just to get our*
2 *supply to that site?"*
3

4 Mr. Messervey wrote "expansion/enhancement." It seems clear that he was generally
5 aware that some kind of work was required in the area to provide additional supply. As
6 stated by Hydro One witnesses under oath, when Mr. Messervey sent that e-mail, not
7 being part of Hydro One's system planning group, he was not aware, nor was it his
8 responsibility to be aware, of the Hydro One enhancement project or plan, nor would he
9 have been, given his position, so the e-mail is therefore completely unhelpful in
10 establishing Hydro One's plans and building for the area or in supporting Horizon's
11 allegation.

12
13 I submit that all that Horizon has is suspicion. Contradicting that suspicion are Hydro
14 One's prefiled evidence, which is factual rather than speculative, the sworn evidence of
15 Hydro One witnesses, and Appendices A and B to the prefiled evidence. Horizon sought
16 to bolster its suspicion by filing the Burman Report, a Report that billed itself as
17 "independent" but was anything but independent or helpful. It was based purely upon the
18 input of Horizon employees and Horizon plans and did not even seek to include Hydro
19 One input, yet it makes profound assertions about the present and future state of Hydro
20 One assets in the region. Horizon would seemingly have the Board rely upon this
21 document rather than Hydro One's own documented plans supplied in evidence and
22 sworn to in oral testimony.

23
24 Additionally, Horizon attempts to paint the Hydro One service territory surrounding the
25 subject area as rural and moribund. However, you have heard the sworn evidence of the
26 Hydro One witnesses concerning the almost 50% five-year load growth in the Binbrook
27 area and the need and obligation of Hydro One to have adequate facilities to service that
28 load. I say to you that sworn evidence must always prevail over suspicion. All four of
29 the Hydro One witnesses consistently answered the same questions asked multiple ways
30 by Mr. O'Leary. They answered the questions consistently. And I want to add that to be
31 suspicious that Hydro One hadn't been planning the enhancement for years is also to

1 ignore Hydro One's obligations under the Code, which says, at s. 3.3.1, in relation to
2 enhancement work, that an LDC "**shall** continue to plan and build the distribution system
3 for reasonable forecast load growth."
4

5 The Hydro One witnesses explained under oath not only the years of advance planning
6 that foretold the need for the loop feed but also the fact that Hydro One has capacity at
7 the TS, but Mr. O'Leary nevertheless alleged during his cross-examination that the 27.6
8 kV feeder to Binbrook was an "excuse" to serve Summit Park Phase 7 without requiring
9 a capital contribution from the developer and that Hydro One's real intentions were
10 "cloaked" under the guise of an enhancement. That unfounded allegation on the part of
11 Horizon should be held up against the sworn testimony of Mr. Stevens that Hydro One is
12 proceeding with its planned enhancement to Binbrook, on the selected route, even if
13 Horizon's Application is successful. The construction of the enhancement commenced in
14 2012, it continues to be built as we speak, and will be ready within the next few months
15 of 2013, in time to serve all the territory and customers encompassed by this Application.
16

17 I suggest that Horizon itself recognized that its suspicion wouldn't be enough to carry the
18 day against sworn evidence, so in addition to making baseless allegations as to the
19 purpose of the loop feed, Horizon is also second-guessing Hydro One's years of planning
20 by alleging that Hydro One should have chosen another route. Mr Burman admitted the
21 following:
22

23 (a) that he hadn't had access to Hydro One planning documents for "10 years plus";
24

25 (b) that he didn't ask Hydro One for any current documents or plans when he put his
26 report together; and
27

28 (c) that although he had information about Horizon's assets because he got that
29 information from Horizon, when it came to Hydro One's assets and plans, all he could
30 report on was assets that he saw on the ground when he wrote his report.

1

2 Mr. Burman and Mr. Freeman said that Hydro One should have chosen a different route
3 to get to Binbrook. Horizon says that another route would be shorter. Mr. Stevens must
4 have provided Hydro One's reasons three times during the hearing-- the route chosen by
5 Hydro One was chosen for environmental and forestry reasons since fewer trees will need
6 to be destroyed; it was also chosen for distribution planning reasons, because it was lower
7 cost than other routes because facilities have already been planned decades ago and are
8 currently in existence and have been preframed to 27.6; because it provided better
9 separation of assets avoiding failures from the same storm event; it was chosen because it
10 was good utility practice to leverage assets by being able to serve other customers along
11 the way, that is, reasonable forecasted load growth. And finally, it provides for future
12 access to the developable lands further to the east of Highway 56, which Mr. Freeman
13 alleged are greenbelt lands but which the evidence clearly shows are not. Ms Spoel noted
14 at page 238 of last week's transcript that Hamilton's Urban Plan designates that land as
15 agricultural, and Hydro One has now filed further information concerning the designation
16 of that land, Hydro One's point being that the lands are capable of being developed in the
17 future because whether they be agricultural (as the Horizon exhibit shows) or "Special
18 Policy Area B - Future Urban Growth Node-- under appeal," (as the Hydro One exhibit
19 shows), they are not designated as Provincial greenbelt land.

20

21 Horizon also alleged, without knowing the facilities available for Hydro One Distribution
22 at Nebo TS, that there is inadequate capacity for Hydro One at the TS but adequate
23 capacity for Horizon. Yet, at the same time, Horizon acknowledged that it also had to
24 contract for extra capacity at Nebo TS and that it included the load of the SAA areas in its
25 forecast, as if the entire SAA territory belonged to Horizon. Horizon failed to mention
26 that the Nebo TS upgrade will be available in phases with the first portion available in
27 April and the entire upgrade available by the end of 2013, well in advance of the
28 requirements for the developments in this area. There was even criticism from Horizon
29 regarding the height of Hydro One's poles, which Mr. Zerdin stated under oath meet

1 Hydro One's standards and which Ms Lurette stated under oath to be a height that
2 Horizon is using itself in other parts of its service territory.

3
4 I submit that when weighing Hydro One's sworn evidence regarding its facilities, its
5 capacity and its route choice against Horizon's opinions regarding Hydro One's facilities,
6 capacity and route choice, Hydro One's sworn evidence should prevail over opinions
7 from the outside. After all, it is the incumbent utility that "shall" under the DSC be the
8 one responsible for doing the planning for its service territory. Hydro One is like every
9 other LDC in the Province: it has a duty under the Code to plan to serve all portions of
10 its territory. Hydro One should never assume that an adjacent LDC will want to acquire
11 Hydro One customers and will build in order to do so. Mr. O'Leary advanced the idea
12 that the *Electricity Act* provision that requires utilities to connect lie-along customers
13 refers to any utility and that therefore Horizon has the obligation to connect customers
14 inside Hydro One's territory. Well, the customers encompassed by this Application are
15 Hydro One lie-along customers. Surely, the *Electricity Act* section must be interpreted to
16 impose the connection obligation on the licensed provider for the territory in which the
17 building lies. The Binbrook area, the Elfrieda Industrial Park, and Parts I through V of
18 this Application are all entirely within Hydro One's service territory.

19
20 At first blush, Part I of the Application might appear to be a run-of-the-mill contested
21 SAA application, but it isn't. The first reason is that the customer isn't supporting the
22 Application by the outside utility: Multi-Area, the developer, chose to go with its own
23 LDC (Hydro One) after receiving an Offer to Connect from both utilities. Horizon sought
24 to paint Hydro One as having responded late or slowly to the developer's request for an
25 Offer to Connect, but the evidence showed that Hydro One responded promptly. The
26 developer certainly had no complaints. In the developer's submission dated October 19,
27 2012, the developer's lawyer wrote in his letter, "Since our client is not seeking service
28 from Horizon, Horizon has no customer outside its territory on which to found its
29 Application." Hydro One agrees with the customer and says that there is no basis for the
30 Board to award the territory to the adjacent LDC; and Hydro One submits that the signed

1 contract between willing customer and its own willing LDC should not, in effect, be
2 abrogated by action of the Board. Hydro One submits that Summit Park Phase 7 should
3 not be severed from Hydro One's licence because doing so would set a dangerous
4 precedent in which willing customers would be forced away from their chosen service
5 provider inside their own territory. The situation would not be that dissimilar from a
6 problem I'll get to in a few minutes, which is the situation where outside utilities apply to
7 serve existing customers of an incumbent. Keeping in mind that Hydro One has adjacent
8 boundaries with approximately 60 or so of the 75 LDCs representing over 100 different
9 territories, the precedent proposed by Horizon would have a very adverse effect on
10 efficient planning, to the material detriment of Ontario customers at large.

11

12 A second reason that Part I isn't run-of-the-mill is that like a number of other parts of this
13 Application, it contains vacant land on which no houses are scheduled to be built. There
14 may be a school or two schools, and there may be a park, but we don't yet know for sure
15 because there are no set timelines for development and no customer requests for service
16 to these vacant lots, therefore no economic evaluations to review.

17

18 Hydro One's submission that Part I should not be awarded to Horizon for the reasons I've
19 already provided would be the case even if Horizon were able to satisfy the Board that its
20 connection costs are lower. But I want to make it clear that even if this were a run-of-
21 the-mill SAA application where connection costs are the most important factor, Horizon
22 has failed to satisfy the onus on an applicant to show that its connection costs are lower,
23 and that position is supported by Multi-Area in the lawyer's letter, which says, "our client
24 determined that Hydro One's offer to connect was economically preferable to that
25 provided by Horizon." Horizon even complained during the hearing about the clause in
26 the connection agreement between Multi-Area and Hydro One to the effect that the price
27 would remain as is, but the uncontroverted sworn response from Hydro One was that the
28 clause was unnecessary because with respect to offers to connect, Hydro One always
29 stands behind its firm, signed agreements with customers, and doing so is not contrary to

1 the Code. Hydro One has clearly stated throughout that its Offer to Connect is Code-
2 compliant.

3
4 Let's move on to Parts II and III of the Application, which deal with 13 existing
5 customers, some of which are residential and some commercial. It seems from Horizon's
6 prefiled evidence and testimony that no customers in Part III have expressed support for
7 the application and only two of the customers from Part II are supporting the Application,
8 and those two only after being contacted by Horizon by solicitation letters. It has been
9 alleged that these customers are embedded in Hydro One territory, but they are not
10 embedded, and the maps have shown that Hydro One's evidence on that point is correct.
11 Horizon has sought to capitalize on Hydro One's views about the three existing
12 customers in Part II at a time when Hydro One was unaware of Horizon's intention to try
13 to acquire and serve a massive area containing multiple parts of Hydro One's service
14 territory. As stated in Hydro One's IR answer on that matter and in Ms O'Sullivan's
15 testimony, it was no longer practical to deal in isolation with three customers involved in
16 a vast expanse of Hydro One territory sought to be acquired by the adjacent LDC.

17
18 Regarding the solicitation letters I mentioned, Horizon's own prefiled evidence shows a
19 solicitation letter sent by Horizon to Hydro One customers inside Hydro One's service
20 territory prior to their filing their SAA application. This activity has not been highlighted
21 by Hydro One for the purpose of illustrating the dispute between two LDCs. It is an
22 activity that bears on an important principle that should not be relegated to the status of a
23 complaint by one LDC about another. What Hydro One submits is that it is improper for
24 Ontario LDCs to solicit each other's existing customers and that to permit such a practice
25 would change the face of electricity distribution in Ontario in a way that does not benefit
26 the public interest. I also submit to you that the solicitation letter wasn't even truthful or
27 fair: if you look at the solicitation letter template that appears in Horizon's prefiled
28 evidence at page 27 of 29 as Part II, Attachment 5, Horizon wrote in the second
29 paragraph, "...it occasionally becomes necessary to deal with properties like yours at or
30 near the boundary of a neighbouring utility..." I ask the Board, why did it become

1 necessary? Let's take, for example, these 10 existing Hydro One customers in Part III
2 who have been served by Hydro One for years. I submit that we heard no evidence from
3 Horizon as to why it supposedly became "necessary" for them to be "dealt with" in 2013.

4
5 I'd like now to take a look at Part IV of the Application, where there is a school being
6 built. Except for the fact that Horizon has included some vacant land in Part IV, as
7 Horizon has done in a number of other Parts of this Application, Part IV is the only part
8 of this entire SAA Application that isn't precedent-setting, in the sense that it looks like a
9 traditional SAA application in which a new customer wants service and prefers the
10 service to be by the non-incumbent utility. But the facts merit review. The school is
11 entirely within Hydro One's service territory. Horizon agreed that it mistakenly thought
12 the school was inside its service territory and that it therefore mistakenly provided a
13 temporary connection to the school for construction purposes. Horizon also
14 acknowledged that when informed about the connection, Hydro One cooperated to permit
15 the continued temporary connection during construction so that the school construction
16 would not be prejudiced. The school prefers the Horizon Offer and has accepted it,
17 seemingly because the school prefers not to own a transformer. We heard evidence last
18 week concerning disagreement as to what a transformer would cost the school to buy and
19 maintain; Hydro One's evidence was that the costs are significantly lower than what was
20 estimated by the school and further that the school could easily contract for this service if
21 it so chose. Hydro One's evidence also showed that Hydro One's monthly delivery
22 charges are lower than Horizon's. I also submit that Mr. Shepherd's speculation as to the
23 possibility that Hydro One's monthly charges could be higher because the school's use of
24 electricity could drop in the future is just that-- mere speculation -- in light of the over-
25 1000 kW load figure supplied by his client to all the parties to this proceeding and to
26 Board staff, in response to an interrogatory by Hydro One. The evidence of load
27 submitted by the school in response to Hydro One's interrogatory should stand and
28 should supersede Mr. Shepherd's speculation that the load could drop so sharply in the
29 future-- by more than 50%-- that the favourable Hydro One monthly delivery charge
30 might no longer be applicable.

1

2 I'd now like to move on to another part of the Application that is unprecedented, and that
3 is Part V. Part V is only vacant land which is entirely within Hydro One's service
4 territory, east of Summit Park Phase 7, slated at some time in the future to be future
5 Summit Park phases, both residential and commercial. Ms Butany d'Souza stated that
6 Horizon decided to apply for this territory now because doing so seemed to be "in the
7 interest of efficiency of not bringing forward a number of other service-area amendment
8 applications that included Part V..." (page 185 of the first day's transcript). Hydro One
9 states that there are no grounds and no basis whatsoever for an application for Part V at
10 this time. Both LDCs stated in their testimony that no economic analysis had been done.
11 Hydro One submits that there is no information whatsoever on which the Board could
12 base a decision, that Horizon has satisfied the onus on an applicant LDC to be awarded
13 the service territory of the incumbent LDC. As a matter of fact the Board already
14 dismissed the exact same request by Horizon in EB-2004-0536 where they were
15 requesting vacant land slated for future Summit Park Phases.

16

17 I already mentioned the vacant land included in Part I. The fact is that not only Part I, but
18 also Parts III, IV and V all contain vacant land, to varying degrees. If it turns out to be
19 the Board's decision that vacant land inside an incumbent LDC's service territory should
20 not be awarded to an adjacent LDC because doing so would be premature or for some
21 other reason, then the vacant lands inside those four parts of the Application should not
22 be awarded to the Applicant.

23

24 In an SAA application, the onus is on the applicant to satisfy the Board that the territory
25 should be taken away from the incumbent. The onus is not on the incumbent to satisfy
26 the Board as to why it should be allowed to keep the territory. This principle comes from
27 the Board's generic decision. Earlier in my submissions, I spoke about all the planning
28 that was done by Hydro One over the years to ensure reliable service to the Binbrook
29 area. I would therefore like to make some other submissions regarding what LDCs must
30 do and what they must not do. I point out that Horizon admitted, and Hydro One stated,

1 that each one made plans to serve portions of Hydro One territory and to serve Hydro
2 One customers. On the second day of the hearing Horizon fulfilled an undertaking that
3 was given by Horizon on the first day. Horizon's response showed that Horizon planned
4 for 4.75 MW of load at Nebo TS that isn't even Horizon load-- it is load predicted to
5 materialize in Hydro One's service territory. I submit that this is one of the very
6 scenarios that the principles of the generic decision are meant to prevent. This is further
7 borne out by Horizon's statement that it "assumed" that Hydro One would consent to
8 give away Summit Park Phase 7. Hydro One's evidence said, and my legal submission to
9 you is, that an LDC should not make plans and should not build to serve the territory and
10 customers of other LDCs. Hydro One also says as a matter of fact, and I submit to you as
11 a matter of law, that an LDC should never assume that an adjacent LDC will consent to a
12 SAA application. Hydro One says it isn't prudent for any LDC to make such an
13 assumption and that it wasn't prudent of Horizon to do so. And there is no excuse for
14 Horizon not to have discussed this matter with Hydro One Transmission and Hydro One
15 Distribution. For LDCs to plan for load inside other LDCs near their borders would set
16 an unwieldy precedent that is harmful to ratepayers because it duplicates the planning of
17 the in-territory LDC. Such activity should not only not be rewarded, it should not be
18 encouraged. It should be discouraged. It does not protect the ratepayers and is not in
19 their interest. Such a precedent would introduce chaos into what has been a well-
20 understood practice until now.

21
22 As you'll find in Hydro One's pre-filed evidence and as you heard from Mr. Stevens on
23 the witness stand, there is a loss to an incumbent LDC and its ratepayers if its territory is
24 awarded to another LDC. It is not just poles and wires that are lost. It is the loss of
25 future customers and a future income stream from them. It is the underused feeder
26 positions at the transformer station that were built with the support of a \$7M contribution
27 to the Transmitter for greater capacity to serve load that may never materialize or may
28 materialize many, many years later than modelled. It is the feeders already framed and in
29 various degrees of completion that will be underused. It is a lost opportunity to Hydro
30 One customers to benefit from lower unit costs of back-office systems and processes,

1 such as Hydro One's Customer Information System, the call centre, the grid control
2 centre, the GIS system, the AMS system, part of the smart grid project, etc. In addition,
3 Hydro One's evidence is that this Hydro One licensed service territory is on a very near-
4 term path to becoming zoned as urban from a rate class perspective, so for the incumbent
5 to lose the growth opportunity that may deprive customers in the area of the benefit of the
6 pending reclassification.

7
8 Therefore, although you have evidence that the non-incumbent LDC overplanned, there
9 is no evidence that the incumbent LDC overplanned. Indeed, all Ontario LDCs have not
10 only the right to connect, serve, build and plan for their entire service territory and the
11 existing and future customers therein-- they have the obligation under their licence to do
12 so. What they are not obligated to do under their licence, and what is imprudent for them
13 to do, is to plan for load growth in other LDC's territory on the long shot that they might
14 apply for it in the future, that the incumbent LDC might give it away, and that if the
15 incumbent LDC won't give it away, that the applicant might win in in a contested SAA
16 application. Horizon's evidence states that they assumed that an adjacent LDC, Hydro
17 One, would give away its territory if only Horizon filed an SAA application; and Horizon
18 admittedly forecasted load growth and need for transmission capacity based on that very
19 real load growth inside Hydro One's territory. Two LDCs planning for the same territory
20 and customers-- one of the LDCs licensed to serve that territory and those customers,
21 and the other LDC not licensed to serve that territory and those customers. Such activity
22 should not only not be rewarded, it should not be encouraged. It should be discouraged.
23 It does not protect the ratepayers and is not in their interest.

24
25 I itemized for you what is lost by an incumbent LDC and its ratepayers when service
26 territory and customers are awarded to another LDC, and it was a lengthy list that goes
27 far beyond poles and wires. Hydro One believes that the Board was thinking of those
28 matters when the Board made its pronouncement at paragraph 267 of RP-2003-0044,
29 which appears at page 1 of 15 in Hydro One's prefiled evidence. Part of that paragraph
30 reads as follows:

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Service Area amendments should not result in the Board-mandated transfer of customers from one distributor to another. Such transfers should be the subject of bilateral arrangements between distributors, wherein all of the issues engaged by such transfers can be addressed. Such issues involved appropriate compensation for any assets stranded as a result of the arrangement. In this way, the interests of the customers of the surrendering distributor can be reasonably protected.

That reasoning of the Board was followed by the Board in EB-2005-0504, another SAA application in which Horizon sought, but failed, to acquire several of the same existing Hydro One customers that are included in this Application.

Yet another principle from the generic decision on which Hydro One relies is paragraph 247 of the decision, which is also found at page 1 of 15 in Hydro One's prefiled evidence. Hydro One submits that paragraph 247 is applicable in particular to all of Part V of this Application and to part of Parts I, III, and IV of this Application, because all those parts contain vacant land. I draw your attention to the portion of paragraph 247 that reads as follows:

Similarly, proposals to align service areas with municipal boundaries are ill-considered unless the proponent can provide concrete evidence that the extended area is needed to provide service to actual customers in the area...and does not prejudice existing customers of the utility. Amendments need to be anchored by real customers, with an economic case for the extension that is convincing.

Another principle from the generic decision regards differences in distribution rates. It was alleged against Hydro One that its rates are "double" those of other utilities, although there was no evidence that that is the case. In any event, at paragraph 86 of the generic decision, which you can find at page 6 of 15 in Hydro One's prefiled evidence, the Board stated the following:

The Board does not believe that significant weight should be put on differences in current distribution rates even though current rates may

1 ***be a significant factor in determining customer preference. In fact***
2 ***current rates, insofar as they are not a predictor of future rates, may***
3 ***misinform customer preference.***
4

5 I've stated some of the governing principles from the generic decision and another
6 decision involving a previous application by Horizon, and I've stated another governing
7 principle that says that in any SAA application, the onus is on the applicant, not on the
8 incumbent. So what does all of that mean in the context of this Application? Hydro One
9 submits the following:

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11 (a) Vacant land, whether it be Part V, which is vacant in its entirety, or whether it
12 be the vacant land portions in Parts I, III, and IV of this Application, should never be
13 awarded to an applicant by means of an SAA application. Hydro One submits that this is
14 not even a question of onus, or a matter of connection costs, but rather that it is never in
15 the interest of ratepayers to forcibly transfer vacant land on which something may be
16 built in the future, particularly when the uncontroverted evidence is that the incumbent
17 utility has facilities right there to serve future customers. Using Part V as an example, we
18 heard from both witness panels that no economic analysis has been done by either LDC
19 concerning the non-existent customers on vacant land, so of course it is not in the interest
20 of ratepayers to transfer such territory in advance.

21 (b) Existing customers inside an LDCs service territory who are properly served
22 by their LDC should never be awarded to an applicant by means of an SAA application.
23 Hydro One submits that this, too, is not even a question of onus or of connection costs. It
24 is a matter of common sense that this is not in the interest of ratepayers and that this
25 would change the landscape of electricity distribution and licences in Ontario in a manner
26 that would not be beneficial to ratepayers as a whole and would be damaging to the
27 present licensing scheme, making planning and building uncertain, turning planning and
28 building from a science into an exercise in speculation and risk. Hydro One makes this
29 submission even if an SAA application for existing customers of another LDC is not
30 preceded by non-incumbent LDCs' solicitation of each others' customers as if the LDCs

1 were retailers knocking on doors, in the hope of rounding up support for an SAA
2 application.

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4 (c) A new customer inside an LDC's service territory, for example Multi-Area in
5 Part I, who wants to be served by its own LDC, should never be denied by means of an
6 SAA application or otherwise, the right to be served by its own LDC. Denying that right
7 makes no sense. Asking the Board, in effect, to take an action to abrogate the contract
8 between the willing customer and the willing incumbent LDC, makes no sense. Hydro
9 One makes this submission even if the willing customer has not had the opportunity to
10 see an Offer to Connect from an adjacent LDC, and of course we all know that Multi-
11 Area did see Horizon's Offer to Connect before choosing its own incumbent LDC, Hydro
12 One. Hydro One submits that these principles are not a question of onus and not a
13 question of costs.

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15 (d) The Board's MAADs process is the process that should be used if the transfer
16 of customers is to take place. The Board's MAADs process is commercial and voluntary
17 and it protects the interests of Ontario ratepayers at large.

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19 Therefore, Hydro One submits that to grant any portion of this Application, other than the
20 portion of Part IV on which the school is being built (but not the portion of Part IV that is
21 vacant land) would be to turn the generic decision on its head and to dramatically change
22 the electricity distribution landscape in Ontario in a way that would not be in the public
23 interest or to the benefit of ratepayers. It would encourage behaviour detrimental to
24 ratepayers at large as well as encourage an increase in SAA applications. Just as
25 important, it would make LDCs take on more risk by building for adjacent territory, and
26 it would make LDCs wary of doing planning and spending inside their borders but near
27 their borders. It would be a lose-lose proposition. As I stated before, Hydro One submits
28 that it has advanced ample evidence that the school should remain within Hydro One's
29 territory, but the application for the school is the only part of the Application that fits
30 within the standards of typical SAA applications.

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2 Hydro One is clearly the more efficient, cost-effective LDC to serve the areas
3 encompassed by the Application. Contrary to Horizon's allegations regarding a rural
4 utility, Hydro One's evidence and witnesses demonstrated and testified that Hydro One is
5 a well-developed utility in the area encompassed by the Application, with many decades
6 of service. Even if costs were the determining factor, which they are not because of all
7 the reasons I have advanced, Horizon has not demonstrated that it is the more efficient,
8 cost-effective LDC, and neither Horizon, nor any other LDC, should be rewarded or
9 encouraged for its imprudent planning and spending that pre-assumed success in a future
10 SAA application.