Via Web Portal (Original by Courier)

May 5, 2014

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

Dear Ms. Walli:

Re: Board File No. EB - 2014- 0138
Submission of Orangeville Hydro, Centre Wellington Hydro and Erie Thames Powerlines
Review of the Policies and Processes to Facilitate Electricity Distributor Efficiency – Service Area Amendments and Rate-Making Associated with Distributor Consolidation

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This joint submission is made on behalf of three LDCs with recent experiences dealing with the service area amendment ("SAA") process, namely Erie Thames Powerlines Corporation ("ETP"), Orangeville Hydro Limited ("OHL") and Centre Wellington Hydro Ltd. ("CWH").

Thank you for the opportunity to make our voices heard on this important issue. We believe that we bring a unique perspective to the Board's review given our recent contested SAA experiences. For your reference, ETP and OHL were each successful in SAA applications (EB-2011-0085 and EB-2012-0181, respectively) and CWH will be submitting an SAA application shortly after a long period of dealing with the developer and incumbent distributor. For the purposes of this letter, it is important to note that each of our experiences has involved Hydro One Networks Inc. ("HONI") as the incumbent distributor. We submit that the examples referenced herein are either publicly available in the above-noted case records or will be set out in CWH's forthcoming SAA application.

We acknowledge the submissions of our industry representative groups, including the EDA. The purpose of this letter is not to restate the positions in these submissions or address every question posed by Board staff in its discussion paper. Instead, our intention is to enhance the dialogue and expand upon the submissions of our industry representatives by providing real world examples drawn from our experiences in dealing with contested SAAs in un-serviced areas. We have also made specific recommendations to improve the SAA process within the current procedural framework and included suggestions for more fundamental changes to the SAA rules. (Please note that we will not be commenting on the issues associated with distributor consolidation rate making.)

Efficiencies Within Current Framework

In lieu of material changes to the SAA process which may stem from the Board's review, we suggest there are efficiencies and improvements that can be gained within the current regulatory framework. In particular, we ask that the Board provide more direction in certain areas of the contested SAA process and enforce the existing rules more diligently.

Additional direction is needed from the Board.

Simply put, efficiencies can be gained if the Board provides clearer direction regarding the contested SAA hearing process. For example, the Board should clearly state which costs should be included in a connection cost comparison and set out a consistent form of economic evaluation to be used by both the applicant and incumbent distributors. This additional direction will allow the distributors and the Board to quickly and clearly illustrate an apples-to-apples comparison of connection costs and overall economic efficiency.

In EB-2011-0085 and EB-2012-0181, and as detailed in the forthcoming SAA application from CWH, both distributors were left to wrangle over the basis of a connection cost comparison with minimal direction from the Board. This results in a slower, less efficient hearing and increases the potential for the incumbent distributor to delay and frustrate the hearing process, a point which is expanded upon below. To improve the efficiency of the current process, we suggest that the Board clearly set out a connection cost comparison chart to be completed by the incumbent and applicant distributors (similar to the comparison chart included in the Decision and Order in respect of EB-2011-0085 and EB-2012-0181).

In a similar vein, additional Board direction regarding the economic evaluation model used by the distributors would improve the efficiency and fairness of the process. It has been our experience that each distributor uses a different economic evaluation model and the details disclosed regarding each party's model are inconsistent. We submit that additional direction from the Board on this issue, forcing both distributors to present its economic efficiency argument based on similar economic evaluation models, would improve the efficiency and consistency of the contested SAA hearing process.

On a more general level, it would be helpful if the Board provides additional guidance regarding the level of detail and finality required before commencing a contested SAA application. It has been our experience that the incumbent distributor can delay the process by requiring increasingly detailed information from the developer which hinders the ability for the parties to commence an expeditious SAA application. Accordingly, we encourage the Board to provide clear direction regarding the level of detail required before commencing a contested SAA application. For example, if the developer is comfortable with the level of detail and issues a letter of support, we suggest that this should be sufficient from the Board's perspective and the SAA should be able to proceed. We submit that providing this clarity will result in a more efficient SAA process.

On a related note, we would like to highlight the issue of requiring upfront payments for engineering and design work before providing an offer to connect. It has been our experience that the incumbent distributor's policy of requiring an upfront payment can serve as a deterrent to a developer in supporting a contested SAA, even if the SAA is in the public interest and more

economically efficient in the long run. Accordingly, we request additional guidance from the Board on this issue. Our recommendation is that the Board direct distributors to waive any upfront engineering or design costs in situations involving a contested SAA. Another possible solution would be to add a provision to the Distribution System Code ("DSC") requiring the incumbent distributor to provide one offer to connect without upfront cost. A similar provision currently exists in the Transmission System Code.

Increased enforcement of current rules will result in a more efficient SAA process.

We submit that a number of efficiencies can be gained by working within the current rules if the Board enforces the procedures already in place. We ask that the Board more stringently enforce the current rules to ensure that the incumbent distributor is limited in its ability to delay the SAA process.

In particular, we ask that the Board holds incumbent distributors to the rules and principles set out in RP-2003-0044 (the "Combined Proceeding") and the DSC. Our collective experience has been that the incumbent distributor (in each case Hydro One) has not provided an offer to connect in accordance with the 60 day timeline set out in section 6.1.1 of the DSC. Therefore, we recommend the introduction of an enforcement mechanism which encourages the incumbent distributor to provide an offer to connect within 60 days as per the DSC. Our preferred approach would be that the Board allow contested SAAs to proceed if the incumbent distributor has not delivered an offer to connect in accordance with the DSC and, if necessary, automatically approve the applicant distributor's SAA application if an offer to connect is not provided in a timely manner.

The Combined Proceeding has established that incumbent distributors should not resist SAAs where the applicant distributor is the most efficient service provider, even where it results in the loss of some territory. It has been our experience that the incumbent distributor has not adhered to these principles set out in the Combined Proceeding. For example, in the case of EB-2012-0181, we submit that it was clear from the outset that OHL was the more efficient service provider yet the incumbent distributor aggressively resisted the SAA. We submit that the efficiency of the SAA process can be improved if the Board finds a way to enforce the above principles of the Combined Proceeding and ensures that the incumbent distributor does not unreasonably contest.

Both applicant and incumbent distributors have a role to play in achieving SAA efficiencies.

We believe that there should be some obligation on the distributors to improve the SAA process. As applicant distributors, all we ask for is a quick and transparent hearing process which allows the more efficient provider to obtain a timely decision. We hope and expect that incumbent distributors will proceed in the same way.

We have agreed to make this joint submission together given our common SAA experiences. However, our LDC group also represents the start of a collaborative effort to cooperate more closely, share resources and gain efficiencies when applying for SAAs. Going forward, we also intend to invite other like-minded LDCs to join in this effort. We believe this collaborative effort will result in additional SAA efficiencies.

Suggested Changes to the Regulatory Framework

LDCs servicing their municipal boundaries drives efficiencies.

We believe quite simply that locally-owned utilities should service their municipal boundaries. We believe that aligning local LDCs' service territories with their municipal boundaries will result in economic efficiencies, optimum system planning, decreased customer confusion, and other benefits. Accordingly, we strongly support the ability for LDCs to align their distribution territory with municipal boundaries. In addition, we submit that alignment of an LDC's service territory with its municipal boundaries will help achieve sector consolidation as municipal boundaries (and thereby service territories) grow and eventually abut neighboring municipalities. Accordingly, the industry would organically achieve its goal of shoulder-to-shoulder LDCs and the efficiencies that result.

Efficiencies can be gained in granting SAAs for broad swaths of geography.

We submit that efficiencies can be gained if the Board allows SAA applications to proceed for broad swaths of geography. As an example, the subject areas of the SAAs dealt with in EB-2011-0085 and EB-2012-0181 involved the first phase of a subdivision development. In both cases, the developer is planning future similar developments. However, as per the principles set out in the Combined Proceeding, the Board was unwilling to consider a SAA for these future subdivision phases when it was ruling upon the initial phase. Accordingly, in each of those cases, we will need to bring new SAA applications requiring additional resources. We submit that the Board should take a look at broad swaths of geography surrounding the subject area of a SAA, including neighbouring future developments, and approve any future development phases that are largely similar even if detailed planning and approvals are outstanding.

As a further point, we submit that when the Board looks at a broad area around the SAA subject area it should consider whether existing assets of the incumbent distributor (e.g. Hydro One) should also be transferred to the applicant distributor (e.g. the local LDC). To achieve this, we submit that the Board might consider a mandated divestiture of the incumbent distributor's assets in this broad area via sale or lease-to-own at book value.

End use customer rates should matter.

The Board has previously taken the position that end use customer rates are not factors in granting a SAA. Given the Board's mandate of consumer and price protection, we submit that end use rates should be an important factor when determining the economic efficiency of a SAA application.

Remove the burden in un-serviced areas that fall outside a local LDCs service territory but within its municipal boundaries.

The Board has asked about the benefits of an "open for competition" approach to un-serviced areas. We understand this to mean removing the burden placed on applicant distributor to prove that their SAA application is in the public interest. We strongly support the removal of this burden thereby opening the SAA process for un-serviced areas to competition.

In its discussion paper, the Board asks how it would implement an "open for competition" approach in light of section 28 of the *Electricity Act*. We believe that the obligation to connect set out in section 28, and its inherent conflict with the current SAA rules, requires further discussion. As you are aware, section 28 obligates distributors to connect a customer who lies along its distribution system and requests a connection. Accordingly, in the case of EB-2011-0085 and EB-2012-0181, and as will be detailed in the forthcoming CWH SAA application, our interpretation has been that we are obligated by section 28 to pursue a SAA when the developer has requested an offer to connect and issued a letter of support in our favour. Upon proceeding with a contested SAA (which again we feel we are obligated to pursue by legislation), we submit that a conflict is immediately evident as we are then required to prove, as the applicant distributor, that the SAA is "in the public interest". In a circular manner, we would submit that the SAA is in the public interest simply by the fact that we are obligated by section 28 to service the customer. We submit that a removal of the burden of proof as discussed above would address this inconsistency.

Thank you again for the opportunity to provide input on this issue. Please contact the undersigned or the individual LDCs directly with any questions or requests for clarification.

Yours truly,

ON BEHALF OF ERIE THAMES POWERLINES, CENTRE WELLINGTON HYDRO AND ORANGEVILLE HYDRO

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