



McCarthy Tétrault LLP
Suite 3300
421-7th Avenue S.W.
Calgary AB T2P 4K9
Canada
Tel: 403-260-3500
Fax: 403-260-3501

Gordon M. Nettleton
Partner
Direct Line: (403) 260-3622
Email: gnettleton@mccarthy.ca

November 22, 2013

VIA RESS, EMAIL AND COURIER

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, Ontario M4P 1E4

Dear Ms. Walli:

**RE: Applications by Hydro One Inc., Norfolk Power Distribution Inc. and Hydro One Networks Inc. (the "Applications")
EB-2013-0196, EB-2013-0187 and EB-2013-0198**

These submissions are made on behalf of Hydro One Inc. and Hydro One Networks Inc. (collectively, "**Hydro One**") in response to Procedural Order No. 6 in the above-noted proceeding, wherein the Ontario Energy Board (the "**Board**") requested that parties indicate whether a further round of interrogatories is needed as a result of modifications made by Hydro One to its applications. These submissions are in reply to submissions filed by Board staff, the School Energy Coalition ("**SEC**") and Essex Powerlines Corporation, Bluewater Power Distribution Corporation, and Niagara-on-the-Lake Hydro ("**EBN**").

An Additional Round of Interrogatories is Not Needed

There is no need for a further round of interrogatories. The additional evidence now on the record demonstrates that the requested relief has not changed in comparison to the relief originally requested, apart from the clarification in respect of the transitional period requested to complete the transactions and a variation on the relief requested in respect of NDPI's distribution licence. Aside from these small modifications, the Applications have not changed, as noted by Board staff and SEC, who agree with Hydro One that a further round of interrogatories is not needed.¹

Only EBN submits that another round of IRs is needed. Reasons provided by EBN in support of its position include:

- IRs need to be rephrased/rewritten because the relief sought is "not the same";

¹ Board staff indicates that it does not have substantial interrogatories as a result of the amended applications, and has therefore requested only that Hydro One answer its clarification questions. SEC states that the need for additional interrogatories due to the modification "has been much reduced" following Hydro One's filing of an updated application. SEC further indicates that beyond the questions asked by Board staff, it would not ask further interrogatories as a result of the modification. (See Board staff and SEC submissions dated November 18, 2013.)

- the applicants have added uncertainty in respect of future rate harmonization; and
- Hydro One's plan to create a separate business unit post-asset transfer is a matter which merits further examination by parties.

In response to the above, Hydro One disagrees that new IRs are needed simply because the applications are not identical to those originally filed. Moreover, there is no uncertainty in respect of future harmonization of rates, as none of the changes affects the proposed rate reduction and five-year rate freeze period as described in the applications, nor the harmonization options.² Finally, Hydro One's clarification in respect of the planned separate business unit provides an explanation of how it will ensure timely, transparent and efficient administration and regulatory reporting during the five-year rate freeze period for NDPI's customers.³ Further questions on Hydro One's internal processes in respect of the business unit are not relevant to the Board's consideration of these applications.

Hydro One notes that Board staff has asked some clarification questions in their November 18, 2013 submissions. Hydro One encloses its responses to these questions with these submissions.

SEC's Additional Remarks

Hydro One observes that SEC has made a number of additional remarks in its November 18, 2013, submissions. These remarks touch upon matters that relate to SEC's motion dated October 30, 2013.

Hydro One agrees with parties' suggestion that SEC's motion be heard orally and on an expedited basis, as Hydro One is becoming increasingly concerned with the time that this proceeding is taking.

Hydro One appreciates that Procedural Order No. 6 does not request submissions from parties on the merits of the motion, and therefore simply notes that as set out in Hydro One's submissions dated August 28, 2013, there is a very significant difference in views between Hydro One and intervenors as to the issues to be considered in this proceeding. This difference in views is, in fact, the very basis for SEC's motion dated October 30, 2013. The Board's determination of the motion will therefore provide an opportunity for clarification as to the proper scope of the no-harm test and the consequent relevance of the answers to IRs which are the subject of SEC's motion. This clarification will allow this proceeding to move forward in an efficient manner.

In addition, Hydro One notes that in SEC's November 18, 2013 submissions, SEC also suggests that an oral hearing will be required for the Board to consider this application. Hydro One believes that this suggestion is premature at this time.

² See Hydro One's Supplemental Evidence filed November 8, 2013, page 4.

³ See Hydro One's Supplemental Evidence filed November 8, 2013, page 3.

Finally, Hydro One observes that it is becoming increasingly clear that although EBN purports to be concerned with matters that are within the scope of this proceeding, EBN in fact views this proceeding as an opportunity to attempt to have the Board depart from well-established principles of decision-making in MADD applications by considering broad policy issues related to distribution sector consolidation.

Yours truly,

McCarthy Tétrault LLP



for: Gordon M. Nettleton

GMN/ha

Ontario Energy Board (Board Staff) INTERROGATORY #1 List 2

1. Requested Relief

Reference: Exhibit A, Tab 1, Schedule 1, Page1, Lines 4-27 and Page 2, lines 1-3

IN THE MATTER OF an application made by Hydro One Inc. for leave to purchase all of the issued and outstanding shares of Norfolk Power Inc. made pursuant to section 86(2)(b) of the *Ontario Energy Board Act, 1998*.

AND IN THE MATTER OF an application made by Norfolk Power Distribution Inc. seeking to include a rate rider in the 2013 OEB-approved rate schedule of Norfolk Power Distribution Inc. to give effect to a 1% reduction relative to 2012 base electricity delivery rates (exclusive of rate riders), made pursuant to section 78 of the *Ontario Energy Board Act, 1998*.

If the Board grants approval to section 86(2)(b) as stated above, upon filing notice to the Board of completion of integration of Norfolk Power Distribution Inc. operations into Hydro One Networks Inc., Hydro One further requests:

AND IN THE MATTER OF an application made by Norfolk Power Distribution Inc. for leave to transfer its distribution system to Hydro One Networks Inc. made pursuant to section 86(1)(a) of the *Ontario Energy Board Act, 1998*.

AND IN THE MATTER OF an application made by Norfolk Power Distribution Inc. seeking cancellation of its distribution licence made pursuant to section 77(5) of the *Ontario Energy Board Act, 1998*.

AND IN THE MATTER OF an application made by Hydro One Networks Inc. seeking an order to amend its distribution licence made pursuant to section 74 of the *Ontario Energy Board Act, 1998* to serve the customers of the former Norfolk Power Distribution Inc., or alternatively;

AND IN THE MATTER OF an application made by Hydro One Networks Inc. seeking an order to issue a separate distribution licence made pursuant to section 60 of the *Ontario Energy Board Act, 1998* to serve the customers of the former Norfolk Power Distribution Inc.

Reference: Exhibit I, Tab 1, Schedule 7, Page 1, Lines 26-31:

Following the transfer of NPDI's distribution business, rates will be administered by a new HONI business unit. To achieve this objective, leave to transfer NPDI's rate order to HONI under section 18 of the *Ontario Energy Board Act, 1998* is now sought. The rate order transferred to HONI, post NPDI distribution business transfer would be that rate order which is now sought in this application made by NPDI that seeks the rate rider to allow a five year rate freeze and rate reduction.

1 **Reference:** Supplemental Evidence, Page 3, Lines 9-13:
2

3 In order to accommodate this change, HONI is requesting that the Board either amend its
4 existing distribution licence to reflect the fact that the NPDI service territory will be
5 administered separately from HONI's other distribution service areas, or alternatively, that
6 the NPDI distribution licence is cancelled and a new licence is issued to HONI and limited
7 to the NPDI service area.
8

9 **Preamble:** The following questions are intended to clarify the relief sought by the Applicants.
10

11 **Interrogatory**
12

13 1.1 Please Confirm that the amended applications seek the following orders of the Board:
14

- 15 (a) an order granting Hydro One Inc. leave to purchase all of the issued and outstanding
16 shares of Norfolk Power Inc. under section 86(2)(b) of the Ontario *Energy Board Act*,
17 *1998 (the "Act")*;
18
19 (b) an order allowing Norfolk Power Distribution Inc. ("NPDI") to include a rate rider in its
20 2013 OEB-approved rate schedule to give effect to a 1% reduction relative to 2012 base
21 electricity delivery rates (exclusive of rate riders), under section 78 of the Act;
22
23 (c) an order granting NPDI leave to transfer its distribution system to Hydro One Networks
24 Inc. ("HONI") under section 86(1)(a) of the Act within 18 months of the date of the
25 order;
26
27 (d) an order granting NPDI leave to transfer its rate order to HONI upon receipt by the
28 Board of notification of completion of the transaction referred to in paragraph (c);
29
30 (e) an order cancelling NPDI's electricity distribution licence under section 77 (5) of the
31 Act upon receipt by the Board of notification of completion of the transaction referred to
32 in paragraph (c); and
33
34 (f) an order amending HONI's electricity distribution licence under section 74 of the Act to
35 include the area formerly served by NPDI, or alternatively, an order issuing a separate
36 electricity distribution licence to HONI under section 60 of the Act to serve the
37 customers of the former NPDI upon receipt by the Board of notification of completion
38 of the transaction referred to in paragraph (c).
39

40 1.2 If item 1.1 cannot be confirmed, please provide a clear list of orders now sought.
41

42 1.3 Please confirm that, assuming the Board approves the proposed transactions, an order
43 under section 18 of the Act granting NPDI leave to transfer/assign its electricity
44 distribution licence to HONI upon receipt by the Board of notification of completion of
45 the transaction referred to in paragraph (c) above addresses all of the relief sought in

1 paragraphs (e) and (f) above. If this cannot be confirmed, please provide a detailed
2 explanation.

3
4 1.4 If item 1.3 is confirmed, please confirm whether the Applicants wish to replace all of the
5 relief sought in paragraphs (e) and (f) above with the following request:

6
7 “an order granting NPDI leave to transfer/assign its distribution licence to HONI
8 under section 18 of the Act upon receipt by the Board of notification of
9 completion of the transfer of NPDI’s distribution system to HONI”

10
11 1.5 If item 1.4 cannot be confirmed, please provide reasons.

12
13 *Response*

14
15 1.1 Confirmed

16
17 1.2 Not applicable

18
19 1.3 Confirmed, if the Board approves the proposed transactions, an order under section 18 of
20 the Act would address all of the relief sought in paragraphs (e) and (f) above.

21
22 1.4 Confirmed

23
24 1.5 Not Applicable

1 **Ontario Energy Board (Board Staff) INTERROGATORY #2 List 2**

2
3 **2. HONI NP's Rates**

4
5 **Reference:** Exhibit A, Tab 2, Schedule 1, Page 7, Lines 13-15:

6
7 At the end of the five-year rate freeze period in 2019, HONI expects to apply the Board's
8 Incentive Regulation Mechanism to adjust HONI NP rates until the earliest opportunity to
9 rebase their rates, currently expected in 2020.

10
11 **Reference:** Exhibit I, Tab 1, Schedule 7, Page 1, Lines 33-39:

12
13 Following the requested five-year rate freeze of NPDI's rates, Hydro One will file a rate
14 application for NPDI rates for 2019. At the present time, HONI expects to file an
15 application that may propose moving NPDI customers to an existing HONI rate class or
16 classes, creating a new customer rate class or some other potential option. Any future
17 proposed rate applications will satisfy the Board's "Filing Requirements for Electricity
18 Distribution Rate Applications" and will require OEB approval.

19
20 **Preamble:** The following questions are intended to clarify HONI's proposed plan to deal with
21 HONI NP's rates following the proposed five-year rate freeze.

22
23 **Interrogatory**

24
25 2.1. Please confirm that HONI intends to apply under the Board's Incentive Regulation
26 Mechanism to adjust HONI NP's rates in 2019. If this cannot be confirmed, please
27 provide a detailed explanation.

28
29 2.2. Please confirm that HONI expects to rebase the consolidated entity's (i.e. HONI and
30 NPDI) rates in 2020. If this cannot be confirmed, please provide a detailed explanation.

31
32 **Response**

33
34 2.1 Hydro One intends to apply under the Board's Renewed Regulatory Framework for
35 Electricity to adjust HONI NP's rates in 2019 by using the Annual IR Index formula.

36
37 2.2 Confirmed. At the present time, Hydro One intends to rebase the consolidated entity,
38 HONI Distribution and NPDI, from a financial perspective in 2020 for rate setting
39 purposes, i.e. one revenue requirement. From a rate design perspective, Hydro One is still
40 investigating options that will be consistent with the OEB's rate making principles. As
41 mentioned in the updated evidence referenced above, those options include (i) creating a
42 new acquired customer rate class; (ii) moving acquired customers to an appropriate HONI
43 rate class existing at that time; or, (iii) some other option.