



EB-2013-0155

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

AND IN THE MATTER OF an application by
Niagara-on-the-Lake Hydro Inc. for an order
approving just and reasonable rates and other
charges for electricity distribution to be effective May
1, 2014.

PROCEDURAL ORDER NO. 2
December 20, 2013

Niagara-on-the-Lake Hydro Inc. ("NOTL Hydro") filed a complete application with the Ontario Energy Board (the "Board") on September 30, 2013 under section 78 of the *Ontario Energy Board Act*, 1998, S.O. 1998, c. 15, (Schedule B), seeking approval for changes to the rates that NOTL Hydro charges for electricity distribution, to be effective May 1, 2014. The Board issued a Notice of Application and Hearing dated October 29, 2013.

Issues List Decision

The approved issues list for this proceeding is attached as an Appendix (the "Approved Issues List").

Procedural Order No. 1 made provision for written submissions by all parties on a draft issues list provided by the Board ("Draft Issues List"). Submissions were received from NOTL Hydro, the Vulnerable Energy Consumers Coalition ("VECC"), and the Energy Probe Research Foundation ("Energy Probe").

NOTL Hydro had no comments on the Draft Issues List.

VECC submitted that the Draft Issues List is overly complex and inconsistent with the order and practical application of the Board's *Filing Requirements for Electricity Distribution Rate Applications* ("the Filing Requirements"). VECC submitted that the Draft Issues List was unlikely to lead to any efficiency in the proceeding and may have the opposite effect of unnecessarily prolonging it.

In particular, VECC stated that the Draft Issues List goes beyond the concept of "issues" and may have the effect of introducing "tests or standards" of decision making. VECC submitted that it may unnecessarily fetter the Board's decision making while adding time and effort to the proceeding. VECC noted that the Draft Issues list introduces new terms which are not helpful to the process and may cause prolonged debates. VECC also stated that in some cases the nature of the issue is ambiguous.

VECC proposed an issues list that it believes contains categories which all parties can understand and modify. VECC's proposed issues list is divided into three parts: Phase I, which pertains to the revenue requirement; Phase II, which addresses the recovery of the revenue requirement and Phase III, which considers any remaining issues. VECC has provided such an alternative list in its submission. In the event that the Board did not approve VECC's proposed issues list, VECC provided specific comments for the Board's consideration regarding the Draft Issues List.

Energy Probe's submission indicated that it had the opportunity to review VECC's draft submissions and that it shared VECC's concern that the Draft Issues List may prolong the proceeding. Energy Probe supported VECC's proposed alternative issues list and noted that Phase I and Phase II are the result of experience gained by intervenors and distributors over years. Energy Probe also submitted that these issues are simple, easily understood by all parties and cover all the components and the recovery of the revenue requirement, while Phase III includes all of the additional issues that are proposed by the new generic Draft Issues List. Energy Probe has also provided specific changes and additions to the Board's Draft Issues List, in many cases to suggest where commonly used phrases regarding ratemaking ("just and reasonable", "appropriate" spending) could supplement issues already identified or enhance wording of the issues as initially proposed .

The Draft Issues List attached as Appendix B to PO No.1 is a generic list developed by the Board to use as a starting point for case-specific issues lists in individual proceedings. The initiative is intended to aid in the implementation of the *Renewed*

Regulatory Framework for Electricity (RRFE) in discharging the Board's mandate to set just and reasonable rates.

The submissions of VECC and Energy Probe state that the Draft Issues List raises numerous generic concerns that go beyond the specifics of this application. Many of these same concerns were raised in EB-2013-0160, Orangeville Hydro Limited's 2014 rate application (the "Orangeville Case").

The Panel sees no reasons unique to this case that would preclude it from adopting the Board's findings in respect of the approved Issues List in the Orangeville Case.

In that case, the Board outlined that its objective was to ensure that parties had a common and clear understanding of the Board's purpose in using an issues list as part of its procedure in hearing applications. The Board stated that its *Filing Requirements for Electricity Distribution Rate Applications* ("Filing Requirements") establish the structure and content of cost of service applications, and this structure and content is ultimately reflected in the Board's decision.

The Board further outlined that it has taken initial steps to update its Filing Requirements to implement the approach of the RRFE prior to the release of the Filing Requirements for 2014 applications. It is the Board's intent to have the Filing Requirements evolve to fully reflect the RRFE approach.

The Board considers the introduction of this issues list to be an important tool to assist in the setting of just and reasonable rates. The Board expects the parties to be guided in their participation in this proceeding by both the Filing Requirements for 2014 and the Approved Issues List.

In the Orangeville Case, the intervenors were concerned with the exclusion of reference to specific cost-based issues. The Board noted that the RRFE objective of operational effectiveness incorporates the concept of "continuous improvement in productivity and cost performance". In the Approved Issues List, the Board added wording to issue 4.2 to ensure that this concept appears clearly. The Board also clarified the meaning of "revenue requirement" in the context of issue 4.1. The Draft Issues List in the present case shall also be amended to reflect these changes.

The Board did not consider it appropriate to follow the approach of the relatively granular, cost-focused type of issues list proposed by VECC and supported by Energy

Probe. The Board agrees with the approach adopted in the Orangeville Case and will not adopt the proposed changes requested by the intervenors.

Procedural Direction

The Board will make provision at this time for written interrogatories. The Board reminds parties that interrogatories must reference the evidence that has been filed. In accordance with Chapter 1 of the Filing Requirements, parties must sort their interrogatories and responses by issue. Parties must use a continuous numbering system to facilitate subsequent referencing of the interrogatories, as described in Chapter 1 of the Filing Requirements. Parties must use the following acronyms for labelling interrogatories: “VECC” for the Vulnerable Energy Consumers Coalition, “EP” for Energy Probe and “Staff” for Board staff.

The Board reminds parties not to engage in detailed exploration of items that do not appear to be material. The materiality thresholds documented in Chapter 2 of the Filing Requirements should be taken into consideration by the parties. In making its decision on cost awards, the Board will consider whether or not intervenors made reasonable efforts to ensure that their participation in the hearing was focused on material issues.

The Board considers it necessary to make provision at this time for the following procedural steps.

THE BOARD ORDERS THAT:

1. Board staff shall request only relevant information and documentation from NOTL Hydro that is in addition to the evidence already filed, by written interrogatories filed with the Board and served on all parties on or before **January 10, 2014**.
2. VECC and Energy Probe shall request only relevant information and documentation from NOTL Hydro that is in addition to the evidence already filed, by written interrogatories filed with the Board and served on all parties on or before **January 17, 2014**.
3. NOTL Hydro shall file with the Board complete written responses to all interrogatories and serve them on VECC, Energy Probe and Board staff on or before **February 7, 2014**.

All filings to the Board must quote the file number, EB-2013-0155 and be made electronically through the Board's web portal at www.pes.ontarioenergyboard.ca/eservice/, in searchable / unrestricted PDF format. Two paper copies must also be filed at the Board's address provided below. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.ontarioenergyboard.ca/OEB/Industry. If the web portal is not available parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

Parties should also send all communications and materials for this proceeding to Board staff's case manager, Stephen Vetsis at Stephen.Vetsis@ontarioenergyboard.ca and Board counsel, Ljuba Djurdjevic at Ljuba.Djurdjevic@ontarioenergyboard.ca.

ADDRESS

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto ON M4P 1E4
Attention: Board Secretary

E-mail: boardsec@ontarioenergyboard.ca
Tel: 1-888-632-6273 (Toll free)
Fax: 416-440-7656

DATED at Toronto, December 20, 2013

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

Appendix 'A'

To

Procedural Order No. 2

Niagara-on-the-Lake Hydro Inc.

EB-2013-0155

Applicant and List of Intervenors

December 20, 2013

**Niagara-on-the-Lake Hydro Inc.
EB-2013-0155**

APPLICANT & LIST OF INTERVENORS

December 20, 2013

APPLICANT

Rep. and Address for Service

**Niagara-on-the-Lake Hydro
Inc.**

Jim Huntingdon

Director
Niagara-on-the-Lake Hydro Inc.
8 Henegan Rd.
P.O. Box 460
Virgil, ON L0S 1T0

Tel: 905-468-4235
Fax: Not Provided
JHuntingdon@notlhydro.com

INTERVENORS

Rep. and Address for Service

**Energy Probe Research
Foundation**

David MacIntosh

Case Manager
Energy Probe Research Foundation
225 Brunswick Avenue
Toronto ON M5S 2M6
Tel: 416-964-9223 Ext: 235
Fax: 416-964-8239
DavidMacIntosh@nextcity.com

Randy Aiken

Aiken & Associates
578 McNaughton Ave. W.
Chatham ON N7L 4J6
Tel: 519-351-8624
Fax: 519-351-4331
randy.aiken@sympatico.ca

**Niagara-on-the-Lake Hydro Inc.
EB-2013-0155**

APPLICANT & LIST OF INTERVENORS

December 20, 2013

**Vulnerable Energy
Consumers Coalition**

Michael Janigan

Special Counsel
Public Interest Advocacy Centre
ONE Nicholas Street
Suite 1204
Ottawa ON K1N 7B7
Tel: 613-562-4002 Ext: 26
Fax: 613-562-0007
mjanigan@piac.ca

Mark Garner

Project Manager
Econalysis Consulting Services
34 King Street East
Suite 630
Toronto ON M5C 2X8
Tel: 647-408-4501
Fax: 416-348-0641
mgarner@econalysis.ca

Bill Harper

Econalysis Consulting Services
34 King Street East
Suite 630
Toronto On M5C 2X8
Tel: 416-348 0193
Fax: Not Provided
bharper@econalysis.ca

**Final Issues List
Niagara-on-the-Lake Hydro Inc.
2014 Cost of Service Rate Application
EB-2013-0155**

1. Foundation

- 1.1 Does the planning (regional, infrastructure investment, asset management etc.) undertaken by the applicant and outlined in the application support the appropriate management of the applicant's assets?
- 1.2 Are the customer engagement activities undertaken by the applicant commensurate with the approvals requested in the application?

2. Performance Measures

- 2.1 Does the applicant's performance in the areas of: (1) delivering on Board-approved plans from its most recent cost of service decision; (2) reliability performance; (3) service quality, and (4) efficiency benchmarking, support the application?

3. Customer Focus

- 3.1 Are the applicant's proposed capital expenditures and operating expenses appropriately reflective of customer feedback and preferences?

4. Operational Effectiveness

- 4.1 Does the applicant's distribution system plan appropriately support continuous improvement in productivity, the attainment of system reliability and quality objectives, and the associated level of revenue requirement requested by the applicant?
- 4.2 Are the applicant's proposed OM&A expenses clearly driven by appropriate objectives and do they show continuous improvement in cost performance?
- 4.3 Are the applicant's proposed operating and capital expenditures appropriately paced and prioritized to result in reasonable rate increases for customers, or is any additional rate mitigation required?

5. Public Policy Responsiveness

- 5.1 Do the applicant's proposals meet the obligations mandated by government in areas such as renewable energy and smart meters and any other government mandated obligations?

6. Financial Performance

- 6.1 Do the applicant's proposed rates allow it to meet its obligations to its customers while maintaining its financial viability?
- 6.2 Has the applicant adequately demonstrated that the savings resulting from its operational effectiveness initiatives are sustainable?

7. Revenue Requirement

- 7.1 Is the proposed Test year rate base including the working capital allowance reasonable?
- 7.2 Are the proposed levels of depreciation/amortization expense appropriately reflective of the useful lives of the assets and the Board's accounting policies?
- 7.3 Are the proposed levels of taxes appropriate?
- 7.4 Is the proposed allocation of shared services and corporate costs appropriate?
- 7.5 Are the proposed capital structure, rate of return on equity and short and long term debt costs appropriate?
- 7.6 Is the proposed forecast of other revenues including those from specific service charges appropriate?
- 7.7 Has the proposed revenue requirement been accurately determined from the operating, depreciation and tax (PILs) expenses and return on capital, less other revenues?

8. Load Forecast, Cost Allocation and Rate Design

- 8.1 Is the proposed load forecast, including billing determinants an appropriate reflection of the energy and demand requirements of the applicant?
- 8.2 Is the proposed cost allocation methodology including the revenue-to-cost ratios appropriate?
- 8.3 Is the proposed rate design including the class-specific fixed and variable splits and any applicant-specific rate classes appropriate?
- 8.4 Are the proposed Total Loss Adjustment Factors appropriate for the distributor's system and a reasonable proxy for the expected losses?
- 8.5 Is the proposed forecast of other regulated rates and charges including the proposed Retail Transmission Service Rates appropriate?

- 8.6 Is the proposed Tariff of Rates and Charges an accurate representation of the application, subject to the Board's findings on the application?

9. Accounting

- 9.1 Are the proposed deferral accounts, both new and existing, account balances, allocation methodology, disposition periods and related rate riders appropriate?
- 9.2 Have all impacts of any changes in accounting standards, policies, estimates and adjustments been properly identified, and is the treatment of each of these impacts appropriate?