

June 22, 2016

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

Dear Ms. Wall:

Re: EB-2016-0025 – LDC Co. Application – Consumers Council of Canada Submissions on the Issues List and Confidentiality

Pursuant to Procedural Order No. 1, dated June 15, 2016, the Consumers Council of Canada (“Council”) has the following submissions to make regarding the Issues List proposed by Enersource Hydro Mississauga Inc., Horizon Utilities Corporation, PowerStream Inc. and Hydro One Brampton Networks Inc. (the “Applicants”) in the above-referenced proceeding. The Council also briefly addresses the confidential requests made by the Applicants.

Issues List:

On July 23, 2007, the Ontario Energy Board (“OEB” or “Board”) issued a policy dealing with rate-making associated with consolidation.¹ On March 26, 2016, the OEB issued a further report with amendments to its initial policy². On January 19, 2016, the Board issued a Handbook to provide guidance to applicants and stakeholders on applications to the OEB for approval of distributor and transmitter consolidations and subsequent rate applications³

On May 30, 2016, the Applicants filed a Draft Issues List for consideration by the Board and Intervenor. The Issues List, as proposed, appears to be directly derived from the Board’s reports. Although the OEB has issued its policies to provide applicants guidance with respect to distributor consolidations the Council submits that those policies should not restrict the scope of the proceedings to consider the consolidation applications.

The consolidation proposal is complex and the outcome will impact a significant number of Ontario electricity ratepayers over a long period of time. It is incumbent upon the Board to ensure that the rates arising from that proposal are just and reasonable. It is also critical that the result represents a fair balance between the interests of the utility ratepayers and the shareholders. If the Applicants’ proposals are approved as filed the Council does not believe that balance will be struck. In addition, the Council does not believe that the resulting rates will be just and reasonable.

¹ Report of the Board – Rate-making Associated with Distributor Consolidation, July 23, 2007

² Report of the Board – Rate-making Associated with Distributor Consolidation, EB-2014-0138

³ Handbook to Electricity Distributor and Transmitter Consolidations, January 19, 2016

Although we may support some of the proposals being advanced by the Applicants, in some cases we will not. We would like an opportunity to argue that in order to protect the interests of the ratepayers it may be necessary to make proposals that do not strictly adhere to the Board's policies and guidelines. This would include, among other things, rate-setting methodologies (e.g. Incremental Capital Mechanism proposals) during the deferral period and the sharing of costs and benefits.

The Applicants are proposing an Earnings Sharing Mechanism ("ESM") that will be in place in years six to ten of the rebasing deferral period. That ESM would only result in ratepayer sharing if earnings were excess of 300 basis points above the Board's established regulatory return on equity ("ROE") for the consolidated entity. This could mean that ratepayers would not share in any benefits resulting from the merger for over ten years. If one of the objectives of the consolidation is to benefit the customer base (which we would argue is a primary objective), an alternate form of ESM would be more appropriate, one that allows for a more equitable sharing of efficiencies and savings. This is one example of how what is fair for the ratepayers may not be aligned with the Board's policies as set out in its Reports.

Accordingly, the Council supports the submissions by the School Energy Coalition ("SEC") to add the following issue:

To what extent, if any, is it appropriate and in the public interest for the Board to apply its policies as set forth in its *2015 Board Report – Rate-making Associated with Distributor Consolidation* and its *2016 Handbook for Electricity Distributor and Transmitter Consolidations* to the proposed transactions?

The Council submits that this issue should be interpreted broadly and allow for parties to bring forward alternative proposals to those set out in the Board policies. Strictly adhering to the Board's policies without a consideration of alternatives would clearly not be in the public interest.

The Council also supports the inclusion of an issue that considers the Settlement Agreement and Board Order in the Horizon case⁴. Horizon has committed to an ESM in that agreement and a relevant issue in this proceeding is how Horizon plans to honour that commitment.

Confidentiality:

With respect to confidentiality the Council supports the submissions of SEC.

Yours truly,

Julie E. Girvan

Julie E. Girvan

CC: All parties

⁴ EB-2014-0002