**EB-2012-0031**

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

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

**Final Written Argument of the Consumers Council of Canada**

March 22, 2013

**I. INTRODUCTIO**N**:**

On May 28, 2012, Hydro One Networks Inc. (“HON”) filed an Application with the Ontario Energy Board (“Board”) for approval for changes to its 2013 and 2014 transmission revenue requirement and for approval for changes to the provincial uniform transmission rates charged for electricity transmission to be effective January 1, 2013 and January 1, 2014.

On October 23, 2012, a Settlement Conference was commenced resulting in a Settlement Proposal that was accepted by the Board on November 8, 2012. The intervenors and HON settled all issues in the proceeding with one exception. The remaining issue is as follows: What is the appropriate level for Export Transmission Rates in Ontario? The Board held a hearing on February 25 and February 26, 2013 to consider evidence on this remaining issue. These are the submissions of the Consumers Council of Canada (“Council”) regarding the Export Transmission Rate issue.

**2. BACKGROUND:**

The Board set the first Export Transmission Service (“ETS”) rate of $1.00/MWH on May 26, 2000, prior to market opening. The Board noted at that time:

The Board finds that as an interim tariff, the OHNC revised proposal is simple, signals that EWT (export and wheel-through transactions) rates are at the low end of the range of tariffs in other interconnected jurisdictions and will allow experience to be gained regarding the net revenues generated by the IMO administered inter-tie congestion management system. The Board therefore approves a fixed EWT charge of $1/MWH. (Decision with Reasons, RP-1999-0044, p. 68)

In that same Decision the Board emphasized the interim nature of the decision and directed Ontario Hydro Networks Company Inc. (HON’s successor) to report back at its next case on the functioning of the EWT market and developments in interconnected jurisdictions, and whether the tariff should be reviewed.

In HON’s Transmission Application for its 2007 and 2008 revenue requirements the Board approved a settlement proposal to maintain the $1/MWh tariff. The agreement was conditional on the Independent Electricity System Operator (“IESO”) negotiating with other jurisdictions reciprocal tariff agreements and to study tariff options (Ex. M/T1/S1/p. 17, EB-2006-0501). The IESO was expected to report back to the Board.

The IESO filed its initial study on August 28, 2009, in the EB-2010-0002 proceeding (HON’s Application for approval of its 2011 and 2012 revenue requirements). The IESO retained Charles River Associates (“CRA”) to do a quantitative analysis of the future effect of several export rate scenarios. The results of that analysis indicated that the net Ontario benefit would be highest with a $5/MWh rate. The IESO was not supportive of changing the rate to $5/MWh on the basis that an increase in surplus baseload generation (“SBG”) had occurred since the study was completed and increasing the tariff could further increase levels of SBG because export volume would be lower. HON supported continuing with the $1/MWh rate for 2011 and 2012 (Decision with Reasons, EB-2010-0002, p. 71).

The Board directed that a further comprehensive study be undertaken by the IESO to identify a range of proposed rates and the pros and cons associated with each proposed rate in time for the next transmission rate application. The Board also directed that a rate of $2/MWh be applied for 2011 and 2012. The Board concluded that, “It is the Board’s view that the new rate has more analytical support than the status quo, but that in order to arrive at a genuinely robust and valid rate, more study is required.” (Decision with Reasons, EB-2010-0002, p. 75).

The IESO, with the assistance of stakeholders, developed a Request For Proposal process to select a consultant to undertake the ETS study. CRA was selected and completed its study on May 16, 2012. The CRA study reviewed tariff rates and structures in neighboring markets; assessed the proposed rate options on the basis of conformance with generally accepted rate-making principles (consistency with neighboring markets, simplicity, fairness and efficiency), and: quantified the impact of each of the options on Ontario consumers, producers, and the Ontario market as a whole. The study also looked at the impacts of the options on exports and imports, market and total bill impacts, export tariff revenue, production costs, carbon emissions and the frequency of SBG. (Ex H1/T5/S2/Appendix B, p. 5)

In addition to the current $2/MWh rate CRA examined four alternative rate structures:

* Elimination of the export tariff in Ontario ($0/MWh);
* An increase in the tariff to the current equivalent average network charge (“EANC”) of $5.80;
* A tiered rate of $5.80/MWh during on-peak hours and $0/MWh during off-peak hours; and
* A tiered rate of $3.50/MWh on-peak and $1/MWh off-peak.

CRA did not recommend a specific tariff option, but indicated that the purpose of their work was to provide the analytics necessary for the Board and parties to make an informed determination (Tr. Vol. 2, pp. 17-18).

The Association of Power Producers of Ontario (“APPrO”) filed two pieces of evidence. The first study was provided by Navigant Economics (“Navigant”), and the second piece of evidence was from Marc-Andre Laurin, a trader with Brookfield Marketing LP.

The Navigant evidence concluded:

It is my opinion that the export tariff should be reduced , and consideration should be given to its elimination. Such actions will increase the efficiency of the overall market, lower consumptions costs and increase export responsiveness during hours in coming years when surplus baseload generation (SBG) problems will reach unprecedented levels. The SBG issue is particularly important. While a variety of actions are being taken to deal with increasing levels of SBG, an increase to the export tariff would undercut a pro-competitive, efficient, market-based solution to this problem precisely when it is most needed (Ex. K2.1, p. 1)

Mr. Laurin’s evidence assessed the same options for the tariff that were considered by CRA. His analysis concluded that given the current state of the wholesale power market in Ontario and in surrounding jurisdictions, any ETS higher than $0 would greatly reduce the incentive to export out of Ontario, especially in periods of SBG (Ex. K2.1, p. 4).

Hydro-Quebec Energy Marketing Inc (“HQEM”) retained Elenchus Research Associates to assess how the ETS should be set. Elenchus concluded that it would be inappropriate for the Board to establish and ETS charge in the absence of a proper cost allocation study (Ex. K2.2, p. 5) Elenchus advocated applying the principle of cost causality when determining the ETS tariff and suggested that it could be achieved by creating a separate rate class for exporters (Ex. K2.2, p. 15).

Although the IESO did not provide written evidence as a part of this proceeding, the IESO provided written submissions on March 8, 2013. The IESO presented an analysis of the various options and the potential impact of each of those options on electricity bills. The IESO concluded that none of the ETS tariff options will materially impact reliability, but elimination of the tariff will best promote efficient operation of the wholesale market, specifically, efficiency in the generation, sale and transmission of electricity (Written Submissions of the IESO, dated March 8, 2013, p. 3)

 **3. SUBMISSIONS:**

The Council submits that in deciding how to set the ETS rate it is important to acknowledge that the Ontario electricity market is highly complex. It is very difficult to predict how the level of the ETS rate will impact exports, the price of the hourly Ontario energy price (“HOEP”), the Global Adjustment and ultimately the bills of Ontario consumers. In addition, other factors are at play outside of Ontario that impact Ontario pricing and behavior, like prices and demand in other jurisdictions.

In this proceeding the various consultants (Navigant and CRA) ran scenarios based on a range of assumptions regarding the level of the tariff, uplift fees, the treatment inter-tie congestion revenues and rents, and whether or not Ontario will join the Western Climate Initiative (“WCI”). There was no agreement among the consultants regarding the outcomes of the various scenarios presented. In effect, there was no definitive evidence presented to demonstrate the actual impacts of each tariff level would have on Ontario consumers going forward. The IESO in its final submissions presented further analyses and new evidence that was not presented or tested at the hearing.

Mr. Laurin is simply one trader that has concluded that any ETS tariff higher than $0 would greatly reduce the incentive to export out of Ontario (Ex. K2.1, p. 4) The Council submits that the level of an ETS rate is not the sole driver for exports. The evidence is that traders must continually deal with uncertainty and risks (Tr. Vol. 3, 45). Many factors such as the prices in other jurisdictions and the going price in Ontario play a much larger role in determining the level of exports. In addition, there are non-price factors that continually impact marketer behavior (Tr. Vo. 2, p. 27).

From the Council’s perspective, the one thing that is clear is that ETS revenues go to reducing transmission rates for Ontario consumers. If the ETS rate is eliminated, those revenues are not there and the transmission revenue requirement is higher. If the ETS rate stays the same, ratepayers will continue to get the benefit of those revenues in terms of a reduction in the transmission revenue requirement. The principle behind the rate is that exporters should contribute something for their use of the transmission system.

The Council submits that the first question that the Board needs to address is whether exporters should pay something for using the transmission system. Although the system was not built for exporters, they clearly use the system to transfer power out of Ontario. In the absence of an ETS rate existing customers essentially subsidize the use of the system by exporters. If the Board determines that exporters should contribute to the system, it must then decide what level of ETS rate is appropriate.

The Council has had the benefit of reviewing the very detailed submissions on these issues prepared by the Vulnerable Energy Consumers Coalition (“VECC”). VECC’s position is that from a transmission perspective exporters are treated, in Ontario, as firm load. VECC is advocating the current Equivalent Network Service Rate as an ETS tariff on that basis. The Council supports this approach. To the extent the Board does not see the services as equivalent, some discount is appropriate to reflect any differential in terms of service. As noted by VECC, any discount to reflect the difference should be substantially less than the current discount of 65% inherent in the current $2/MWh rate.

The Council notes that all other neighboring jurisdictions have ETS rates in place, and the only instances where the tariffs have been reduced to $0 have been through bilateral agreements (Tr. Vol. 2, pp. 115-116). The Board should consider this point in determining the level of the ETS rate and the extent to which having no ETS charge may impact trade between Ontario and other jurisdictions. Furthermore, it is clear that these jurisdictions all require exporters to contribute something to the costs of using their transmission systems.

Overall, from the Council’s perspective, neither APPrO, nor the IESO have provided convincing evidence to justify the unilateral elimination of an ETS rate in Ontario. VECC has provided a comprehensive analysis is support of increasing the ETS rate to the current network service rate of $5.80/MWh. The Council agrees with this approach.

**4. COSTS:**

The Council requests that it be awarded its prudently incurred costs for its participation in this proceeding.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED**