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By electronic filing

March 22, 2013

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

Dear Ms Walli,

**Hydro One Networks Inc. (“Hydro One”)
2013 and 2014 Transmission Revenue Requirement
Board File No.: EB-2012-0031
Our File No.: 339583-000142**

Please find attached the Written Argument of Canadian Manufacturers & Exporters (“CME”) with respect to the above-noted proceeding.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Peter C.P. Thompson', with a long horizontal flourish extending to the right.

Peter C.P. Thompson, Q.C.

\slc
enclosure

c. Pasquale Catalano (Hydro One)
Interested Parties EB-2012-0031
Paul Clipsham (CME)

OTT01: 5585768: v1

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

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.

**ARGUMENT OF
CANADIAN MANUFACTURERS & EXPORTERS ("CME")**

March 22, 2013

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INDEX

I.	INTRODUCTION	1
II.	OVERVIEW	2
III.	CONSISTENCY WITH RATES IN NEIGHBOURING JURISDICTIONS	3
IV.	ADMINISTRATIVE SIMPLICITY	4
V.	ECONOMIC EFFICIENCY	4
VI.	FAIRNESS	6
	A. Quality of Transmission Service Provided to Exporters.....	6
	B. Cost of Providing Service to Exporters	6
VII.	OVERALL CONCLUSIONS	7
VIII.	COSTS	8

I. INTRODUCTION

1. These are the submissions of Canadian Manufacturers & Exporters (“CME”) with respect to the Ontario Energy Board’s (the “Board”) determination of an Export Transmission Service (“ETS”) rate for Ontario.
2. In preparing these submissions on behalf of CME, we have reviewed the submissions of the Independent Electricity System Operator (“IESO”) dated March 8, 2013, and the submissions of the Power Workers’ Union (“PWU”) dated March 21, 2013.
3. We have also had an opportunity to review drafts of the submissions to be made by Association of Major Power Consumers in Ontario (“AMPCO”), and by Vulnerable Energy Consumers Coalition (“VECC”). The detailed submissions to be filed by VECC comprehensively describe the historic circumstances and prior Board Decisions which are relevant to the Board’s consideration of the unresolved rate design issue in this case. VECC’s submissions also thoroughly analyze the evidence presented in this case by the IESO, HQ Energy Marketing Inc. (“HQEM”) and Association of Power Producers of Ontario (“APPo”). CME adopts in its entirety and has nothing to add to the detailed analysis contained in VECC’s submissions of the evidence. We also support VECC’s listing of the criteria which the Board should consider when determining the unresolved ETS issue, namely:
 - consistency with rates in neighbouring jurisdictions
 - administrative simplicity
 - efficiency
 - fairness

II. OVERVIEW

4. The unresolved issue in this proceeding pertaining to the appropriate level for ETS rate in Ontario is an issue of transmission utility rate design. In this proceeding, the Board is engaged in an exercise of its utility rate regulation jurisdiction. It is not engaged in an exercise of electricity market design. That said, to the extent possible, the Board should exercise its utility rate-making jurisdiction in a manner that is reasonably compatible with the concepts underpinning the intended design of the Ontario electricity market.
5. The question to be decided in this case is whether the design and level of the rate that electricity exporters currently pay for their use of Hydro One's Transmission system should be changed from its current level of \$2.00/MWh for transmission service during peak and off-peak periods.
6. The rate-making options that have been identified for consideration are as follows:
 - (a) under the auspices of a one-tier structure:
 - i) leave the rate unchanged,
 - ii) increase the rate up to the level of the current Equivalent Average Network Charge ("EANC") of \$5.80/MWh;
 - iii) decrease the current rate level to the point of eliminating the charge altogether.
 - (b) adopt a two-tier rate structure consisting of:
 - i) a charge for on-peak service in an amount above \$2.00/MWh and up;
 - ii) EANC of \$5.80/MWh; and
 - iii) a charge for off-peak service in amount below \$2.00/MWh and as low as \$0.00/MWh;

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7. For reasons that follow, CME urges the Board to reject the proposal to eliminate the ETS in its entirety supported by the IESO, PWU and APPrO. CME urges the Board to adopt a two-tier rate structure with the charge for peak service at EANC of \$5.80/MWh and the charge for off-peak service in an amount that is no less than \$1.00/MWh.
8. In formulating these recommendations, the three guiding principles to which we ascribe the greatest weight are:
- (a) a rate that allows any customer class to obtain transmission service free of charge is unjust and unreasonable – “free ridership” ought not to be countenanced;
 - (b) rates or tolls to similar users should be similar and not unduly discriminatory; and
 - (c) rate structures that prompt transmission customers to shift load from peak to off-peak periods should be encouraged because they operate to increase the overall efficiency and utilization of the transmission system.

III. CONSISTENCY WITH RATES IN NEIGHBOURING JURISDICTIONS

9. We agree with and adopt VECC’s submissions that a consideration of this factor leads to a conclusion that the ETS rate should be increased to EANC of \$5.80/MWh.
10. We submit that the elimination of a charge for exporters to use the transmission system should not take place as an exercise of unilateral utility rate-making jurisdiction. Such an outcome should only be implemented pursuant to a multi-jurisdictional agreement between Ontario and its adjacent neighbouring jurisdictions. Until such a multi-jurisdictional agreement has been reached, Hydro One’s ETS rate should be determined by applying traditional utility rate-making principles.

IV. ADMINISTRATIVE SIMPLICITY

11. The IESO acknowledges each of the options described above can be implemented within a reasonably short period of time. While a two-tier rate structure is more complex than the current ETS rate, it can, nevertheless, be implemented in a period of about three (3) months. We interpret this evidence to mean that all of the other implications of a two-tier approach can be addressed, including those pertaining to amendments to market rules and matters pertaining to the trading of transmission rights.
12. In these circumstances, we submit that considerations of administrative simplicity do not constitute an impediment to the adoption of the two-tier ETS rate concept which CME favours.

V. ECONOMIC EFFICIENCY

13. When considering matters pertaining to economic efficiency, it needs to be emphasized that the outcome of an exercise by the Board of its rate-setting jurisdiction must be just and reasonable rates for all transmission system users and stakeholders. Any consideration of matters pertaining to the overall economic effect on Ontario of different prices for utility services to particular customer classes should not lead to a rate-making outcome which requires one class of customers to unduly subsidize another, or requires shareholders to forgo the return on investment to which they are entitled to recover in just and reasonable rates.
14. Considerable time was spent in this case debating the extent to which the overall economic benefits to Ontario increase or decrease relative to the status quo under the auspices of the rate design options presented for evaluation.

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15. We share the concerns raised by VECC in its submissions pertaining to the changed approach to the measurement of efficiency that the IESO introduced in its written submissions. We agree with VECC that the same standard for measuring efficiency should be used to determine the efficiency gains for all aspects of the Ontario power system.
 16. We also note from the analysis provided by VECC in its submissions that the statistical support for the unilateral elimination of the tariff rapidly erodes if less than 100% of Intertie Congestion Revenue (“ICR”) accrues to Ontario. Having regard to VECC’s analysis, the statistical support for the unilateral elimination of the ICR is tenuous at best. Moreover, the gains or losses associated with moving away from the status quo are small when considered in the context of the overall Ontario market.
 17. We submit that the primary focus of an evaluation of efficiency should be a consideration of efficiency with respect to the particular utility system that is providing the service to be regulated. The influence that changes to the price of a utility service might have on the overall economic efficiency of the Ontario electricity market should be a secondary consideration to matters pertaining to enhancing the efficiency of the utility system being regulated.
 18. For example, there could be material economic efficiency benefits to Ontario by eliminating the rate of Return on Equity (“ROE”) on all government owned utilities. However, such evidence would likely be given little, if any, weight in determining the revenue requirement and rate levels of Hydro One and Ontario Power Generation Inc. (“OPG”). The rates would be set having regard to the far greater weight to be ascribed to the regulatory principle that utility owners are entitled to recover a reasonable rate of

return on their investments in utility assets. It is in this context that we urge the Board to ascribe little weight to the overall economic benefits evidence when determining the ETS rate in this proceeding.

VI. FAIRNESS

A. Quality of Transmission Service Provided to Exporters

19. On the basis of the analyses of the evidence contained in both the VECC and AMPCO submissions, we urge the Board to find that the quality of transmission service provided to exporters is equivalent to the quality of service provided to firm domestic users. Any transmission service curtailment risk exporters face is the same as the transmission curtailment risk facing firm domestic transmission users. Exporters are not “interruptible” customers as some of the proponents for lowering or eliminating the ETS rate contend. As a result, on the basis of quality of service considerations, exporters should pay the same amount that domestic users pay, of which EANC of \$5.80/MWh is the most appropriate measure.

B. Cost of Providing Service to Exporters

20. Like VECC, CME questions whether a cost allocation study of the type suggested by HQEM witnesses is a pre-requisite for setting ETS rates. In the end, the quality of service received by exporters compared to the service provided by domestic users should constitute the primary guide for determining the appropriate amount for Hydro One to charge exporters.
21. For reasons explained by VECC in its submissions, it would be inappropriate for the Board to set rates for exporters under the auspices of marginal costing methodology and the rates for domestic users under the auspices of rolled-in average costs. The evidence of

Hydro One's EANC should be sufficient to enable the Board to fix an appropriate rate for ETS service in this proceeding.

22. CME urges the Board to reject PWU's recommendation to continue the current tariff until a cost study is completed.

VII. OVERALL CONCLUSIONS

23. Having regard to the foregoing submissions, CME urges the Board to ascribe the greatest weight to the following facts when determining the ETS rate to be charged by Hydro One:

- (a) all exporters use the transmission system;
- (b) the quality of transmission service received by exporters is not inferior to the quality of transmission service provided to domestic users;
- (c) electricity exporters are not interruptible customers and even if they were, they should not get a "free ride";
- (d) it is questionable whether a fully allocated cost of service study is likely to enhance the Board's ability to establish a just and reasonable rate for export transmission service;
- (e) comparability to the ETS tolls in neighbouring jurisdictions supports the conclusion that exporters using the Hydro One transmission system should be charged EANC. The current 65% discount from EANC is inappropriate;
- (f) the efficiency of the transmission system will be enhanced by a mechanism that induces exporters to use the transmission system during off-peak periods;
- (g) any enhancements to overall economic benefits to Ontario by eliminating the ETS rate are questionable and, in any event, negligible;

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- (h) in the context of an exercise by the Board of its jurisdiction to set just and reasonable rates, it would be inappropriate to rely on evidence that demonstrated a material overall economic benefit to Ontario where the outcome being proposed requires one class of transmission customer to unduly subsidize another; and
- (i) there is no multi-jurisdictional agreement between Ontario and its adjacent neighbouring jurisdictions to eliminate a charge for exporters to use their respective electricity transmission systems.

24. Having regard to these facts, CME submits that a two-tiered option requiring exporters to pay EANC of \$5.80/MWh during peak periods and an amount of no less than \$1.00/MWh on off-peak periods should be implemented.

VIII. COSTS

25. CME requests that it be awarded 100% of its reasonably incurred costs in connection with this matter.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 22nd day of March, 2013.



Peter C.P. Thompson, Q.C.
Vincent J. DeRose
Counsel for CME