

ONTARIO ENERGY BOARD

**Hydro One Networks Inc.
Motion to Review and Vary EB-2016-0160 Decision and Order
Dated September 28, 2017**

Written Submission
of the
Vulnerable Energy Consumers Coalition
(VECC)

29 January 2018

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Summary of Submissions

1. VECC opposes the Motion with respect to the issues of tax allocation and the Ombudsman costs to be included in rates.
2. VECC submits it is within the Board's discretion to consider additional evidence with respect to issue of Funds used During Construction (AFUDC) related to the Niagara Reinforcement Project.

1.0 Tax Allocation

3. VECC supports in whole the arguments of the School Energy Coalition (SEC) with respect to the issue of the appropriate allocation of taxes for rate making. In our submission SEC's arguments are not simply persuasive but logically conclusive of the issue.¹
4. We would especially draw the Board's attention to the extracts provided at page 11 of those arguments which clearly shows the underlying related party nature of the transaction. In our submission the Moving Party's application of the "stand-alone" rate making principle is stretched beyond the point of recognition. The standalone principle was never contemplated in circumstances where one is both the shareholder and the tax making/revenue benefiting legislative authority. The arrangement in this case is based upon a unique set of facts that are hardly "Bonbright" in their making. The nature of this transaction could only exist within these unique circumstances. And it would not -in fact could not – exist in a world where the shareholder was not the Government of Ontario. The Board had to consider these unique facts and did so reasonably in our submission.

2.0 Niagara Reinforcement AFUDC

5. With respect to the AFUDC costs of the Niagara Reinforcement Project it is our submission the Board's reasoning was also sound. The Moving Party suggests the Board erred in part because either the Board or the intervening parties did not sufficiently "warn" Hydro One as to their concerns². Hydro One further argues that there was no evidentiary evidence for the basis of the Board's finding. We disagree. Neither the Board nor Intervening parties are responsible for

¹ Written Submissions of the School Energy Coalition, January 29, 2018

² Notice of Motion par 33 & 34

making the case for including any specific cost in rates. The law is clear that the burden lies with the Applicant.

6. Moreover the burden is especially high when there is a prima facie basis to conclude the assets in questions are neither used or useful. Hydro One knew, or should have known, that the long-standing stranding of the assets in question would be an issue for the Board to consider in every cost of service case subsequent to the disruption of this project. Given the magnitude of the issue at hand the Applicant should have been prepared to have the issue addressed specifically by the Board.
7. Hydro One has introduced new evidence in its Motion with respect to the continued negotiations with First Nations groups. In our submission it is clear that Hydro One continues to face a difficult task in resolving this matter. The complexity is increased by the tripartite nature of negotiations involving the Utility, the Province and First Nations.
8. It is unusual to introduce new evidence after the close of the proceeding and without allowances for further discovery. However in this case VECC does not object to the Board's reconsideration of the matter in light of what has now been now provided by Hydro One.

3.0 Ombudsman Costs

9. In our submission Hydro One has made no substantive argument as to why the Board's decision to reduce OM&A by the cost of the Ombudsman Office is unreasonable or unlawful. Even if the activity is required by law it does not follow that the Board need provide incremental funding in rates to carry out these responsibilities. It is reasonable, we submit, for the Board to consider the costs to be within the current ambit of utility activities.
10. SEC has made the argument that the costs in questions are part of the transitional costs of Hydro One and therefore not attributable to ratepayers. We think this argument has merit. However, even if it were not persuasive there are other grounds for the Board to have excluded all or parts of the new Ombudsman costs.
11. The role of the Ombudsman might easily be considered the same as ongoing activities (customer service and engagement) and for which funding is already included in rates. Therefore no incremental costs need be incurred but rather resources currently funded in rates need to be shifted to this new office. The expectation of using efficiencies to satisfy a change in how responsibilities are carried out is not unreasonable.

12. Even if the activity is considered incremental it remains reasonable to expect the Utility to find efficiencies and productivity enhancements to fund it. This is the normal course of events during any multi-year rate plan. In fact such productivity efficiencies are a cornerstone of the Board's RRFE rate making policies. Contrary to Hydro One's view the Board is not required to increase rates for every cost identified by the Utility. The Board is only required to provide rates that allow **reasonable** opportunity for the Utility to earn its rates of return. In this instance the costs in question do not even meet the Board's materiality threshold.³
13. Finally the Ombudsman is unique to Hydro One. The Government of Ontario found it necessary to create such a role for only Hydro One and not for the myriad of other regulated utilities in the Province. In our view it would be reasonable for the Board to have concluded that the requirement of a Hydro One Ombudsman arose because of past inefficiencies (or even ineptitudes) of the Utility's management/executive. If that were the case burdening ratepayers with additional costs to rectify the situation would be adding insult to injury.

4.0 Costs Incurred

14. VECC respectfully submits that it has acted responsibly and efficiently during the course of this proceeding and requests that it be allowed to recover 100% of its reasonably incurred costs.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

JANUARY 29, 2018

³ Filing Requirements for Electricity Transmission Applications, February 11, 2016, Chapter 2, Revenue Requirement Applications, Section 2.1.1. page 6