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Our File # 339583-000199

By electronic filing

May 12, 2015

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

Dear Ms. Walli

Re:	Hydro One Networks Inc. ("Hydro One") New Cost Allocation Issue
Board File #:	EB-2013-0421

As solicitors for Canadian Manufacturers & Exporters ("CME"), we are writing to provide our comments on the process proposals contained in Hydro One's May 4, 2015 letter which reached us on May 6, 2015. In preparing this letter, we have considered the comments made by counsel for the E3 Coalition in his letter to the Board dated May 6, 2015.

As stated in our letter of April 30, 2015, we believe that it is essential that Board Staff or Hydro One retain someone possessing the appropriate expertise to make a complete evidentiary presentation of the parameters of the "beneficiary pays" principle, including the criteria which should be considered when applying that principle.

Our April 30, 2015 letter enclosed excerpts from two (2) Decisions of the National Energy Board ("NEB") made in the late 1980's and early 1990's. These materials identify criteria to be considered when applying a tolling methodology principle such as the "beneficiary pays". Three (3) more recent NEB Decisions dealing with such criteria have now come to our attention. They are as follows:

- (a) NEB Report in GH-001-2012 re: NOVA Gas Transmission Ltd. dated January 2013¹, in particular, pages 26 to 31 inclusive;
- (b) NEB Reasons for Decision in RH-001-2014 re: TransCanada PipeLines Limited dated December 2014², in particular, pages 70 to 73 and 79 to 80; and
- (c) NEB Report in GH-001-2014 re: NOVA Gas Transmission Ltd. dated April 2015³, in particular, pages 30 to 42 inclusive.

These Decisions also identify criteria to be considered, including “Cost Causation”, which encompasses matters pertaining to “Integration” and the nature of the “Services” to be provided. Other factors to be considered include “Economic Efficiency”, “Cross-Subsidization”, “Unjust Discrimination”, and “Risk”.

In its May 4, 2015 letter, Hydro One appears to contemplate that a presentation pertaining to the “beneficiary pays” principle can be made by Board Staff at a Technical Conference. We assume that Hydro One is referring to a presentation of evidence by a witness sponsored by Board Staff who possesses the appropriate expertise with respect to that principle. We submit that anything less than a complete presentation in evidence of the parameters of this principle, including the criteria which should be considered when applying it, will not provide a sufficient foundation for a Board determination of the most appropriate way to apply the principle in the circumstances of this particular case.

Accordingly, we request that the Board direct Hydro One or Board Staff to make the “beneficiary pays” presentation in written evidence to be distributed in advance of a Technical Conference. This will allow interested parties to prepare their follow-up questions of clarification to be posed at that conference.

While we agree with counsel for the E3 Coalition that no one should be deprived of their right to pose follow-up questions to Hydro One at a Technical Conference on any part of the pre-filed evidence, we respectfully suggest that a comprehensive evidentiary presentation on the “beneficiary pays” principle should be regarded as an essential precursor to the commencement of that conference.

For these reasons, we support Hydro One’s proposal for the scheduling of a Technical Conference provided that either Board Staff or Hydro One provides, in advance of that Conference, written evidence related to the parameters of and the criteria which should be considered when applying the “beneficiary pays” principle.

¹ <https://docs.neb-one.gc.ca/l1-eng/l1isapi.dll/fetch/2000/90464/90550/554112/666941/737909/914331/914110/A3F0Y9 - National Energy Board Report for Proceeding GH-001-2012.pdf?nodeid=913955&vernum=2>

² https://docs.neb-one.gc.ca/l1-eng/l1isapi.dll/fetch/2000/90465/92833/92843/955803/2397890/2585806/2585804/Reasons_for_Decision_RH-001-2014 - A4G2G5.pdf?nodeid=2585408&vernum=1

³ https://docs.neb-one.gc.ca/l1-eng/l1isapi.dll/fetch/2000/90464/90550/554112/915551/1060220/2452264/2760037/Report_GH-001-2014 - North Montney Mainline - A4K5R6.pdf?nodeid=2759936&vernum=1

We agree that, at that Technical Conference, all evidence in the record should be subject to follow-up questions of clarification. We also agree that other parties should not be required to finalize their evidence until that Technical Conference has concluded.

Finally, we share the view expressed by Counsel for the E3 Coalition in his letter of May 6, 2015, that the first paragraph of Hydro One's letter of May 4, 2015 requires clarification. While we believe that, subject to our comments above, the proposed Technical Conference will be of assistance in clarifying the issues engaged by Hydro One's proposal, as indicated in our letter of February 17, 2015, given the broader policy questions involved in this matter, we continue to believe that an oral hearing would be appropriate, subject to reassessment following the close of interrogatories and the filing of evidence by intervenors.

Yours very truly

Borden Ladner Gervais LLP


per: Peter C.P. Thompson, Q.C.

PCT\slc

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Michael Engelberg (Hydro One)
All Interested Parties EB-2013-0421
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