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February 12, 2015

VIA E-MAIL

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

Dear Ms. Walli:

**Re: EB-2014-0311 - HYDRO ONE NETWORKS INC.**  
**Application for Accounting Order**  
**Final Submission of Vulnerable Energy Consumers Coalition (VECC)**

Please find enclosed the submission of VECC in the above-noted proceeding. We have also directed a copy of the same to the Applicant.

Yours truly,

Michael Janigan  
Counsel for VECC

Cc:  
Ms. Erin Henderson  
e-mail: [regulatory@HydroOne.com](mailto:regulatory@HydroOne.com)

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**ONTARIO ENERGY BOARD**

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

**AND IN THE MATTER OF an Application by Hydro One Networks Inc. for an accounting order to establish a deferral account pursuant to section 78 of the *Ontario***

**FINAL SUBMISSIONS**

**ON BEHALF OF THE**

**VULNERABLE ENERGY CONSUMERS COALITION (VECC)**

**February 12, 2015**

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# **Vulnerable Energy Consumers Coalition (VECC)**

## **Final Argument**

### **Hydro One Network Inc. EB-2014-0311**

#### **1 THE APPLICATION**

- 1.1 Hydro One Network Inc. (Hydro One or the Company) filed an application with the Board on October 3, 2014 for an accounting order to establish a deferral account effective October 1, 2014 and for the purpose of recording expenses related to the development of the North West Bulk Transmission Line Project (NWBT Project).
- 1.2 The Board has established explicit rules to be considered when applying for a new deferral or variance account. These are:
- Materiality – The forecasted amounts must exceed the Board-defined materiality threshold and have a significant influence on the operation of the transmitter otherwise they must be expensed in the normal course and addressed through organizational productivity improvements;
  - Prudence - The nature of the costs and forecasted quantum must be reasonably incurred although the final determination of prudence will be made at the time of disposition. In terms of the quantum, this means that the applicant must provide evidence demonstrating as to why the option selected represents a cost-effective option (not necessarily least initial cost) for ratepayers; and
  - Causation - The forecasted expense must be clearly outside of the base upon which rates were derived <sup>1</sup>.
- 1.3 In addition the Board states that applicants must include a draft accounting order which must include a description of the mechanics of the account, including providing examples of general ledger entries, and the manner in

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<sup>1</sup> Filing Requirements For Electricity Transmission Applications, 2014 pg.25

which the applicant proposes to dispose of the account at the appropriate time.<sup>2</sup>

## Materiality

- 1.4 Hydro One Hydro One Transmission's materiality threshold is \$3 million. Hydro One believes the amounts recorded in the proposed deferral account will be material and are expected to exceed \$5 million. No costs have been incurred to date that will be recorded in the proposed account(s) for these activities.<sup>3</sup>
- 1.5 Hydro One has stated that: "[Fo]r *this project, the work direction and determination of the project's scope and timing were provided to Hydro One after its Business Planning process was completed. Therefore, the plan that was used to construct the proposed 2015-2016 Transmission rates revenue requirement application, did not include an allowance for these forecast costs in either test years*".<sup>4</sup>
- 1.6 Hydro One has also stated that "... *detailed estimates are not available for a number of reasons such as, an agreement with Infrastructure Ontario ("IO") has not been reached, the nature of the greenfield' project creates uncertainty with respect to consultation requirements (environmental, First Nations and Métis, landowners), the impact on flora, fauna and wildlife in the area has not been assessed, etc.*"<sup>5</sup>
- 1.7 Hydro One has provided no evidence as to the materiality of the costs expected to be incurred. The Company statement that the costs will be greater \$3 million is directly at odds with its evidence.
- 1.8 Hydro One maintains it is unable to accurately estimate the preliminary development costs that will be recorded in the deferral account. At the same

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<sup>2</sup> Ibid

<sup>3</sup> Board Staff #4

<sup>4</sup> Application/pg.3

<sup>5</sup> Board Staff #7

time it has the ability assure the Board that the account meets the materiality threshold of \$5 million. These two positions are at odds with each other.

- 1.9 In VECC's submission Hydro One has failed the test of demonstrating that there are material costs that may be incurred in the described exercise.

## **Prudence**

- 1.10 In VECC's submission Hydro One has made a prima facie case for the establishment of the account. It is a real requirement outside the discretion of the Company. The reasons to incur these costs are established under the auspices of the Ministry of Energy/IESO/OPA) and are such that the Board has incorporated the requirement of Hydro One to participate in this exercise...
- 1.11 As noted by Hydro One, if granted, prudence of the balances would occur only prior to the actual disposition of the account.
- 1.12 Hydro One has not met the requirement of the Board to include a draft accounting order which includes a description of the mechanics of the account, including providing examples of general ledger entries, and the manner in which the applicant proposes to dispose of the account at the appropriate time.

## **Causation**

- 1.13 VECC has had the opportunity to review the submissions of the School Energy Coalition (SEC) with respect to these issues. We are in substantive agreement with their position in this case.
- 1.14 In VECC's submission the substantive issue raised in this application is whether it is reasonable to expect Hydro One to have raised the need for a deferral account as either a part of the consultative process which led to the transmission revenue requirement application or as part of the EB-2014-0140 application itself.

- 1.15 In our submission, it is simply disingenuous to argue that the matters in this application which was filed on October 3, 2014 were unknown to Hydro One when filed its transmission revenue requirement application on September 16, 2014. In fact, nothing of substance has changed in regards to Hydro One's obligation since the matter was first raised with the Company in December 2013. The letter by the OPA of October 1, 2014 adds nothing of substance to the argument of whether a deferral account is needed. Indeed, Hydro One's position that it cannot provide any estimate of the specific costs that might be incurred attests to this fact.
- 1.16 VECC is also keenly aware of the fact that Hydro One never raised the matter as part of its consultations with intervenors. .

## **Obligations of Hydro One**

- 1.17 Hydro One states in its response to Board Staff that *"Without approval of this deferral account, Hydro One will cease predevelopment activities on the North West Bulk Transmission Line project, which will delay the in service date that will ultimately impact ratepayers."*<sup>6</sup> That is, in the absence of Board approval the Company proposes to defy the Board's licence amendment which states:

*"The Licensee shall develop and seek approvals for the expansion or reinforcement of a portion or portions of the Licensee's electricity transmission network in the area west of Thunder Bay (the "Northwest Bulk Transmission Line Project"). The scope and timing of the Northwest Bulk Transmission Line Project shall be in accordance with the recommendations of the Ontario Power Authority."*

- 1.18 While of questionable legality, at the very least Hydro One's response is either oblivious or disrespectful of the Board's authority. Hydro One is obligated under the terms of its licence to carry of the work in question with or without a deferral account. At best, following a Board decision denying such an account, the Applicant might question whether it has been given a reasonable opportunity to earn on return on its invested capital. Since the amounts

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<sup>6</sup> Board Staff IR #1/pg.2

cannot be determined to be material, such an argument would likely be without merit. In any event, that question is not before the Board in this application and Hydro One must, as a matter of law, do the work in question.

1.19 In VECC's submission, Hydro One has an obligation to carry out the noted requirements irrespective of the Board's decision on the matter of a variance account.

1.20 In our submission, this application is an abuse of process. Hydro One has filed for relief on a matter which was known at the time it filed its transmission revenue requirement application EB-2014-0140. We are also disappointed by the lack of transparency and full disclosure demonstrated by Hydro One in not having raised the issue as part of its consultative leading up to that application. As noted by SEC, had this proposal been revealed earlier it may have had implications for the eventual agreement which Hydro One put before the Board.

1.21 This application before the Board comes down to this: Hydro One has gamed and/or been non-observant of the revenue requirement application process such that the proposal for deferral accounts has been eliminated from the full scrutiny of interested parties; it does not know whether the costs of the exercise in question will be material or not; and it threatens ignore its own licence obligations should it get an unfavourable decision from the Board. We think, in these circumstances, such an application should be denied.

1.22 Hydro One cannot show that any harm will arise from the denial of this application. It cannot show the expected amounts are material. It can apply at a later date when these costs are known with greater certainty.

## **2 COSTS**

2.1 VECC submits that its participation in this proceeding has been focused and responsible. Accordingly, VECC requests an award of costs in the amount of 100% of its reasonably-incurred fees and disbursements

2.2 All of which is respectfully submitted this 12th day of February 2015.