

January 30, 2018

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
P.O. Box 2319
Toronto, Ontario
M4P 1E4

Dear Ms. Walli:

Re: EB-2017-0336 – Hydro One Networks Inc. – Motion to Review and Vary the EB-2016-0160 Decision and Order

On October 18, 2017, Hydro One Networks Inc. ("HON") filed a Motion to Review and Vary the Ontario Energy Board's ("OEB" or "Board") Decision and Order dated September 28, 2017 related to the 2017 and 2018 Transmission revenue requirement and charge determinants.

The Motion is focussed on three parts of the OEB's Decision:

- a) That a portion of the tax savings resulting from the Government of Ontario's decision to sell its ownership interest in Hydro One Limited by way of an initial Public Offering on October 28, 2015 and subsequent sale of shares ("IPO") should be applied to reduce HON's revenue requirement for 2017 and 2018;
- b) That Allowance for Funds used During for Construction ("AFUDC") in respect of the Niagara Reinforcement Project ("NRP") should not be included in rates for 2018; and
- c) That the costs attributable to the Ombudsman Office should not be included in rates.

These are the submissions of the Consumers Council of Canada ("Council") regarding the Motion. The Council submits that the Motion should be denied.

Tax Savings:

The Council has reviewed the legal argument submitted by Counsel to the School Energy Coalition ("SEC") and supports the submissions made in that argument. SEC supports the Board's findings as set out in the Decision with respect to the tax savings and therefore opposes the Motion.

Niagara Reinforcement Project:

HON has been recovering the AFUDC amounts related to the NRP since January 1, 2007. The NRP was never put into service as a result of a continuing land claim dispute. There was no evidence before the Board in this case that the project would be going into service during the test year period. With respect to the NRP, the Board stated:

In the current proceeding, the OEB finds that it is not appropriate for the ratepayers to continue to be burdened with the carrying charges for capital expenditures that have not resulted in a used or useful asset.¹

In the Motion HON has indicated that new facts and circumstances that could not have been considered at the time of the EB-2016-0160 proceeding are now in the public domain:

On October 13, 2017, Six Nations Band Council and Six Nations of the Grand River Development Corporation announced that a tentative agreement was reached with the Ministry of Energy and Hydro One. This important achievement is intended to allow completion of the NRP. Reaching a tentative settlement of this sort conclusively demonstrates the conclusions reached in the Decision are incorrect.²

This information was not before the Board in the proceeding and constitutes new evidence. The Board made its decision based on the evidence before it at the time. It is inappropriate, from the Council's perspective, to argue the Decision should be varied on the basis of that new evidence. It is also not clear what the implications are for 2018, given the agreement is tentative. There is no evidence that the line will be in-service in 2018 and therefore used or useful. The Council notes that HON is expected to apply for rates for 2019 in due course. The Council submits that this issue should be reconsidered in the context of that proceeding. There is no basis at this time to vary the Decision and allow for the recovery of the 2018 AFUDC.

Office of the Ombudsman:

With respect to the Office of the Ombudsman HON is seeking to vary the finding made by the Board to disallow the costs associated with this office. The Board, in its Decision, determined that it was not appropriate to pass on the costs related to the transformation of HON.³ The Council submits that the creation of the office within HON, in the Office of the Chair, was entirely related to the transformation of HON. Previously, ombudsman activities related to HON were carried out by the Ontario Ombudsman and funded by taxpayers. The Council submits that the creation of an Ombudsman Office within HON is of benefit to customers. However, it is clear that the creation of this office arose because of the move to privatize HON. The Council sees no merit in varying the Board's findings with respect to the revenue requirements for 2017 and 2018 with respect to this issue.

Yours truly,

Julie E. Girvan

Julie E. Girvan

¹ EB-2016-0160 Decision and Order, revised November 1, 2017, p. p. 79

² Notice of Motion to Review and Vary, dated October 18, 2017, pp. 12-13

³ Decision, p. 59

CC: HON, Regulatory Affairs
Gord Nettleton, McCarthys
All parties