



EB-2016-0276

**Hydro One Inc.
Orillia Power Distribution Corporation
Hydro One Networks Inc.**

**Application for approval to purchase Orillia Power
Distribution Corporation**

**PROCEDURAL ORDER NO. 1
December 12, 2016**

Hydro One Inc. (Hydro One), filed an application on October 11, 2016, under section 86(2)(b) of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B) (Act), requesting approval to purchase all of the shares of Orillia Power Distribution Corporation (Orillia Power). As part of the share purchase, Orillia Power and Hydro One Networks Inc. (HONI) requested the OEB's approval for related transactions/proposals:

- Inclusion of a rate rider in Orillia's 2016 OEB approved rate schedule, under section 78 of the Act, to give effect to a 1% reduction in the 2016 base electricity delivery rates for residential and general service classes until 2022,
- Transfer of Orillia's rate order to HONI, under section 18 of the Act
- Transfer of Orillia's distribution system to HONI, under section 86(1)(a) of the Act
- Cancellation of Orillia's electricity distribution licence, under section 77(5) of the Act, after the transfer of the distribution system to HONI is completed
- Amendment of HONI's electricity distribution licence, under section 74 of the Act, at the same time as Orillia's licence is cancelled, authorizing HONI to serve Orillia's customers

A Notice of Hearing was issued on November 7, 2016. Each of the School Energy Coalition (SEC), the Vulnerable Energy Consumers Coalition (VECC), the Consumers Council of Canada (CCC), Mr. Kehoe and the Orillia Water, Light and Power Commission (Commission) applied for intervenor status.

SEC, VECC, CCC Mr. Kehoe and the Commission also applied for cost eligibility.

Mr. Makuch requested an oral hearing of the application providing the following reasons for his request:

1. Orillia does not own the distribution system which is the subject of the application.
2. The distribution system is owned by the Commission which was not legally dissolved by the City of Orillia (City) and which, thus, continues to own the distribution system.
3. The Commission has authorized this intervention in these proceedings.

The City objected to the granting of any status to the Commission indicating that the various statements in Mr. Makuch's correspondence are false. The City provided a copy of By-Law Number 2000-146 of The City of Orillia (By-Law) which, among other things, purports to dissolve the Commission as of November 1, 2000.

The City submitted that as the Commission does not exist, the statement in Mr. Makuch's letter that the Commission has authorized this intervention in these proceedings is untrue. The City also asserted that the reference in Mr. Makuch's letter that Orillia does not own the distribution system is also incorrect as the City passed transfer By-Law No. 2000-144 on October 16, 2000 which conveyed the distribution system to Orillia and the OEB has licensed Orillia as the local electricity distribution company for the City since that time. The City also objected to Mr. Makuch's request for an oral hearing stating that the grounds described above, and contained in Mr. Makuch's letter in support of an oral hearing, are not correct.

Hydro One filed a letter supporting the position taken by the City, namely objecting to the granting of any status to the Commission and to the request for an oral hearing.

Mr. Makuch filed a letter on November 22, 2016 stating that Orillia's objections are all based on the erroneous assumption that the bylaw dissolving the Commission is valid and that he will be providing evidence that the bylaw is invalid, that the Commission still exists, and that it has acted properly in seeking status at this hearing. Mr. Makuch continued to assert that an oral hearing is necessary.

Findings - Intervention Requests

SEC, VECC, and CCC are approved as intervenors.

The intervention request of Mr. Kehoe (made as part of Mr. Makuch's November 17, 2016 letter), is said to be made on Mr. Kehoe's own behalf and on behalf of the "the residents who also receive power through the distribution system". It is not clear on behalf of what residents Mr. Kehoe is intervening, nor is there evidence that any residents have authorized Mr. Kehoe to intervene on their behalves. For this reason, Mr. Kehoe's intervention is approved in his capacity as a resident of the City of Orillia only.

With respect to the Commission, it is not possible for the OEB to determine whether to grant intervenor status (or cost eligibility) to a party whose existence is in dispute. Mr. Makuch will therefore be required to file any and all evidence with respect to the existence of the Commission generally and to the validity of the By-Law specifically.

Once that evidence has been filed, the OEB will determine if it has sufficient information on which to decide whether or not to grant the intervention request or whether further information or process is required. In order to not affect the case schedule, the interrogatory process for the main proceeding will begin while the OEB considers the intervention request of the Commission. In order to avoid any potential prejudice, Mr. Makuch will be permitted to participate in the interrogatory process; however, any costs incurred for such participation will not be eligible for recovery at this time.

The current list of parties in this proceeding is attached as Schedule A to this Procedural Order.

Findings - Cost Eligibility Requests

SEC, VECC and CCC are eligible to apply for an award of costs under the OEB's Practice Direction on Cost Awards.

Mr. Kehoe is also eligible to apply for an award of costs; however, as an individual representing his own interests, Mr. Kehoe is advised to carefully review the OEB's Practice Direction on Cost Awards for information about the types of costs and disbursements that an individual may claim. For example, while wage or salary losses incurred as a result of participating in an OEB hearing may be claimed, legal or consultant fees are not generally permitted to be claimed by individuals under the OEB's Cost Award Tariff. Also, being eligible to apply for recovery of costs is not a

guarantee of recovery of any costs claimed. Cost awards are made by way of OEB order at the end of a hearing.

Cost eligible intervenors should be aware that the OEB will not generally allow the recovery of costs for the attendance of more than one representative of any party, unless a compelling reason is provided when cost claims are filed.

The OEB will determine later in the process whether an oral hearing is required in this case.

Interrogatories

Parties should not engage in detailed exploration of items that do not appear to be relevant and material to the OEB's review of a consolidation application. Parties should refer to the OEB's Handbook to Electricity Distributor and Transmitter Consolidations, for what the OEB considers in its review, in developing interrogatories. In making its decision on cost awards, the OEB will consider whether intervenors made reasonable efforts to ensure that their participation in the hearing was focused on material issues.

Parties should consult sections 26 and 27 of the OEB's Rules of Practice and Procedure regarding required naming and numbering conventions and other matters related to interrogatories.

It is necessary to make provision for the following matters related to this proceeding.

IT IS THEREFORE ORDERED THAT:

1. Mr. Makuch shall file with the OEB any evidence relevant to the existence of the Orillia Water Light and Power Commission, including evidence relevant to the validity of By-Law 2000-146 of the City of Orillia dated October 16, 2000 and shall serve such evidence all parties by **December 19, 2016**.
2. OEB staff, intervenors and Mr. Makuch, on behalf of the purported Orillia Water Light and Power Commission, shall request any relevant information and documentation from the applicants that is in addition to the evidence already filed, by written interrogatories filed with the OEB and served on all parties by **December 22, 2016**.

3. Hydro One shall file with the OEB complete written responses to all interrogatories and serve them on all intervenors and OEB staff by **January 4, 2017**.

All filings to the OEB must quote the file number, EB-2016-0276, be made in searchable/ unrestricted PDF format electronically through the OEB's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>. Two paper copies must also be filed at the OEB's address provided below. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <http://www.ontarioenergyboard.ca/OEB/Industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Judith Fernandes at judith.fernandes@ontarioenergyboard.ca and Maureen Helt at maureen.helt@ontarioenergyboard.ca.

ADDRESS

Ontario Energy Board
P.O. Box 2319
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Tel: 1-888-632-6273 (Toll free)
Fax: 416-440-7656

DATED at Toronto, December 12, 2016

ONTARIO ENERGY BOARD

By delegation, before: Kristi Sebalj

Original signed by

Kristi Sebalj
Registrar

SCHEDULE A
PROCEDURAL ORDER NO. 1
LIST OF PARTIES
HYDRO ONE INC.
ORILLIA POWER DISTRIBUTION CORPORATION
HYDRO ONE NETWORKS INC.
EB-2016-0276
December 12, 2016

**Hydro One Networks Inc.
EB-2016-0276**

APPLICANT & LIST OF INTERVENORS

December 12, 2016

APPLICANT

Rep. and Address for Service

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**Hydro One Networks Inc.
EB-2016-0276**

APPLICANT & LIST OF INTERVENORS

December 12, 2016

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Corporation**

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APPLICANT & LIST OF INTERVENORS

December 12, 2016

INTERVENORS	Rep. and Address for Service
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Independent Participant	Frank Kehoe Stanley M. Makuch, Barrister and Solicitor 52 Tranby Avenue Toronto ON M5R 1N5 Tel: 647-388-9192 Fax: Not Provided smakuch@makuchlaw.com
School Energy Coalition	Wayne McNally SEC Coordinator Ontario Public School Boards' Association 439 University Avenue 18th Floor Toronto ON M5G 1Y8 Tel: 416-340-2540 Fax: 416-340-7571 wmcnally@opsba.org
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APPLICANT & LIST OF INTERVENORS

December 12, 2016

School Energy Coalition

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**Stanley M. Makuch, Barrister
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the Orillia Water Light and
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Stanley Makuch

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**Vulnerable Energy
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