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BY EMAIL

November 18, 2016

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

Dear Ms. Walli:

**Re: OEB Staff Submission
E.L.K. Energy Inc.
Application for Service Area Amendment
OEB File No: EB-2016-0155**

In accordance with Procedural Order No. 2, please find enclosed OEB staff submission in the above mentioned proceeding.

Yours truly,

Original signed by

Irina Kuznetsova
Case Manager

Attachment



ONTARIO ENERGY BOARD

OEB STAFF SUBMISSION

**Application for Service Area Amendment
E.L.K. Energy Inc.**

OEB File Number EB-2016-0155

November 18, 2018

The purpose of this document is to provide the submission of OEB staff after its review of the evidence filed in this proceeding.

1. THE APPLICATION

E.L.K. Energy Inc. (ELK) distributes electricity in the areas of Essex, Harrow, Belle River, Comber, Kingsville, and Cottam in accordance with OEB licence #EB-2003-0015.

On April 12, 2016, ELK filed an application with the OEB under section 74 of the *Ontario Energy Board Act, 1998* (OEB Act) for a service area amendment (SAA). An SAA is an amendment to Schedule 1 of a distributor's licence, which is the part of the licence that defines the distributor's service area. Section 74(1) of the OEB Act allows the OEB to amend a distributor's licence where the amendment is in the public interest. In order to complete its application¹, ELK filed supplementary information on June 21, 2016. On October 6, 2016, ELK again filed an evidentiary update to its application.

The proposed SAA, if granted, would expand ELK's licensed service area to include specific lands (the SAA Lands) currently located within the licensed service territory of Hydro One Networks Inc.'s (Hydro One). The SAA Lands are owned by 1710690 Ontario Inc. (the Developer) and Sellick Equipment Limited (Sellick), are located in the Town of Essex, and are designated for the development of a commercial subdivision. The application includes letters signed by both the Developer and Sellick in support of ELK's SAA request.

Hydro One, as the incumbent distributor in the SAA Lands, is directly affected by ELK's application. Hydro One filed its evidence on September 22, 2016. Hydro One does not support ELK's application.

2. CRITERIA FOR ASSESSING SERVICE AREA AMENDMENT APPLICATIONS

Electricity distributors who file SAA applications are required to comply with Chapter 7 of the OEB's *Filing Requirements for Transmission and Distribution Applications*. More

¹ Chapter 7 of the *Filing Requirements for Transmission and Distribution Applications* stipulate that the OEB will not determine an SAA application until all of the required information is filed during the course of the proceeding regardless of whether the information is provided by the applicant, the incumbent distributor (i.e., the distributor that currently has the region that is the subject of the SAA application in its service area), the customer, or other relevant third party.

specifically, the information in sections 7.1 to 7.4 of the Filing Requirements must be provided for all SAA applications. As well, the information requested under section 7.5 must be provided for contested SAA applications. ELK has not been able to obtain the consent of the incumbent utility and, therefore, this is a contested application. In a contested SAA application, the onus is on the applicant to provide evidence demonstrating that the proposed amendment is in the public interest.

The Filing Requirements are guided by the OEB's objectives in electricity namely, economic efficiency, consumer protection and the maintenance of a financially viable electricity industry. They are also based on the general principles articulated in the OEB's Decision on the Combined Service Area Amendments Proceeding (RP-2003-0044). OEB staff has set out these principles in the next section, together with its view of how ELK's application addresses them.

3. OEB STAFF'S SUBMISSION

3.1 THE PROPOSED SERVICE AREA

The Filing Requirements provide that if there is no agreement among affected persons regarding the proposed SAA, the applicant must file, among other things, the offer(s) to connect the prospective customer, a comparison of the competing offers to connect the customer, and a detailed comparison of the new or upgraded electrical infrastructure necessary for each distributor to serve the area that is the subject of the SAA application. As well, in the RP-2003-0044 decision, the OEB stated that applications for amendment which involve broad swathes of geography, without detailed proposals respecting specific customers, should be avoided.

ELK is proposing to expand its service territory to connect Sellick and to include in its service territory the vacant land owned by the Developer. With its application, ELK filed information and an Offer to Connect in relation to the Sellick connection. No Offer to Connect was filed with regards to the Developer and no details pertaining to the connection of the Developer were filed with the application. In its response to Hydro One's interrogatory #5, ELK confirmed that it is not in possession of any load profiles from the Developer, which would be necessary in order to prepare an Offer to Connect.

OEB staff submits that ELK’s SAA request to include both the Developer’s and Sellick’s lands in its service territory is not consistent with OEB policy. ELK’s evidence does not provide any detailed proposals or specific timelines beyond Sellick’s development area. OEB staff’s position is that the OEB should limit the scope of this proceeding to an assessment of the application as it relates to Sellick’s connection proposal only.

3.2 CONNECTION COSTS AND ECONOMIC EFFICIENCY

In the RP-2003-0044 decision, the OEB stated that in all instances, the costs associated with the connection should be “the fully loaded costs”. The OEB went on to add that “fully loaded costs capture all of the relevant indirect and direct costs reasonably associated with the project at issue, not merely the price of connection quoted to the prospective connection customer.”

Each of ELK and Hydro One have provided an offer to connect Sellick. The cost estimates in their respective offers to connect are shown in Table 1 below.

Table 1 – Offer to Connect Sellick Equipment Limited

Cost Item	ELK	Hydro One
Non-Contestable Work ² (poles, wires, meters)	\$8,702.67 (no poles included)	\$16,103.17 (two poles included)
Contestable Work ³	Not required	Not required
Civil works	Supplied by Sellick	Supplied by Sellick
Capital Contribution from Customer	\$0	\$0

In OEB staff’s view, the evidence and interrogatory responses filed by Hydro One sufficiently demonstrate that Hydro One’s cost estimate represents the total costs to connect Sellick.

With respect to ELK, however, the evidence does not provide a clear answer as to whether the connection costs to Sellick represent fully loaded costs associated with the expansion of the service area. Specifically, in sections 7.1.4 (f) and 7.2.1(a, b) of its application dated June 21, 2016, ELK states that the location of the existing facilities “represent the most effective use of existing resources”. A diagram filed by ELK, entitled

² Non-contestable work is work only the local distribution company can perform.

³ Contestable work is work eligible to be performed by qualified contractors on behalf of the customer.

“Attachment 1.6”, identifies ELK’s existing assets in the area. Based on existing assets and proposed assets to be put in place to facilitate the Sellick connection, ELK, in its Offer to Connect provided with the application, initially arrived at the estimated cost to Sellick in the amount of \$83.8K. Then, in the Offer to Connect, dated October 3, 2016, the cost to connect Sellick was reduced to \$8.7K.

ELK provided an explanation for its reduced cost estimate in its response to OEB staff interrogatory #1.i. on ELK’s updated evidence. ELK stated that Sellick has changed its load profile and consequently will be supplying its own transformer, which accounted for \$48K in the original cost estimate. In addition, ELK stated that in its initial Offer to Connect, it incorrectly charged Sellick the amount of \$20.6K for installing two new poles into existing overhead line to facilitate new connection “...when in fact they were incurred at the request of a different customer (the developer).” It is unclear to staff why ELK would undertake any work requested by the Developer when, at this point, the Developer is neither ELK’s existing customer nor its potential customer.

In order to clarify the record, in its interrogatory # 1.ii, OEB staff asked ELK to provide a detailed diagram identifying the location of all existing, relocated and new assets that ELK is planning to use to connect Sellick. In response to the OEB staff interrogatory, ELK provided a diagram, found at Appendix 5, where it identified the following assets: one new pole added by ELK, one pole removed by ELK, 27.6 kV circuit extended from removed pole to the new pole, and one pole relocated by ELK. However, no cost associated with these assets has been accounted for by ELK in its assessment of the economic efficiency of the offer to connect Sellick. This is not consistent with the RP-2003-0044 decision.

OEB staff is of the view that since the cost estimates provided by Hydro One represent fully-loaded costs and the cost estimates submitted by ELK are limited to the cost to Sellick beyond the demarcation point only, an accurate “apples to apples” comparison required for assessment of economic efficiency of competing connection proposals cannot be arrived at.

3.3 RELIABILITY AND QUALITY OF SERVICE

Both distributors will be providing service to the Customer using the same M7 feeder owned by Hydro One. Accordingly, OEB staff submits that a similar level of reliability or

quality of service can be expected from both distributors.

3.4 DISTRIBUTION RATES OF ELK AND HYDRO ONE

In the RP-2003-0044 Decision, the OEB was clear in stating that it does “not believe that significant weight should be put on differences in current distribution rates even though current rates may be a significant factor in determining customer preference”. As well, current rates, insofar as they are not a predictor of future rates, may misinform customer preference.

ELK’s evidence indicates that Sellick will be subject to lower distribution rates if serviced by ELK. In accordance with its bill comparison, ELK states that Sellick can potentially save about \$800 per month, or \$10K a year, if supplied by ELK.

However, the likely corollary to Sellick paying lower rates is that other ELK customers will end up paying higher rates. As a sub transmission customer of Hydro One, ELK could potentially experience additional sub-transmission charges from Hydro One ranging from \$31,000 to \$125,000 per year (based on the percentage of additional peak load from Sellick during ELK’s peak). Out of these incremental sub-transmission charges, ELK is expecting to recover from Sellick a maximum of \$420 annually. As stated in the response to OEB staff interrogatory # 2.b) and Hydro One’s interrogatory 1(c), on ELK’s updated evidence, other ELK ratepayers would be responsible for the difference through ELK’s low voltage and retail transmission rates. In OEB staff’s view, this evidence is contrary to ELK’s statement in the application that there will be no impact on rates as a result of the proposed SAA.

OEB staff submits that the benefit to Sellick from ELK’s lower rates and the rate impact on the remainder of ELK’s customers are factors properly considered by the OEB in its assessment of the competing proposals, and the application generally.

3.5 CUSTOMER PREFERENCE

OEB policy states that some weight may be given to customer preference, when considering an SAA application. In the RP-2003-0044 decision, the OEB confirmed that “customer preference is an important, but not overriding consideration when assessing the merits of an application for a service area amendment”. The OEB went on to state

that “customer choice may become a determining factor where competing offers to the customer(s) are comparable in terms of economic efficiency, system planning and safety and reliability, demonstrably neutral in terms of price impacts on customers of the incumbent and applicant distributor, and where stranding issues are addressed.” In this proceeding, Sellick has made it clear, in a letter filed with the application, that it prefers ELK (over Hydro One) as its electrical service provider. (As well, a letter from the Developer is also filed in support of ELK’s SAA request.)

OEB staff has submitted that it has found it difficult, if not impossible, to analyze the competing offers of ELK and Hydro One on an “apples to apples” basis. Moreover, OEB staff is concerned about the lack of the neutrality of rate impacts on the rest of ELK’s customers. In OEB staff’s view, only if the OEB determines, with a view to these factors and the other evidence before it, that ELK’s ability to serve Sellick has been proven to be more economically efficient having regard to all costs necessary to effect the connection, can the OEB take into consideration customer preference.

All of which is respectfully submitted