

SUMMARY OF SUBMISSIONS IN CHIEF OF HORIZON UTILITIES CORPORATION

Introduction

This is an important proceeding to stakeholders throughout the province given the clear and overt collateral attack that is being orchestrated by Hydro One on the rules and criteria which the Board established in the Combined Proceeding (RP-2003-0044). If Hydro One's position is sustained, it will have found a way to prevent the Board from overseeing the rational expansion of distribution service areas in Ontario. It will have dodged the objectives under the *Ontario Energy Board Act* ("OEB Act") that the Board be guided by principles of economic efficiency and cost effectiveness. It will have been able to avoid a fair comparison of what was required by two utilities to provide a connection and service offering to new customers by its refusal to disclose the costs of needed work and upgrades required to provide service to these customers.

If Hydro One's position is sustained, its failure to respond to reasonable questions about such costs and questions requesting the production of plans and evidence of an alleged enhancement project will act as a precedent for similar conduct in the future. Most importantly, Hydro One will be incented to cloak every project which is contiguous to an urban LDC's service area as an "enhancement" which, by Hydro One's rules, means that its costs need not be disclosed, discussed, or even considered by the Board.

If Hydro One's position in this proceeding is sustained, developers will look to it in future to exclude from Offers to Connect applicable costs of connection, which other utilities like Horizon Utilities consider to be expansion costs. By so excluding these costs and categorizing them inappropriately as enhancement costs, developers will not be asked to contribute to needed expansions to provide service to their projects. The developers will not object to this conduct, but ratepayers throughout Ontario should strenuously be opposed.

If Hydro One's position in this proceeding is sustained, it will set a precedent for the future interpretation of the *Distribution System Code* and the need to undertake economic evaluations. Every new customer that seeks a connection to a distribution line along a street can be treated, by Hydro One's definition, as a "lie along" customer, and no economic evaluation is required. New buildings, new plants, regardless of size, will apparently not have to consider making a contribution to upstream expansion work.

If Hydro One's position in this proceeding is supported, it will have set a precedent for it to build new circuits through the distribution service area of contiguous urban LDCs for the purpose of saving outposts of service territory which Hydro One cannot serve without undertaking kilometers of expansion work. To be clear, Hydro One is proposing to build this new circuit directly through Horizon Utilities' service area for more than a kilometer before it even reaches the first customer, Bishop Ryan Catholic Secondary School (the "High School"). It then proposes to build the new circuit a further kilometer after that, again through Horizon Utilities service area, to provide service to Summit Park Phase 7.

In short, Horizon Utilities submits that Hydro One's position in this matter is inconsistent with the Combined Proceeding, the principles enunciated in the OEB Act by which the Board is to be guided and any reasonable interpretation of the *Distribution System Code*. Hydro One takes these positions for an obvious reason – it cannot defeat the Horizon Utilities' service area amendment applications on the basis of the facts presented and proven in this case. It cannot and did not show that its proposal to serve the Service Area Amendment lands can be done in a more economically efficient and cost effective manner than Horizon Utilities. Hydro One is in short proposing that its distribution system be expanded in an area which is contiguous to a large urban LDC in an irrational, duplicative, complex and costly fashion.

The Ontario Energy Board Act

Each distributor in Ontario must be licensed pursuant to Section 57 of the OEB Act. Under subsection 70(1), the OEB Act provides that a license may prescribe the conditions under which a distributor may operate “having regard to the objectives of the Board and the purpose of the *Electricity Act*”. Under subsection 70(1.1) the OEB Act provides that the Board may, with or without a hearing, grant an approval, consent or make a determination that may be required for any of the matters provided for in a licensee’s license.

Subsection 70(2) contains a list of the types of conditions which may be attached to the distributor’s license. The list is not exhaustive; it is merely illustrative of some types of conditions.

Most importantly, subsection 70(6) states that the granting of a license to a distributor shall not hinder or restrict the granting of a license to another person within the same area and the licensee shall not claim any right of exclusivity. I will have more to say on this point later, but it is the starting point to understanding that Hydro One does not have an absolute right to serve Summit Park.

Subsection 70(11) of the OEB Act requires that the license of a distributor specify the area in which the distributor is authorized to distribute electricity.

Of course, the Act also contains, at Section 78(2) – the requirement that a distributor not charge for the distribution of electricity except in accordance with an order of the Board. It is a statutory requirement that each distributor obtain Board approval for its rates.

Why do the above statutory provisions exist? It is appropriate to start by identifying that in a situation of utility monopolies, it is necessary to regulate monopoly businesses because the

rigors of the competitive market are not available to prevent over charging or the undertaking of capital projects which are not needed or necessary, as proposed. It is a fundamental tenet of utility regulation that a utility's capital budgets be reviewed to ensure that the utility is undertaking expansion works for the purposes of meeting demand growth and necessary reinforcement - not just to add costs to a utility's rate base

Importantly, the statutory objectives by which the Board is guided in respect of its powers include:

1. To protect the interest of the consumers with respect to prices and the adequacy, reliability and quality of electricity service.
2. To promote economic efficiency and cost effectiveness in the distribution of electricity, demand management, and to facilitate the maintenance of a financially viable electricity industry.

Obvious examples of conduct inconsistent with these objectives and, frankly, common sense, would be, for example, where a well-developed urban dense distribution system already exists along a major thoroughfare, which happens to be the boundary between two distributors, to then knowingly build a redundant duplicate circuit commencing at some distance away to provide select new customers along the territorial boundary with service. This can hardly be viewed as economically efficient. It is, quite frankly, the very type of conduct which the regulation of utility monopolies is intended to avoid; namely, the needless duplication of assets where the utilities are competing against one another along their territorial boundary by building similar infrastructure down the same street when both circuits are not required.

The ratepayers of the utility that is proposing to build the unnecessary and redundant assets should not be liable for the costs of such economic imprudence. Nor do the taxpayers of this

province who are the beneficiaries of Hydro One's operations want to support decisions by the government-owned distributor to build unnecessary distribution plant.

In short, regardless of whether Binbrook needs or does not need a loop feed (a subject which is not an issue in this proceeding and certainly one that Hydro One has not filed sufficient evidence to support), the question which is a live issue in this proceeding is whether or not a new 27.6 kV circuit is required along the south side of Rymal Road East. The evidence in this proceeding is clear: other than serving the new High School and Summit Park Phase 7, Hydro One has demonstrated no reason why a second circuit should be built down Rymal Road East. Any growth at Summit Park can be met by Horizon Utilities without undertaking virtually any expansion work. By comparison, Hydro One is proposing to spend hundreds of thousands of dollars to provide a new radial line to Summit Park 7 and the High School, all of which will be included in rate base without any contributions from the developer, Multi-Area, or the Hamilton-Wentworth Catholic District School Board (the "School Board"). Hydro One's ratepayers will be paying for the legacy of this uneconomic decision for decades as the unnecessary plant is depreciated. Even worse, to build a loop feed to match Horizon Utilities' service offering, Hydro One must build a 14 kilometer new circuit for \$2.8 million. Clearly Hydro One's proposals in this matter cannot be justified.

The Combined Proceeding

Given the obligation on the Board to include in each distributor's license a description of their service territory, the Board recognized the inevitable situation of urban expansion and the need to expand an urban LDC's distribution system into the primarily rural system of Hydro One. It was recognized in 2004 that some rules would need to be established for the consideration of amendments to the licensed service areas of LDCs and that these rules would need to be guided by the principles enunciated in the OEB Act, namely, economic efficiency and the

protection of the interests of consumers, being the persons who are ultimately responsible to pay for the cost of any distribution plant expansion.

The Combined Proceeding involved numerous parties, many of whom are here again today in this proceeding. I can assure you that many others are watching this proceeding very closely to see whether the Board will continue to endorse the important rules it articulated in the Combined Proceeding - rules which have worked well when parties have acted rationally and played by the rules.

The Combined Proceeding first considered as an initial matter the question of the Board's jurisdiction under the OEB Act. Several parties, notably Hydro One, advocated positions which would have restricted the Board's ability to consider and approve service area amendments which might result in the loss of some of Hydro One's rural service areas.

In the Board's Decision in respect of the jurisdictional issue (issued on June 23, 2003), the Board found that of the aforesaid sections of the OEB Act that they "unequivocally established the Board's jurisdiction to specify and expand or reduce service areas by way of license amendment even where such amendments will result in overlapping service areas, provided that the Board finds that is in the public interest to do so" (paragraph 21).

As noted in paragraph 22 of the Decision, it was argued by some parties that the Board's jurisdiction to so amend service areas is limited by the application of subsection 70(13) of the OEB Act and a general presumed prohibition against the expropriation of assets without compensation. Subsection 70(13) provides that a license under this part shall not require a person to dispose of assets or to undertake a significant corporate reorganization. Not surprisingly, this is in part the position taken by Hydro One in the argument made in its prefiled evidence. During the Combined Proceeding, as is the case here, certain parties asserted that

assets that are used to provide service to existing customers become devalued or stranded when a competing distributor is granted rights to serve in the same area. Stranding or the devaluation of the incumbent LDC's assets is the equivalent, they argued, to the compelled disposition of the assets which they argued was contrary to the OEB Act (paragraph 25).

The Board found that this argument failed on a number of grounds. First, it found that not every order which may affect existing customers will involve a devaluation or stranding of assets. Each case will turn on its own facts. While the stranding or devaluation of an incumbent distributor's assets may be an important consideration for the Board in a service area amendment application, it is not a circumstance which operates to deny the Board jurisdiction (paragraph 30). Here in this proceeding, the worst case of stranded assets appears to be less than \$15,000 [Hydro One response to Board Staff IR 8].

It should come as no surprise that the value of stranded assets will be very small if Horizon Utilities' SAA Applications are granted. Hydro One's assets consist of a legacy 8.32 kV circuit that runs from Swayze Road in the east along Rymal Road East, dead ending at Trinity Church. The evidence is that its poles were, in many instances, more than 50 years old and hence fully depreciated. The fact is that even Hydro One admits this circuit should not be used to serve the new load, hence its proposal to build a 2.2 kilometer circuit to just past Fletcher Road. By doing this itself, it will necessarily strand the remaining small amount of undepreciated 8.32 kV circuit.

Quite appropriately, the Board concluded, at paragraph 32 of the Combined Proceeding Decision, that where necessary, the Board may require a successful service area amendment applicant to enter into agreements which can re-address any demonstrable inappropriate prejudice to an incumbent distributor and to ensure that compensation is provided. The Board specifically looked to subsection 70(2)(c) and what are now clauses (a), (b) and (c) of the OEB

Act. I can state, without question, that Horizon Utilities will, in good faith, meet with Hydro One to discuss appropriate financial compensation for the estimated \$15,000 in stranded assets.

The Board went on to state, in paragraph 36 of its Preliminary Decision, that it was clear to it that the legislature intended that the Board exercise a very broad jurisdiction with respect to licensing in general and service areas in particular, provided that the public interest is protected.

What can be taken from this Preliminary Decision in the Combined Proceeding is the Board's determination of the breadth of its jurisdiction and its obligation to protect the public interest. In short, the Board found many of the concerns raised by Hydro One here to be baseless. Despite this, Hydro One appears intent on relitigating many of these issues; however, it is doing so in the context of dressing up its obvious expansion work to serve the two new loads as "enhancement work". In doing so, it is suggesting that the costs and need for the work are beyond the consideration of the Board. It is submitted that no utility should have the ability to declare that the costs for a project of such a type, for the purposes of any service area amendment proceeding, are in effect sacrosanct, unassailable and beyond even the Board's consideration.

The Board's Decision of the Combined Proceeding was released on February 27, 2004. The Decision commenced with its review of the legislative objectives by which it must be guided. Again, it should be recognized that the proposed 2.2 kilometer new circuit Hydro One proposes to build from the connection with the M5 to Summit Park will serve no customers en route. Its purpose is to ultimately provide power via Hydro One's assets to the High School and Summit Park 7.

OEB Act Objective 2**Economic Efficiency and Cost-Effectiveness**

At the time of the Combined Proceeding, the OEB Act contained two objectives which were subsequently combined and enhanced. Whereas in 2004, the OEB Act provided that one of the objectives that shall guide the Board is the promotion of economic efficiency in the distribution of electricity, this objective has now been expanded to include not only the promotion of economic efficiency but also the objective of cost effectiveness and demand management of electricity. The Legislature has also added the former Objective 5: To facilitate the maintenance of a financially viable electricity industry into what is currently this Objective 2.

Accordingly, the Legislature has not only retained the all-important objective of promoting economic efficiency, it has enhanced the objective by also requiring the Board to be guided by cost-effectiveness principles.

Relative to the facts of this proceeding, the undisputed evidence is that Horizon Utilities has a fully developed urban dense distribution system on the doorstep of the High School and Summit Park Phase 7. Indeed, in Summit Park Phase 6, there are roads which will naturally be extended into subsequent phases of the development. Horizon Utilities has built its system in anticipation that the residential roads will be extended. It has gone and secured the necessary transformation capacity to serve south-eastern Hamilton (which makes up the majority of the growth need for the transformation capacity according to Ms. Lurette, the Vice-President, Utility Operations, Oral Evidence, Transcript Volume 1, page 161 and response to Undertaking 1.2). This includes the Summit Park lands. Horizon Utilities quite naturally built out its distribution system to provide service to these lands in response to the 8 earlier successful service area amendment applications. Horizon Utilities operated under the expected and natural belief and

understanding that it would continue to provide service to the balance of subsequent phases of the development.

Returning to the Decision of the Board in the Combined Proceeding, the position taken by Hydro One in respect of the guiding principles of economic efficiency, now enhanced by the guiding principle of cost-effectiveness, was, as here, the subject of prognostications of doom and gloom. Hydro One argues that changes to its boundaries would result in a deterioration of its earnings and financial profile and possibly lead to a downgrade in its credit rating.

Partly in response to Hydro One's position, the Board stated in its findings, at paragraph 84.

"The promotion of economic efficiency in the distribution sector is one of the Board's guiding objectives in the regulation of the electricity sector. The Board is persuaded that economic efficiency should be a primary principle in assessing the merits of a service area amendment application. Economic efficiency would (1) include ensuring the maintenance or enhancement of economies of contiguity, density and scale in the distribution network; (2) the development of smooth, contiguous, well-defined boundaries between distributors; (3) the lowest incremental cost connection of a specific customer or group of customers; (4) optimization of use of the existing system configuration; and (5) ensuring that the amendment does not result in any unnecessary duplication or investment in distribution lines and other distribution assets and facilities. The Board recognizes that there may be applications where all these components of economic efficiency do not apply." [emphasis added]

The Board then went on to state in paragraph 85:

“In addressing economic efficiency, applicants should demonstrate that the proposed amendment does not reduce economies of contiguity, density and scale, and preferably that the amendment enhances these economies. Generally, the applicant should be able to demonstrate that it can provide the lowest cost connection, and that the proposed connection is consistent with existing networks, avoiding duplication. An increase, or at least no decrease, in the smoothness of the boundaries between the utilities is also desirable.”

The Board then went on to state at paragraph 87:

“In its consideration of the economic efficiency of any given amendment proposal, an important factor will be the extent to which a proposal builds upon existing, well-developed electricity distribution assets from high or medium density systems. In many instances this will favour proposals that represent the extension of an existing local distribution system into a contiguous area. Proposals that are attempts to stretch distribution assets to create outposts of service will not be favoured.”

Then, at the first sentence of paragraph 89, the Board in its Decision states:

“A consistent application of the Board’s emphasis on economic efficiency should result in connection decisions which optimize the existing infrastructure.”

It is appropriate to consider the evidence in this application against the 5 relevant areas identified by the Board at paragraph 84 of its Decision. I will now briefly review the evidence in this proceeding against each of the 5 criteria.

(1) The maintenance or enhancement of economies of contiguity, density and scale.

The factually unassailable evidence is that Horizon Utilities has a densely urban distribution system which is immediately contiguous to the west, north and east sides of the service area amendment lands in question. Indeed, it completely surrounds the High School lands. In contrast, Hydro One has no distribution assets of any significance, and certainly none that can be described as densely urban which are available to serve the service area amendment lands in question. Hydro One's service area is primarily south of the high voltage transmission line corridor and it is predominantly rural. The scale of Horizon Utilities service offering is the same as the customers and subdivisions it serves in the surrounding lands.

(2) The development of smooth contiguous well-defined boundaries between distributors

If Horizon Utilities' service area amendment applications are granted, it will create a seamless boundary between the two utilities that runs along the high transmission voltage corridor up to Swayze Road. It will then turn north to Rymal Road East and continue eastward from that point forward. This is a clear, smooth, well-defined boundary.

By comparison, Hydro One is proposing to embed the 3 homes on Fletcher Road, the 4 homes on Rymal Road East, west of Fletcher Road, and the High School. It is also proposing to create a maze of a service area boundary for the Summit Park lands, east of Fletcher Road. The boundary would start at the southeast corner of Phase 6, run north and then west, north and then east to the two commercial developments. It would then turn south, then east again, north at Swayze Road, and then south on Hwy. 56.

(3) The lowest incremental cost connection of a specific customer or group of customers

The fact is that Horizon Utilities does not need to build 2.2 kilometers of new line to serve any of the new and existing customers. The evidence of Horizon Utilities' witnesses, and in particular,

of Mr. Daniel Roberge, at Transcript Volume 1, pages 67 to 84, and in particular at Table 3 (**Tab 1 of Exhibit K1.2**) is that Horizon Utilities can provide service to Summit Park 7 at a lower incremental cost than Hydro One. I will review this table in greater detail later in this argument.

This is also true of the High School - Part IV of the application - as evidenced by the letter from the School Board to Hydro One dated December 18, 2012 and the analysis undertaken by its energy consultants, NRG. In respect of the High School, not only has Hydro One deliberately not taken into account any of the costs to build the new line to Trinity Church Road, but it has also asked the Board to forget about the fact that the School Board will be required to purchase complex transformation and other equipment and to maintain this transformation equipment in future thereby incurring all of the risks attendant with being the owner and operator of the transformation equipment. Hydro One states that the School Board must be a subtransmission customer, against the School Board's wishes. By the evidence of the School Board, Hydro One does not provide the lowest incremental cost of connection. This is also the evidence of Horizon Utilities, as confirmed in its response to Board Staff IR 16 and the Table included at page 2.

(4) Optimization of use of the existing system configuration

There can be no question that connecting all of the current and future customers of the Summit Park lands to Horizon Utilities' service area optimizes the use of Horizon Utilities' existing system. By comparison, Hydro One does not have a system capable of serving Parts I, IV and V of the service area amendment application. Indeed, its legacy assets which currently serve the homes on Fletcher Road – Part II of the application – must be removed and placed underground. The most optimal use of the Hydro One's assets would be the removal of its legacy 8.32 circuit along Rymal Road East, dead ending the circuit at or near the corner of Swayze Road and Rymal Road East. This would then likely improve Hydro One's CAIDI and

would certainly reduce its future OM&A in respect of the 10 customers it serves along Rymal Road East.

Stated succinctly, Horizon Utilities' service area amendment applications, if approved, will result in the optimization of both its existing system and that of Hydro One.

(5) Ensuring that the amendment does not result in any unnecessary duplication or investment in distribution lines and other distribution assets and facilities

Horizon Utilities does not need to construct any specific upstream facilities to provide service to any of the 5 parts of its application. The need for and the commitment to upgrade the Nebo TS was made some time ago and, as stated by Ms. Lurette in Horizon Utilities' evidence, the majority of the load which the upgrades are intended to address relate to areas elsewhere in Horizon Utilities' service area. A fraction does relate to Summit Park and the Undertaking Response of Horizon Utilities at J1.2 confirms that only a fraction of the load growth contracted for in respect of the Nebo TS relates to Summit Park lands.

By contrast, Hydro One proposes to build either a 2.2 kilometer radial feed, or a 14 kilometer loop feed to provide either radial or loop feed service to the High School and Summit Park. The estimated cost in respect of the radial feed is somewhere in the range of \$440,000. According to Hydro One's planning evidence, at Appendix A, the cost of the 14 kilometer loop feed is estimated at \$2.8 million. There can be no question that by Hydro One proceeding to build a circuit along Rymal Road East, it will have constructed an unnecessary and duplicative circuit, essentially twinning the existing 27.6 kV circuit of Horizon Utilities which runs along the north side of Rymal Road East.

Accordingly, on the basis of the evidence, Horizon Utilities' applications fulfill all 5 of the criteria noted by the Board in the Combined Proceeding. By contrast, Hydro One's proposal offends

each and every one of the same criteria. It appears that Hydro One was aware of this fact, and it is for this reason, we submit, that Hydro One has not been forthcoming in its responses to interrogatories which relate to the timing of the planning of the new circuit, its fully loaded costs, and all of the questions which pertain to the credibility of Hydro One's assertion that this new circuit along Rymal Road East is an "enhancement" and therefore beyond the Board's consideration.

Returning to the Decision of the Board in the Combined Proceeding, following the earlier discussed service area amendment criteria, the Board turned to examine the three types of service area amendments that were under consideration at the time.

Overlapping Service Areas

The concept of overlapping service areas in its purest form relates to a situation where more than one distributor would compete within the same defined area for new and possibly existing customers (paragraph 98).

In effect, it would create competition between distributors to provide service in the area of overlap. According to the positions of the parties as stated by the Board at paragraph 106 of the Decision, Hydro One was opposed to the approval of overlapping service areas.

It is therefore surprising that in this proceeding, Hydro One is effectively asking for approval by the Board to do exactly that which it opposed during the Combined Proceeding. The fact is that by Hydro One's opposition to Horizon Utilities' applications, it is effectively asking the Board to approve a situation of overlapping in that Hydro One must necessarily build a new circuit more than 1 kilometer through Horizon Utilities' distribution service area to serve the first potential customer: the High School. It will necessarily also mean that different phases of the Summit Park development will be served by different utilities.

In the end, the Board found that there are few, if any, examples of successful overlapping service areas in the world (paragraph 124). The Board expressed its concern about how overlapping service areas would complicate some of the most basic service requirements for a distributor, such as operation, maintenance and storm recovery. Quite literally, what Hydro One is proposing is that the neighbours to the currently existing subdivisions be served by a different distributor with a service centre many kilometers further away than that of Horizon Utilities. At paragraph 125 of its Decision, the Board noted that overlap has implications for safety arising from the duplication of lines and other assets and from the increased technical complexity may result in confusion in emergency situations. These are indeed some of the concerns as expressed by Mr. Bart Burman in his expert report dated November 27, 2012.

So the impact of Hydro One's proposal is very similar to what the Board found to be unacceptable during the Combined Proceeding. The Board found that there are considerable risks that result from the creation of overlapping service areas, including a loss of customer density and the economies resulting from it, inefficient capital planning processes, costly redundancies, and competitive rushing to attractive areas or avoidance of unattractive areas. The Board found these risks to be real and that they would create economic inefficiencies and therefore additional costs to electricity ratepayers [Board Findings, paragraph 123].

Here, if Hydro One is successful in opposing Horizon Utilities' service area amendment applications, particularly in respect of Parts 1, 4 and 5, Hydro One will proceed to build its new line, which is a costly redundancy. It is clearly competitively rushing to serve Phase 7 – the "attractive area" – and its entire rushed process has and is continuing to involve inefficient capital planning processes. There is no question that there will be a loss of customer density compared to the service and density of Horizon Utilities since Hydro One's new 27.6 kV circuit will run for perhaps up to 2.2 kilometers without any customers whatsoever.

While the Board found against overlapping distribution areas, it did find, at paragraph 127, that:

“Overlap is not necessary to allow customers some choice of distributor. Given the non-exclusive nature of service areas, some customers have the ability to request connection to an alternate distributor. It is hoped that the regulatory process associated with service area amendment applications will be minimal, once distribution system operators appreciate that only optimizing proposals will succeed.”

Clearly and unequivocally, Hydro One’s proposals do not involve optimizing existing distribution assets.

Exclusivity: Board’s Power to Order

Of interest is the Board’s finding in respect of subsection 70(6). Again, this section reads as follows:

“70(6) Unless it provides otherwise, a license under this Part shall not hinder or restrict the grant of a license to another person within the same area, and the licensee shall not claim any right of exclusivity.”

The Board then went on to state in the immediately following paragraph (paragraph 130):

“This section gives the Board a range of options, from creating overlapping service areas to prohibiting any incursion into service areas by making the licence explicitly exclusive. The Board has chosen a middle course; to issue licences with non-overlapping service areas, but to receive and consider applications for service area amendments that promote optimal use of

distribution resources, and overall economic efficiency. Subject to the proposed connection being in the public interest, customers will be able to exercise a choice of distributor.”

One question that arises in this proceeding is that if Horizon Utilities is successful in its service area amendment applications, what can the Board do to discourage Hydro One from proceeding to build a redundant circuit along Rymal Road East through Horizon Utilities' service area. It is submitted that subsection 70(6) gives the Board the authority to include in the Horizon Utilities' licence a small geographic area of exclusivity, being the lands over which Hydro One wishes to follow for the purposes of its proposed 27.6 kV circuit. From the Hydro One transmission corridor north and along Rymal Road East to Swayze Road, it is open to the Board to include in Horizon Utilities' license exclusivity to serve and construct distribution lines. To be clear, this exclusivity would be limited solely to the route that Hydro One is proposing to take, but the jurisdiction exists consistent with the Board's own interpretation of its jurisdiction under subsection 70(6), at paragraph 130 of the Decision.

Subsection 74(1)(6) of the OEB Act states that the Board may, on the application of any person, amend a licence if it considers the amendment to be in the public interest having regard to the objectives of the OEB Act. Horizon Utilities submits that an amendment to its licence granting exclusivity along the route Hydro One proposes to follow is in the public interest as it would prevent Hydro One from spending ratepayers' monies on a new circuit that is not needed and not economically justified.

To be clear, Horizon Utilities hereby applies for such an amendment to its licence.

Embedded Service Areas

A great deal of time at the Combined Proceeding was spent dealing with the concept of embedded distributors operating within the geographic confines of another distributor. The Board ultimately determined that embedded distribution, for a number of reasons set out in the Decision, was generally not in the public interest. While Horizon Utilities is not seeking in this application for a service area amendment that would involve the creation of an embedded service area, either geographically or physically, it is important to understand that what Hydro One is proposing, particularly in respect of the High School, is precisely that. It is seeking to operate as a distributor while completely geographically embedded within the service territory of Horizon Utilities. Indeed, it is submitted that what Hydro One is proposing is one step worse – Hydro One is not only looking to operate as embedded distributor and rely upon a connection from the surrounding distributor which is Horizon Utilities, it is looking to construct an entirely new separate line more than 1 kilometer through Horizon Utilities' service territory so as to supply the embedded area; it proposes to do this notwithstanding the fact that Horizon Utilities has the capacity and the assets in the ground, ready to go, and to act in accordance with the customer's wishes, the School Board.

This embedding within Horizon Utilities service territory will result in the very concerns and disadvantages that the Board wishes to avoid. It will unnecessarily complicate the distribution plant future planning in that Horizon Utilities and Hydro One will have to notify each other and seek certain guarantees to suspend service while one utility works near the lines of the other. It makes operations more difficult. It will also complicate the response by the utilities in a situation of emergency: does one or both respond or, God forbid, neither because they thought the problem was with the other's assets? Both Horizon Utilities and Hydro One will necessarily have to track and recognize the existence of the isolated outposts Hydro One seeks to embed.

There are absolutely no public interest benefits which favour the entrenchment of embedded distribution in this proceeding.

From the perspective of what Hydro One proposes, paragraph 174 of the Decision is most relevant:

“With respect to the objective of promoting economic efficiency in the generation, transmission, and distribution of electricity, the Board finds persuasive the arguments that the establishment of new embedded distribution sites and points of supply would be economically inefficient for Ontario’s distribution system. The establishment of new embedded areas, particularly in urban and high customer density areas, would result in diseconomies of contiguity for Ontario’s electricity distribution system and loss of economies of scale and density for incumbent distributors. The proliferation of embedded areas would result in a more complex, and checkerboard spatial pattern for Ontario’s distribution system. It is not clear that new embedded distributors would be able to achieve minimum scale efficiencies, which is currently the case for most incumbent distributors, particularly those situated in high density urban areas. Additional embedded supply points would contribute to undue complexity in system planning and operations, leading to diminished service quality and lack of transparency with regard to accountability for system reliability.”

At paragraph 175, the Board went on to consider the historical reality in Ontario that with the amalgamation of municipalities, electric utility service boundaries no longer necessarily followed municipal boundaries. The Board noted that in some instances there would be discontinuous

areas and other situations where a system may or may not be embedded within another. The Board went on to respond to these anomalous situations by saying, at paragraph 176:

“However, the Board recognizes that these configurations can result in unnecessary duplication of distribution assets, such as substations. The Board encourages parties in these situations to consider a more optimal utilization of their assets through a pooling of interests, an asset sale from one party to the other, merger and acquisition, or some other form of business rationalization. The Board would give serious consideration to service area amendments resulting from this type of rationalization.”

It is submitted that the Board should be concerned by the impact of not granting Parts II, III and IV of Horizon Utilities’ service area amendment application as it will necessarily lead to the entrenchment of embedded distribution areas – isolated outposts - within Horizon Utilities’ service area which, in addition to all of the concerns expressed by the Board in the Combined Proceeding, would also be dependent upon a redundant circuit which Hydro One ratepayers will pay for over many decades into the future.

Contiguous Border Amendments

In the Combined Proceeding the Board then turned, at section 3.3, to those types of amendments which are the subject of Horizon Utilities’ current applications.

The Board’s findings commence at paragraph 196 where it found that service area amendments at the borders between contiguous distribution companies should be encouraged where a realignment of the boundary would be economically efficient, consistent with system planning needs, and in the public interest. Importantly, the Board went on, at paragraph 197, to state the following:

“The Board finds that amendments that involve contiguous distribution companies, but that are opposed by the incumbent distributor, [emphasis added] may be in the public interest where the amendment results in the most effective use of existing distribution infrastructure, and a lower incremental cost of connection for the customer or group of customers.”

This is precisely the case in this proceeding. Horizon Utilities is proposing a most effective use of existing distribution infrastructure at a lower incremental cost of connection for all customers, and yet, despite this, it is opposed by Hydro One, the incumbent distributor.

Horizon Utilities notes that in a contested application the onus is on it to demonstrate that the amendments are in the public interest. The Board specifically notes that amendments that are consistent with the principles articulated by the Board in the Combined Proceeding and supported by evidence that demonstrates their advantages, will have a greater chance of success (paragraph 199).

Importantly, the Board added, at paragraph 200, the following:

“At the same time, the Board expects incumbent distributors to give proper consideration to rational and efficient service area realignment, even where it results in the loss of some territory. Amendments should not be resisted where the proponent is clearly the most efficient service provider for the affected customer. The distributors affected by a proposed amendment should evaluate a proposal in light of the principles in this decision, and respond in a reasonable fashion. For example, the Board discourages the creation of new points of supply to facilitate the distribution of electricity to an existing or new customer by an incumbent distributor, when a bordering and contiguous distributor can provide

the same distribution service more efficiently. A service area amendment could facilitate the more efficient use of existing infrastructure, and avoid passing on to the customer the metering costs associated with the new retail point of supply.”

These words of the Board are highly perceptive and in fact almost predictive of what Hydro One is proposing here. The Board specifically discourages the creation of new points of supply to facilitate the distribution of electricity to a new customer by an incumbent distributor when a bordering distributor can provide the same distribution service more efficiently. This is exactly the situation in this proceeding. It is quite clear that the Board was concerned and mindful of such conduct and specifically expressed its discouragement to incumbent distributors that might be considering such tactics.

The Board then went on to summarize the principles that have already been discussed and to consider several additional considerations which might arise in respect of certain service area amendment applications. I now move to these specifically, but before I do, I note that the Board repeated, at paragraph 208 of its Decision, that:

“Economic efficiency is a primary consideration in assessing a service area amendment application.”

It is quite clear from the Combined Proceeding that this is the prime directive in such applications and this consideration is reinforced by the legislature also requiring the Board to be guided by principles of economic efficiency.

Customer Preference

The issue here is the weight that the preference of a particular customer, often a developer, should have in a service area amendment application. The Board noted at paragraph 213 of its Decision that those parties that generally opposed increased competition in distribution and

overlapping service areas, which included Hydro One: “supported the view that customer choice should not come at the expense of the interests of other customers or the broader public interest.”

It is interesting that in this proceeding, Hydro One has made much of its contract with Multi-Area and the importance of what may be a legally binding contract. It has, of course, played down the fact that the School Board has made it abundantly clear that it wants nothing to do with Hydro One in respect of the Bishop Ryan Catholic Secondary School. Hydro One therefore cannot state that customer preference is a priority in this proceeding because it would be contrary to what it stated at the time in the Combined Proceeding and would mean that it had essentially admitted that Horizon Utilities should serve the High School.

The Board stated in its findings in the Decision, at paragraph 224:

“The establishment of the appropriate weight to be afforded customer preference in the consideration of service area amendment applications is nothing short of establishing the appropriate balance between the requirements of the distribution system as a whole, including the interests of existing customers on the one hand, and the particular interests of a given customer, with a given connection proposal at a given point in time.”

As part of the balancing of appropriate interests, the Board recognized, at paragraph 227, the concern raised in respect of developers controlling the destiny of end-use homebuyers. By the developer’s choice, the end-use consumer would be stuck with a particular distributor. This, of course, leads to the question about the rates payable by the end-use consumer and a comparison between the rates of an applicant utility and the incumbent utility.

The Board stated at paragraph 229 that its duty to protect the interests of consumers as expressed in the OEB Act's objectives:

“means that the interest of any particular market participant must cede to the system’s requirements where these interests conflict. Insofar as the Board has indicated elsewhere in this decision that it does not generally support the fostering of competition in the distribution activity, in its consideration of service area amendments, it will favour those applications which show that a given connection proposal represents the most economically efficient use of existing resources within the distribution system.”

In the very next paragraph, the Board went on to state that the interests of the individual customer, in many instances, will align with the interests of other customers. Unfortunately, in respect of Multi-Area this is not the case in this proceeding, for two reasons. First, Multi-Area will not be paying Hydro One’s rates in future – the homebuyers of its subdivision will – so the interests of Multi-Area and the future homebuyers are not aligned. Secondly, it is an important consideration to recognize that Hydro One has not asked Multi-Area to contribute five cents to the new 27.6kV circuit that it proposes to build. It is, by this conduct, transferring onto the backs of all future Hydro One ratepayers the entirety of the costs of the circuit and loop feed, which will total in excess of \$2.8 million. Clearly, the interests of the future ratepayers and Multi-Area are not aligned. Multi-Area wants to contribute nothing to this expansion work, future ratepayers expect a fair contribution.

The Board was cognizant in 2004 of the difference between Hydro One’s rates and those of more well developed urban distribution systems. The Board addressed this issue in paragraphs 231 to 233 which read:

“231. The Board agrees that current distribution rates are not necessarily the best guide to service choices. The Board expects that over time the rate making methodologies will yield ever more accurate representations of cost. It should be noted however, that Hydro One’s concern in this area may not be completely addressed by this evolution. That is because its rates in areas contiguous to well-developed local distribution systems are often significantly higher than those offered by the local distribution system. This arises from the fact that Hydro One’s rates are based on the low density areas it serves which lie, by definition, between the service areas of urbanized systems. While the local distribution companies’ rates may rise through the application of better rate setting methodologies, the fact remains that Hydro One’s rates may suffer from fundamental differences in the cost and service structures as between Hydro One and the local distribution systems. The resulting rate differential may prevent Hydro One from being the distributor of choice for a new connecting customer. The extension of low density based service to areas contiguous to local distribution systems is often not an optimization of the system resources.

232. However, while recognizing certain disadvantages faced by Hydro One in its efforts to attract customers, these circumstances cannot be permitted to compromise the optimized growth of the system as a whole in the areas where most growth actually occurs - that is in the areas within and contiguous to existing urbanized zones currently served by well-developed electricity distribution systems. Support for the societal role played by Hydro One must be

funded otherwise than in protection of its geographic service area at the expense of orderly growth in the system.

233. *In summary, the Board finds that customer preference is an important, but not overriding consideration when assessing the merits of an application for a service area amendment. Customer choice may become a determining factor where competing offers to the customer(s) are comparable in terms of economic efficiency, system planning and safety and reliability, demonstrably neutral in terms of price impacts on customers of the incumbent and applicant distributor, and where stranding issues are addressed.”*

In summary, the Board did find that customer preference and customer impacts are relevant and need to be considered. In this proceeding, in respect of the High School, Part IV, it is clear that the School Board prefers Horizon Utilities. Horizon Utilities costs to connect are lower and its rates are virtually the same as Hydro One's subtransmission rates, but the latter do not include any of the capital and ongoing maintenance costs associated with the transformation equipment. It is therefore self-evident that the customer preference and customer impact issues in respect of the High School favour Horizon Utilities.

In respect of Summit Park 7, the developer has been provided by Hydro One with an Offer to Connect which is deliberately silent in respect of upstream expansion costs. Horizon Utilities submits that the Offer to Connect was not compliant with the *Distribution System Code*, and for one obvious reason: Hydro One wished to win over this customer.

The good news is that an Offer to Connect made contrary to the *Distribution System Code* would be contrary to a condition of Hydro One's license and therefore unlawful and unenforceable. Consistent with this, the Terms and Conditions attached to Hydro One's Offer to

Connect specifically provide, at Section 2.4 (produced in response to Horizon Utilities Interrogatory No. 37, at page 1) that in the event of a conflict between the DSC and the Offer to Connect, the DSC prevails.

So the Board need not be concerned that it is in any way bound or required to accept the self-serving Offer to Connect which Hydro One provided to Multi-Area. Under these circumstances, it is submitted that Multi-Area's preference, as the initial customer, should be given no weight whatsoever.

It is the evidence of Horizon Utilities' witnesses, as confirmed in writing by Multi-Area in its January 24, 2012 and July 24, 2012 letters (both adduced in pre-filed evidence, June 15, 2012 filing, page 21 and Attachment 7 to the August 16, 2012 filing) and the several emails adduced in evidence, that Multi-Area publicly requested that Horizon Utilities serve Summit Park 7 and file a service area amendment application. Indeed, Multi-Area specifically requested, indeed begged Hydro One for its consent to the Horizon Service area amendment application (February 24, 2012 email from Mr. Spicer of Multi-Area to Hydro One, Attachment 1 to Horizon Utilities Supplementary Interrogatory Response to Hydro One dated January 31, 2013). This is clearly not a situation where Multi-Area's preference should be given any weight. Indeed, if it is to be given any weight, it should be to the benefit of Horizon Utilities under the circumstances.

The Board, it is submitted, should place weight on the customer preference of the future homebuyers. They will be faced with paying not only for the costs of the new 27.6 kV circuit, but also Hydro One's higher rates. No matter what rate Hydro One is able to apply (urban or medium density), both of these rates are materially higher than Horizon Utilities' rates.

Rates

It should be noted that Hydro One's evidence is anything but certain about its belief in being able to apply its lower urban rate. Not only must there be 3,000 customers in a contiguous area - which there are not - there must also be a minimum of 60 customers per kilometer. Mr. Stevens at Tr. 2 p.41 in his evidence in chief confirmed that the requirement which is part of Hydro One's tariff conditions is 3,000 customers, "contiguous". Looking at the Hydro One and Horizon Utilities Google maps filed in evidence, there is no evidence of any Hydro One urban areas contiguous with the SAA lands. It should therefore not be surprising that when asked what rate Hydro One proposes to apply to the new customers in Summit Park 7, Hydro One's response is that it "generally expects" these customers to be billed using the urban density zone rate (Hydro One response to Horizon Utilities IR 3 and 48); yet Hydro One refused to respond to Board Staff's question about the density around the service area amendment lands (Hydro One response to Board Staff IR 6 (c)).

The response filed by Hydro One to Undertaking J2.1 confirms that Hydro One may not as of today's date apply the UR (Urban Rate) which in any event is higher than Horizon Utilities residential rate. As well, the undertaking response determined that there are only 21 customers per kilometer along Rymal Road and that for the UR (Urban) rate to apply, it will be necessary for the Phase 7 lands to be treated as contiguous with the customers in Binbrook which clearly they are not being more than 5.4 kilometers south from the Phase 7 lands.

In respect of the existing customers which reside on the west side of Fletcher Road and the south side of Rymal Road East, which are the subject of Parts II and III of Horizon Utilities' application, each has been put on notice twice and advised in that notice that their view would be considered relevant by the Board. Two of the homeowners on Fletcher Road have indicated a desire to move to Horizon Utilities. Importantly, none of the homeowners on Rymal Road

have expressed any concern about the transfer. The fact is that Hydro One will have to move these customers over to its new 27.6 circuit. This work is virtually identical to the work which Horizon Utilities will undertake to connect the same customers to its system.

Does it make sense to build a new 27.6 kV circuit to connect these legacy customers? Obviously not.

Does Horizon Utilities have the ability to immediately connect these customers to its existing 27.6 kV circuit? Yes it does.

Will this allow Hydro One to then retire its 8.32 kV circuit along Rymal Road from Swayze Road? Yes it will, thereby resulting in OM&A savings and likely improvements in reliability downstream of the retired section of the circuit.

In respect of Part V, the developer has been noticeably silent in this regard, undoubtedly awaiting the outcome in this proceeding. It should be recognized that the developer did request initially that the entirety of the Summit Park lands be the subject of a service area amendment application in EB-2004-0536. The application was denied by Mr. Garner in February 2005, because it was seen as premature and lacking sufficient documentation. But Multi-Area requested that Horizon Utilities (through its predecessor company, Hamilton Hydro Inc.) file that application. Subsequent to this, Horizon Utilities has brought 8 further applications at the request of the developer, the majority of which have been on consent of Hydro One because it did not have assets in place and because Horizon Utilities was in a better position to serve each of the different phases of Summit Park, at both the east and west ends. Certainly Hydro One could have proposed a new circuit in 2003, but it did not. It recognized that it was not in the best position to serve Summit Park, and for the last 8 years, it has supported Horizon Utilities' applications.

The Board then went on in its Decision, beginning at paragraph 234, to look at the criteria of economic efficiency once again. It starts its discussion by making the following important statement:

“235. The Board considers that economic efficiency comprises the concept of the most effective use of existing distribution resources. It is a concept that involves an objective assessment of the efficiencies attendant upon the connection of a customer by a distribution utility. The assessment involves a consideration of the distribution assets available for the connection, their proximity to the proposed point of connection, and the other costs necessary to effect the connection. Where new assets must be developed to effect the connection, a comparison of the costs associated with such development will inform the assessment of economic efficiency.”

The Board then went on and stated, and I quote: “In all instances the costs associated with the connection should be the fully loaded costs, which capture all of the relevant indirect and direct costs reasonably associated with the project at issue, not merely the price of connection quoted to the prospective connection customer.” [emphasis added]

Hydro One has not only played down the fully loaded costs to connect the High School and Part 7, it has deliberately refused to produce information about these costs. It has also refused to respond to questions from Horizon Utilities about the costs for upgrades at the Nebo TS (Horizon Utilities’ IR to Hydro One 5(h) and 8(c)).

Moving east, Hydro One was asked by Horizon Utilities at IR 62 to advise as to what costs in relation to the upstream expansion it would include in its Offer to Connect to the High School. The question asked specifically stated that Horizon Utilities takes the position that the new

circuit constitutes an upstream expansion and asked for Hydro One to respond to the question in the event that the Board agreed. It refused to answer the question.

Hydro One was asked the very same question in respect of Part 1 (Phase 7); namely, what are the costs that Hydro One would have included in its Offer to Connect if the Board concludes that the new circuit along Rymal Road East constitutes expansion costs. Again, Hydro One refused to answer the question (Hydro One response to Horizon Utilities' IR 49).

Consistent with all of the above, Hydro One refused to answer questions by Board Staff, at IR 3(d) and 5, and Horizon Utilities' IRs 5 and 12 and other interrogatories where Horizon Utilities asked for the costs, supporting documentation and earlier documents evidencing some consideration of the proposed 27.6 circuit before Multi-Area requested service from Horizon Utilities.

In the recent Decision of the Board in the Orangeville Hydro application for a service area amendment (EB-2012-0181), Hydro One, which opposed the application, similarly refused to provide the details of certain costs. In its Decision, the Board stated, at page 5:

...the incumbent distributor, if it opposes the application, must provide a reasonable amount of persuasive evidence of its own plans and costs, at a level of detail to enable a comparison between the two service proposals.

It is fair to say that Hydro One's conduct is similar here with its refusal to provide the details of costs and copies of relevant amounts in response to relevant and appropriate interrogatories. Hydro One was aware of the above-stated view of the Board and it has ignored it. Horizon Utilities submits that the Board should draw an adverse inference from this conduct.

The Board in its continued discussion of economic efficiency (in its Decision in the Combined Proceeding) went on to state, beginning at paragraph 237:

“237. In determining the efficiency of a given connection proposal, the Board will be strongly influenced by the extent to which a proponent can demonstrate that the proposed connection is reasonably contiguous to an existing, well-developed electricity distribution system. In such cases, it is very likely that economic efficiency will be served in approving that connection.

238 Where the proposed connection is not contiguous to a well-developed distribution system, contesting proponents will have to demonstrate that their respective proposals optimize the existing infrastructure to the extent possible.

239 In circumstances where a proposed connection lies adjacent to an isolated pocket of distribution customers served by one distributor, and contiguous to a dense, highly developed electricity distribution system operated by another distributor, the Board will have regard to the efficiency of the connection of the pocket, as well as the new connection, in considering competing connection proposals. In this way it is hoped that inefficient historic connections will not serve as support for new proposals which would fail but for their proximity to the old, inefficient connections.

240. The Board regards service areas to be rooted in the ability of distribution system operators to connect and serve customers efficiently. The service area defines the area in which a distributor is obliged to make an offer to serve if requested to do so. Existing service areas have developed over time and do not necessarily represent the most efficient way of serving any particular customer. It is not geography that ought to form the basis for service areas, but rather the

definition of an area which can be efficiently serviced by a given distribution operator. Applications for amendment which involve broad swathes of geography, without detailed proposals respecting specific customers, should be avoided. The issue is always rooted in the economics associated with connections.

241. 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 using assets and capacity in a manner that optimizes existing distribution assets, 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. Some parties argued that aligning the service areas with municipal boundaries advances distribution system planning. The Board does not regard such alignment to be inherently beneficial. It is apparent that the decoupling of the electrical utilities from municipal government, which is one of the signal reforms in the recent development of the electricity market, will continue to evolve. It is not unlikely that the pursuit of efficiencies will lead to the continuing consolidation of the distribution industry in Ontario, and any alignment of service areas to specific municipalities will be increasingly irrelevant. In the interim, local distribution companies will profit from early knowledge respecting development in areas contiguous to their highly developed distribution systems. In such cases, applications for amendment to service areas, provided they are supported with convincing evidence respecting the fundamental economic efficiency of the proposal, will have good prospects for success.

242. *The emphasis the Board places on economic efficiency may have important implications for Hydro One. It is very likely that in many instances new connections will arise in areas that are contiguous or reasonably contiguous to local distribution systems. The fact that the local utility has well developed distribution assets close to the new connection may make it difficult in many cases for Hydro One to provide the most efficient service.*

243. *In addition to its submissions on the effects on credit ratings referenced above, Hydro One has presented argument indicating that the distribution system it operates is dependent, in some measure, on its success in procuring distribution loads in its service area. The Hydro One service area consists of every part of the province where there is no other defined service area, and where it has installed a distribution line. This is not a proceeding in which the scope of the Hydro One licence was at issue, and the Board will not address it.*

244. *It is important, however, to address Hydro One's submissions respecting the impact of the loss of distribution opportunities within its service area. Simply put, Hydro One suggests that all of its distribution customers look to the exploitation of the service area for the maintenance of the lowest achievable distribution rates over the Hydro One distribution service area. Clearly, if Hydro One can procure load in relatively high density areas adjacent to urban areas, the fixed costs of its system can be disbursed over a larger rate base, creating downward pressure on rates.*

245. Where Hydro One can demonstrate that its connection proposal is superior to other alternatives as evaluated in light of the principles established in this proceeding, Hydro One should provide the service. The question facing the Board is whether the interests of Hydro One and its customers ought to prevail when its connection proposals are not superior.

246. What is true for Hydro One is also true for every other distribution system operator. All seek to access connection opportunities which will improve the overall ratio of revenue to fixed cost. In every connection proposal the prime consideration must be whether the connection is being effected in a manner that optimizes the resources reasonably brought to bear on the location. The simple fact that a distribution system operator has a defined service area does not guarantee that it will be insulated from competing systems, who can demonstrate that their proposal is more economically efficient. The efficient and optimized development of the distribution system is a higher value than the interests of any single operator within the system.”

It is abundantly clear that much of what Hydro One is advocating in this proceeding is consistent with its views and concerns as expressed to the Board during the Combined Proceeding. It is prepared to throw economic efficiency out the window and disregard the principles associated with cost-effective distribution planning.

Impact on Customers in the Amendment Area

In the next section of the Decision, the Board addressed impacts on customers in the amendment area. It is clear from paragraphs 252 and 253 that Hydro One strenuously argued

against existing customers being transferred except where there was agreement or consent amongst both distributors and the customer.

The Board, in its findings at paragraph 267, confirmed that its decision would be prospective in effect only. Horizon Utilities acknowledges that the Board's Decision states that service area amendments should not result in the Board-mandated transfer of customers from one distributor to another. This being said, the Decision goes on to state that such transfer should be the subject of bilateral arrangements between distributors wherein all of the issues engaged by such transfers can be addressed, such as stranded assets.

While the Board's Decision is generally understood to mean that it does not favour the Board-mandated transfer of customers, this view is undoubtedly based upon the assumption that the incumbent distributor will act rationally and in accordance with the rules. The Board's Decision does not state that under no circumstances will the Board consider in an application the transfer of customers. It certainly retains the authority to do so where it is in the public interest. Horizon Utilities submits that in respect of the 13 legacy customers which exist, the circumstances in this proceeding support such an order for the following reasons.

First, Hydro One did initially request the transfer of 3 customers on Fletcher Road. It did so in writing, and its email dated September 26, 2012, which is found a Part II, Attachment 2, page 26 of Horizon Utilities' pre-filed evidence.

Hydro One orally rescinded its request for the transfer of these customers and did not respond with an explanation when asked for the reason for its rescission in an interrogatory by Horizon Utilities (Horizon IR 50).

The fact is that Horizon Utilities has not only put all of the potential customers affected on notice, it has also included evidence in this proceeding about the complete extent to which each customer would be impacted. It has confirmed that the transfer of service to Horizon Utilities will come at no cost to each of the customers. Horizon Utilities has included a summary of its costs to provide service to these customers and it has requested from Hydro One a complete list of all stranded assets which would be the subject of bilateral negotiations in the event the Board approves Parts II and II of this proceeding.

Quantitative evidence about Horizon Utilities' service quality and reliability and that of Hydro One's from the provincial statistics have also been filed in evidence in the Burman Report.

Accordingly, Horizon Utilities has complied with the second last sentence of paragraph 26 which provides that an applicant should file evidence to demonstrate all the effects on customers in the amendment area.

Impacts on Applicant and Incumbent Distributors and their Customers.

The first area considered by the Board under this heading related to system average costs. At paragraph 277, the Board notes that Hydro One argued that the loss of existing customers increases an incumbent distributor's system average costs. It has essentially expressed the same concern about the loss of distribution revenues in this proceeding.

In response, the Board found, at paragraph 280, that impacts on system average costs can be largely mitigated through the application of the principles already articulated in the Decision. The Board found that when considering contiguous service area amendments: "Sufficient attention to the principles of economic efficiency should reduce or eliminate the potential for an adverse effect on system average costs."

Of importance in this proceeding, Hydro One has not filed any evidence which would support the conclusion that its expenditure of \$2.8 million, or more, on the 14 kilometer Binbrook loop is economically justifiable based upon the 268 houses it will serve at Summit Park 7 and the High School. While Hydro One states in its evidence, at Appendix B, and I quote:

“There are signs that the growth is going to occur at a steady pace within the Binbrook urban boundary”.

There is no substantive evidence of requests for connections or development underway. Indeed, Hydro One’s Distribution Area Study (Appendix A of pre-filed evidence, at page 3) states that “the load growth within the Study Area is assumed to be 1.8% annually from 2014-2022”. This is hardly a significant level of growth – 14% over 8 years – and the evidence again lacks any substantive evidence (like real historic figures for growth) which would support even this level of growth. There is certainly no substantive evidence in support of growth which merits the expenditure of almost \$3 million for a new line to Binbrook.

The point which should be made here is that the Board should be concerned about the impact on Hydro One’s costs by the construction of a 14 kilometer circuit that has never been referenced or alluded to in any prior application to the OEB. It has, therefore, never been considered by the Board nor any stakeholder. Its first reference is in this proceeding, and there is certainly no evidentiary support for its need or usefulness, and certainly no economic evaluation has been undertaken which would confirm that its costs will be recovered from future load growth.

Stranding of Assets and Costs

The Board next moved to the stranding of assets and costs. As discussed earlier, Horizon Utilities accepts that in the event that its service area amendments are approved, it will be

necessary to discuss with Hydro One compensation for those undepreciated assets that might be stranded. Currently, it appears that they total about \$15,000 in value. Horizon Utilities' position is that all of the work undertaken by Hydro One in respect of the 27.6 kV circuit and any potential connection of this new circuit to the existing customers has all been done in the face of a live application. Horizon Utilities' ratepayers should not be required to reimburse Hydro One where it has willingly assumed the risk that the work it is undertaking might be considered redundant and stranded.

It is significant that the Board reiterated the importance of its earlier requirement that the fully loaded costs, both indirect and direct, need to be considered for the purposes of comparing the offerings of two utilities. At the second half of paragraph 291, the Board states the following:

"In addition (i.e. to issues relating to stranded costs) the Board expects that the offer made to a potential connection customer will recognize the actual costs involved in completing the project, both the contribution in aid of construction, and any rate offering made. Both aspects of the connection transaction must reflect the true costs of connection and the provision of ongoing service to the connecting customer. Existing customers of the connecting utility ought not to be subsidizing any connection, nor should their interests be prejudiced in any other manner."

In other words, if there are stranded assets, which will necessarily occur as a result of Hydro One building its new 27.6 kV circuit, it should be looking to Multi-Area to pay for the costs of the stranded assets as well as making a contribution to the fully loaded costs of connection and the maintenance of the new 27.6kV line that Hydro One must build to provide service.

Interestingly, the Board states at paragraph 292 of its Decision that where stranding issues do arise but parties are unable to resolve issues in respect of stranding, the Board will do so.

Accordingly, it is clear from the Combined Proceeding decision that the Board understood that there may be occasions where issues such as stranding could not be resolved in advance of an application, and certainly there would be situations where an application would not be proceeding on consent.

In this case, it is clear that no meeting of the minds would have occurred had Hydro One and Horizon Utilities met in advance of the application filings in October. Indeed, every effort that was made to determine Hydro One's position in respect of the matter (both by emails from Mr. Roberge and Multi-Area requesting Hydro One's consent to the Part 1, Phase 7 application), were not responded to. There is, therefore, no reasonable basis to conclude that any bilateral negotiations would have achieved any consensual result.

The question of the stranding of assets is accepted as a relevant issue in SAA applications. In this proceeding, excluding the work Hydro One has done in the late summer and fall of 2012 in the face of Horizon Utilities' live SAA application, the total of stranded assets according to Hydro One's own evidence at Interrogatory Response to Board Staff 8 is \$15,000. Here is how Horizon Utilities arrives at that figure.

- Part I No customers exist. Therefore no assets to strand
- Part II Hydro One IR Response to Board Staff 8(b) confirms that given the age of the assets, no stranded costs.
- Part III While some questions remain about whether all of the assets listed in Hydro One's IR Response to Board Staff 3 are already fully depreciated (or brand new and therefore subject to a dispute given the timing of the installation of new equipment) Hydro One admits the stranded costs are only \$15,000.
- Part IV This is a brand new customer, and the construction power connection was supplied by Horizon Utilities. There are no stranded costs.
- Part V Again, no existing customers. Therefore there are no assets to strand.

Indeed, Horizon Utilities submits that Hydro One will enjoy a cost savings in terms of the upkeep and replacement of its legacy 8.32 kV line along Rymal Road East. Retiring several kilometers of the line will reduce further OM&A, will make more capacity available to customers upstream and improve reliability standards.

Finally, Hydro One appears to have stated in its pre-filed argument that the loss of customers at Summit Park will result in a loss of revenues for which it ought to be compensated. The Board responded to this specifically at paragraph 294, where it stated:

“Similarly, the Board heard argument to the effect that utilities ought to be compensated for lost opportunities for revenue where a service area amendment results in a connection within their former service area being made by another utility. The Board does not adopt this point of view. Apart from the stranding of assets demonstrated as outlined in this section, the Board will generally not recognize any other type of compensation.”

Turning to the Parts of the Application specifically:

Bishop Ryan – Part IV

The criteria enunciated by the Board in the Combined Proceeding all favour Horizon Utilities in respect of its service of the new Bishop Ryan Catholic Secondary School at the corner of Trinity Church Road and Rymal Road East.

Contiguity, density and scale in the distribution network

Horizon Utilities completely surrounds the High School property. It serves customers to the north, south, east and west as part of its urban dense distribution system. Its 27.6 kV feeder exists along the north side of Rymal Road East immediately across from the High School. It is providing construction power to the High School presently, albeit admittedly this was done in error in the honest belief that the lands actually were within Horizon Utilities' service territory following a request from the School Board for construction power.

By contrast, Hydro One has no neighbouring customers or assets that are capable of serving the High School. It must build a new radial line from the Nebo transformer station at a cost that it has refused to disclose. Alternatively, it will build a new radial loop at a cost of just under \$3 million. Those Hydro One customers that are in the vicinity (i.e., beyond Horizon Utilities' service territory) are all rural.

The lowest incremental cost of connection

It should be a straight forward exercise to compare the costs in the offers to connect of the two utilities. Horizon Utilities prepared an Offer to Connect consistent with the *Distribution System Code*. Hydro One did not. Horizon Utilities included an amount for upstream expansion based upon its pooled approach, despite the fact that it does not need to undertake any actual upstream expansion specifically for the High School. The upgrades to the Nebo TS are required for load growth throughout southeast Hamilton.

In contrast, Hydro One must not only upgrade Nebo TS, it must build a new circuit; yet it has not provided an Offer to Connect consistent with the *Distribution System Code* and has given an unacceptable explanation for this.

Hydro One, in its response to Board Staff IR 5(e) claims that because the High School is a building which “lies along”, it need not undertake an economic evaluation as required under the *Distribution System Code*. This is simply wrong. First, the section which Hydro One relies upon which uses the words “lies along” is Sections 28 of the *Electricity Act*. This obligates a distributor to provide service to buildings which lie along its service lines. In this instance, the High School, even though it is not a building at this point because it is not habitable, lies along the existing assets of Horizon Utilities. At all material times, Hydro One did not have a line capable of serving the school to which it could be said that a building lies along.

Secondly, the section only obligates a distributor to provide a connection where there has been a request for a connection from the owner of the building. In this case, it is abundantly clear that the School Board has not requested that Hydro One connect its system to the building. Indeed, it has, with no uncertainty, stated that it does not want Hydro One to serve the building. By its December 18, 2012 letter to Hydro One, the School Board specifically declined the Hydro One

connection proposal. After some initial hesitation, Hydro One witnesses accepted this (Transcript Volume 2, pages 211/212). So under the very wording of Section 28 of the *Electricity Act*, the High School is not a building which “lies along” *vis-à-vis* Hydro One.

More importantly, there is absolutely nothing in the *Electricity Act*, *OEB Act*, or the *Distribution System Code* that states because a building lies along, a distributor is not obligated to undertake an economic evaluation in appropriate circumstances. Specifically, the *Distribution System Code* states at Subsection 3.2.1 that:

“3.2.1 If a distributor must construct new facilities to its main distribution system or increase the capacity of existing distribution system facilities in order to be able to connect a specific customer or group of customers, the distributor shall perform an initial economic evaluation based on estimated costs and forecasted revenues, as described in Appendix B, of the expansion project to determine if the future revenue from the customer(s) will pay for the capital cost and ongoing maintenance costs of the expansion project.”

Accordingly, it is not a question of whether a building lies along that determines whether an economic evaluation is required, it is a question of whether or not the distributor is undertaking an expansion, which Hydro One most clearly and certainly is in this proceeding.

If Hydro One’s logic applies to the School, it would equally apply to a new 50-storey condominium with a forecast load of 3,500 kW or a new manufacturing facility of a similar load. According to Hydro One, it would not have to undertake an economic evaluation – ever – so long as a building “lies along”. Obviously this cannot be correct.

Horizon Utilities provided a comparison table of the costs to serve in response to Board Staff 16, at page 2. This Table includes all of the costs from the Horizon Utilities' Offer to Connect with the sole exception of the pooled upstream costs that it includes in all offers to connect. These costs have been removed to make an "apples to apples" comparison between the Horizon Utilities' Offer to Connect and the Hydro One connection proposal. The reason is simple – if Hydro One can fictitiously exclude its expansion costs, but Horizon Utilities must include its pooled figure, there can never be a fair comparison.

Again, it is submitted that if the Board allows Hydro One to cloak its expansion work in terms of "enhancement" and as a result not include such fully loaded costs in its comparison of the two Offers, then this will incent Hydro One to do this throughout the province. All other LDCs should have great concern about the precedent that this will set.

Table from Horizon Utilities Interrogatory Response to Board Staff 16(b)

Bishop Ryan Secondary - Connection Cost Comparison Option 1 (Includes Contestable and Uncontestable work)			
	Horizon Utilities	Hydro One	Comments
1. Material	\$41,189	\$4,620	HONI amount Includes Material, Labour and equipment
2. Labour	\$13,917	Detail not provided	
3. Equipment	\$932	Detail not provided	
4. Permits	\$7,700	Detail not provided	
5. Upstream	Excluded for Comparison	Excluded for Comparison	No upstream cost provided by Hydro One despite extensive upstream expansion work
6. Transformer and HV cables	Costs included above in Lines 1, 2 and 3	\$129,821	Cost based on letter from Hamilton-Wentworth Catholic District School Board to Hydro One dated Dec 18, 2012. Customer would be required to own under Hydro One's OTC.
7. Capital contribution required	\$0	\$ 4,620	
Total (Addition of Lines 1 to 6)	\$63,738	\$134,441	
Less Net Present Value of Revenues	-\$71,243	\$0	
Total Cost to Customer	\$0	\$134,441	

Looking at the Table specifically, there is an important distinction between the two service offerings of the utilities. Hydro One, in an effort to make its rates competitive with Horizon Utilities, has stated that the School Board must be a subtransmission customer against its will. By being an ST customer, Hydro One is able to offer a rate which excludes costs associated with the acquisition of a transformer and its maintenance over many years. Hydro One then takes the surprising position that the Board should then exclude from the comparison the costs of acquiring and installing the transformer and related equipment (which requires more than would be the case of Horizon Utilities) future OM&A costs. To be clear, Hydro One is saying that you should look at its lower subtransmission rates but forget about the fact that if you utilize those rates, Hydro One provides a significantly lesser service which will directly result in the customer incurring significant additional costs. Obviously this makes no sense. It is for this reason that the School Board has no interest in being served by Hydro One.

Customer Preference

This leads me to the next criteria, which is customer preference, which clearly favours Horizon Utilities, as discussed earlier.

Customer Impact

In this regard, there is the issue of the transformation equipment and maintenance that the School Board does not wish to undertake, and rates. I have already discussed the transformer acquisition and maintenance issue.

Not discussed is another customer impact, being the School Board's concern about CDM. The subtransmission rate is only available if the average load exceeds 500 kilowatts. The School Board is desirous of implementing conservation initiatives and reducing its load. Having such a

threshold would impose a disincentive, as if the average load did fall below that level, the School Board's rates will increase significantly.

Optimization/Redundancy of Assets

Again, if Hydro One is successful, it will construct a second redundant 27.6 kV circuit down Rymal Road East, solely so that it can serve the School Board and about 1 kilometer to the east, Summit Park 7, despite Horizon Utilities having a fully developed system immediately contiguous to the High School. This is contrary to the principles enunciated by the Board in the Combined Proceeding, as Horizon Utilities' assets are in place and capable of serving both.

In conclusion it is submitted that there is not one criteria that favours Hydro One in respect of the High School. It is, frankly, a clear situation where Hydro One should have observed comments of the Board from the Combined Proceeding about the appropriateness of the rational and economically efficient expansion of service areas, and consented to the Horizon Utilities' application. Instead, we are here in a lengthy and expensive proceeding which, it is submitted, it should have been avoided.

Costs of Connection to Summit Park 7

Horizon Utilities was requested by Multi-Area to provide service and to seek a service area amendment. Multi-Area and Horizon Utilities tried for a number of months to determine the position that Hydro One would be taking in response to the SAA Application, and it did not receive a response. Ultimately, Horizon Utilities filed its service area amendment application, and this included an Offer to Connect dated early June 2012. This Offer to Connect was then updated as a result of Multi-Area amending its plans for the subdivision. The further Offer to Connect is dated July 27, 2012 and was included in a Horizon Utilities' August 10, 2012 filing, together with Hydro One's Offer to Connect of the same date.

Consistent with the *Distribution System Code*, both Offers to Connect provided two options: Option A where the utility would build everything, including the civil work at the subdivision, and Option B where all of the work which was contestable could be undertaken by the developer's electrical consultant.

In this proceeding, we know that Multi-Area has decided to undertake the actual development work on the subdivision itself, which is consistent with what most developers do. In almost every case, a developer can retain an independent electrical contractor which would then undertake the subdivision work (trenching and placing wires and ducts underground and all necessary connections) in a less expensive fashion than the utility. For this reason, electrical utilities rarely do the actual subdivision work.

Multi-Area selected Option B according to the Offer to Connect, at Appendix D, of Hydro One's evidence. Multi-Area retained an independent contractor – Conelco – which, according to the pre-filed evidence of Hydro One, at page 4, has incurred costs of \$538,900 to undertake the installation of underground wires on the Part 1 (Phase 7) lands.

In the comparison of the costs in the Offers to Connect, these are the costs which should be used – not the earlier estimates of Hydro One or Horizon Utilities if they performed the work. It would be unfair and factually incorrect to take an estimate which Horizon Utilities prepared for it to undertake all of the civil work on the project and compare it to the costs that the third party contractor, Conelco, actually charged to Multi-Area. Hydro One, in its pre-filed evidence, attempts to make a distorted comparison and created a table which includes the actual costs of Conelco to complete the civil work portion of the subdivision and compared this to Horizon Utilities' estimate of what it would cost Horizon Utilities to do the work (which of course was only

an estimate, whereas Conelco undoubtedly bid on the project). This was done in an obvious attempt to confuse and to distort the actual costs which should be compared.

The actual costs which should be compared are found in the Table prepared by Horizon Utilities and referred to in its evidence in chief and found at Exhibit K1.2, at Tab 1. This Table is an “apples to “apples” comparison. You will recall that Mr. Roberge went through this Table on a line by line basis and confirmed that each of the costs in it was taken out of Hydro One’s evidence. He also confirmed that but for two appropriate revisions, the costs included in the Horizon Utilities column were also taken out of Horizon Utilities’ Offer to Connect.

SUMMIT PARK 7 COMPARISON OF COSTS TO SERVE (UPDATED)

Development Constructed by Developer: Option B Using HONI's					
Table 3: Revised		Estimates			
-		Horizon Utilities		Hydro One	
1	Cost to Prepare Offer to Connect	\$0		\$12,878	From table 3.3 Part 1 for Option B. Developer originally paid \$14,800.
2	Engineering and Inspection	\$31,945	Based on reduced Contestable Costs	\$38,254	From table 3.3 Part 4 for Option B
3	Upstream Electrical Distribution Expansion Costs	\$127,953	From schedule B, Alternative Bid Subdivision	\$440,000	Estimated, based on HONI evidence and IR's: 14km feeder costs \$2.8MM, or \$440K for 2.2km. Supported by G. Messervey's estimate
4	Uncontestable Costs	\$132,020	Cost for Service & Metering, 287 lots	\$520,719	From table 3.3 for Option B. section 2.1 & 2.2. Includes Service & Metering, transformers, switches, elbows, and labour to install.
5	Contestable Costs	\$258,828	Adjustment: cost for transformers, switches, elbows & labour to install. These costs are considered Uncontestable for HONI, but Contestable for Horizon utilities.		
6	Contestable Costs	\$538,900	Cost for civil construction as set in Schedule "B" by developer. Estimated value using Hydro One Intervenor Evidence page 4 of 15 dated January 14, 2013.	\$538,900	Cost for civil construction as set in Schedule "B" by developer. Estimated value using Hydro One Intervenor Evidence page 4 of 15 dated January 14, 2013.
7	Sub-Total	\$1,089,646		\$1,550,750	
8					
9	Incremental Operating, maintenance and administrative costs (OM&A)	\$506,043	From schedule B, Horizon Constructed Subdivision	\$886,980	From Schedule "F": Economic Evaluation Results
10	Total	\$1,595,689		\$2,437,730	

The first revision is that Horizon Utilities' July 27, 2012 included a \$50,000 connection charge. Subsequent to that date, Multi-Area requested that Horizon Utilities undertake work along the west side of Fletcher Road so as to provide connections to 7 or so new houses. Some of this work would have been necessary to provide a connection to Summit Park, Phase 7, and accordingly, now that the work has been completed and paid for by Multi-Area, the \$50,000 connection charge should be removed.

The Table at Exhibit K1.2 has removed this \$50,000 charge.

Horizon Utilities acknowledges that the work that is contemplated under Hydro One's uncontestable costs includes work which Horizon Utilities permits a developer to complete itself, usually at a lower cost. Accordingly, the uncontestable costs includes at Line 4 for Horizon Utilities does not include all of the same work that is included in Hydro One's uncontestable costs. As a result, Horizon Utilities has added a Line 5, being those contestable costs which make up for this difference. To be clear, Horizon Utilities is adding \$258,828 to its cost of connection to make the comparison fair. By combining these costs to Horizon Utilities' uncontestable costs of \$132,020, the aggregate, being \$391,848, is comparable to Hydro One's uncontestable costs total of \$520,719.

A key obvious difference between the two Offers to Connect filed in evidence is the fact that unlike Horizon Utilities, which pursuant to its pooled method of valuing expansion costs included a figure for upstream expansion costs, Hydro One has included nothing, despite the fact that it is building a 14 kilometer loop feed to provide service to Summit Park. The amount included in the Comparison Table generated by Horizon Utilities is only \$440,000. This represents the estimate of the cost to build only a 2.2 kilometer radial line to Summit Park 7 at \$200,000 per kilometer. If a loop feed is provided by Hydro One, then perhaps the entire cost of the line –

being \$2.8 million – should be included as the expansion cost. This clearly makes their connection uneconomic and not cost effective.

The Burman Report

Mr. Bart Burman, electrical P.Eng., MBA, was retained for the purposes of undertaking an objective analysis of the two service offerings of the utilities using primarily the criteria identified as relevant considerations in the Combined Proceeding. The scope of the undertaking specifically included Mr. Burman rendering a complete analysis of all factors considered including those raised in the combined proceeding.

Importantly, Mr. Burman was selected to undertake the analysis not only because of his educational training but also because of his experience undertaking similar type comparative analysis as the Chief Engineer and in other positions with Ontario Hydro and Hydro One. For years, Mr. Burman's views were relied upon and adopted by Hydro One. It is probably fair to say that there could not be a more qualified and experienced expert in the province with so detailed knowledge and history of Hydro One's operations that could be asked to undertake such an analysis.

The factors that Mr. Burman considered included a detailed review of the existing distribution systems configuration and infrastructure of both utilities. At page 24 of the Burman Report, Mr. Burman compared the Horizon Utilities existing infrastructure to that of Hydro One. He then undertook an economic efficiency comparative analysis at pages 26 and 27. It should be noted that Mr. Burman was aware of Hydro One's proposal to build the new 27.6 circuit along Rymal Road East. Indeed, that was one of the issues considered in his report, namely, whether the service area amendment lands in question could be more economically serviced by Horizon

Utilities' existing 27.6 kV system or by Hydro One using its proposed new circuit. Mr. Burman specifically notes at page 26:

"It is apparent that HONI must undertake a significant degree of work to provide a 27.6/16 kV service to any of the Part I through V potential customers."

He then went on to estimate, based upon his experience, the cost to construct a line from the perceived connection point at the time being the M3 feeder to Swayze Road which would presumably be necessary to service the balance of the Summit Park lands, being Part V of this application. His estimated costs per kilometer of \$150,000 to \$200,000 gave rise to a total estimated cost of \$540,000 to \$720,000 for the new circuit. It should be noted that the proposed circuit is now actually longer, given that Hydro One is proposing a connection with its M5 circuit which is further south and west of the connection point earlier contemplated.

Mr. Burman then went on to compare the currently available service reliability statistics published in respect of the two utilities. He set out the applicable approved rates which were in effect in November 2012 of both utilities. He addressed other customer impact issues including potential customer confusion, customer density and the impact on Horizon Utilities' ratepayers in the event that Hydro One attached to the M3 feeder (given the fact that Horizon Utilities' subtransmission rates payable to Hydro One would have increased). He also examined other factors specifically relevant to each of the five Parts of the service area amendment application. In short, Mr. Burman was asked to undertake a detailed analysis consistent with the Combined Proceeding and to offer his opinion as to which utility best met the criteria established by the Board. His conclusion was that in virtually every respect, using the factors enunciated by the Board in the Combined Proceeding, the evidence supported Horizon Utilities providing service to each of the service area amendment lands.

By comparison, Hydro One did not produce an expert's report and it did not attempt in its prefiled evidence to undertake a comparison between the two utilities using the factors enunciated in the Combined Proceeding. Its evidence was limited to two remarkably short and unsubstantiated documents they described as "planning documents" which are dated in January 2013, which by Hydro One's own evidence, it admitted, were only created for purposes of this proceeding. There is, in our submission, no planning documentation or comparisons which Hydro One has produced which support the position it has taken in this proceeding. Certainly nothing has been filed which in any way draws into question Mr. Burman's conclusions.

Mr. Burman was asked during the oral portion of the hearing, at pages 84 and 85 of Transcript Volume 1, whether following his review of Hydro One's evidence, "it would in any way influence, change or impact his conclusions and opinions in his report", to which Mr. Burman responded "No".

He specifically stated that the amount of effort done by Hydro One to define its needs and establish appropriate alternatives for mitigation and supporting analysis was inadequate. He stated (at page 85) that there is nothing in Hydro One's Area Study (Appendix A) which supports the need for extensive new construction of the new 27.6 kV line to Summit Park 7. He specifically stated that this would represent an unnecessary duplication of assets. Mr. Burman (at page 86) confirmed that Horizon Utilities already has abundant capacity within close proximity to the SAA lands. He also suggested that with the existence of Horizon Utilities facilities, one option open to Hydro One would be to retire the legacy islanded or outposted 8.32 kV loads (page 86). Mr. Burman confirmed that from Hydro One's operational and planning perspective, this was positive. As well, with the retirement of some of the existing legacy 8.32 kV assets of Hydro One, Mr. Burman stated in evidence that this would lead to a more sustainable 8.32 kV system for the remainder of the supply area. (pages 87 and 88).

Turning to Appendix B, the Loop Feed document, Mr. Burman specifically noted that there are several alternatives that Hydro One overlooked in terms of feeding the Binbrook area including many shorter routes to be taken to supply the that type of loop feed if absolutely necessary. Mr. Burman went further at page 89 stating that there is nothing in the documentation that would suggest that a loop feed is even well justified at this point. Mr. Burman specifically stated:

“The only reason for extending the feed along Rymal Road to create the loop feed would be to pick up this additional load to the Phase 7 area”.

Finally, Mr. Burman confirmed his familiarity with the distribution system code and stated at page 90 that in his view the work proposed by Hydro One in respect of the new 27.6 circuit along Rymal Road East would constitute expansion work. He specifically stated that:

“The criteria laid out in the *Distribution System Code* supports it [i.e. the determination that it is expansion work] in about five different areas, so that is what I would qualify it as”.

During cross-examination by Mr. Stephenson (at page 195), Mr. Burman was asked whether he undertook a comparative analysis of the infrastructure between the “now proposed Binbrook line (i.e. the 14 kilometer line to Binbrook and the Horizon infrastructure) and Horizon Utilities’ existing assets. Mr. Burman appropriately responded that he did not because he undertook an analysis of what infrastructure was in place at the time that he completed his report. His earlier response was that the now proposed line to Binbrook did not make any sense from the perspective of its relevance to the question of the supply to the service area amendment lands in question.

While there should be little doubt that Hydro One is trying to cloak its desire to serve the High School and the Summit Park 7 lands in its alleged “enhancement project” to provide a loop to

Binbrook, the correct analysis and the one undertaken by Mr. Burman was to examine the assets in place and to consider whether the construction of a new 27.6 kV circuit along Rymal Road East by Hydro One would be more economically efficient and cost effective than Horizon Utilities serving the same lands using existing assets. The live issue in this proceeding is not the need for a loop feed to Binbrook. The issue is whether Horizon Utilities' existing assets are the preferred assets which should serve the service area amendment lands or can Hydro One do so more cost effectively and economically efficiently by building a new circuit inside Horizon Utilities' service area along Rymal Road East.

Conclusion

Horizon Utilities submits that on the basis of the evidence filed and the oral testimony of its witnesses, it has clearly met the onus required to confirm that the granting of the service area amendment applications sought are in the public interest. It is submitted that Horizon Utilities meets each and every one of the criteria established by the Board in the Combined Proceeding, with only one questionable exception, being the issue of the customer preference of the developer, Multi-Area, in respect of Part I of the application. While Multi-Area has executed the Hydro One Offer to Connect, it appears to have done so because of timing concerns and based upon a request for a capital contribution that did consider all of the applicable costs to connect Phase 7. As well, the same customer had, for more than six months, asked Horizon Utilities to provide a connection, and indeed had specifically asked Hydro One for its consent to the application. Under the circumstances, Horizon Utilities suggests that even this issue does not work against this application.

Horizon Utilities trusts that the Board shares its view that the public interest will be served by the optimization of its assets, the smoothing of the boundaries between Horizon Utilities and Hydro

One, and the lower costs Horizon Utilities will incur to serve all Parts of the service area amendment application.

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