

Kitchener-Wilmot Hydro Inc.

**Application for electricity distribution rates and other
charges beginning January 1, 2020**

**PROCEDURAL ORDER NO. 1
June 20, 2019**

Kitchener-Wilmot Hydro Inc. (Kitchener-Wilmot Hydro) filed a cost of service application with the Ontario Energy Board (OEB) on April 30, 2019 under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B), seeking approval for changes to the rates that Kitchener-Wilmot Hydro charges for electricity distribution, to be effective January 1, 2020.

A Notice of Hearing was issued on May 16, 2019.

Each of Distributed Resource Coalition (DRC), Energy Probe Research Foundation (Energy Probe), School Energy Coalition (SEC) and Vulnerable Energy Consumers Coalition (VECC) applied for intervenor status and cost eligibility.

Intervention Requests

Kitchener-Wilmot Hydro filed a letter objecting to DRC's request for intervenor status and cost eligibility. DRC responded to the objection.

In its Letter of Intervention, DRC describes itself as a group of electricity customers and consumers that consists of end-use residential customers, non-profit organizations, and owners' associations that are directly affected by and interested in the following:

- (i) optimizing existing energy assets
- (ii) efficiently facilitating the integration of existing and innovative Distributed Energy Resources (DERs), including electric vehicles, to achieve customer and grid solutions

- (iii) providing input on direct customer needs and local distribution company opportunities relating to DERs

DRC states that if accepted as an intervenor, it would focus on the following issues:

- Connection of DERs to the electricity grid
- DERs as a reliability resource for Kitchener-Wilmot Hydro
- Integration of DERs into local distribution system planning and related operations, maintenance, and administration (OM&A) considerations
- DER considerations for rate design
- DER considerations for cost allocation

In its Letter of Intervention, DRC states that its members in connection with this proceeding are Kitchener-Wilmot Hydro customers that include, subject to further update, the Electric Vehicle Society (end-use electric vehicle electricity customers) and Plug'n Drive. DRC states that it hopes to provide the OEB with a unique perspective that is absent, that of DER residential customers, as well as DER-related non-profit organizations, owners and developers.

Kitchener-Wilmot Hydro objected to DRC's request for intervenor status stating that DRC had failed to demonstrate that any of its members are customers of Kitchener-Wilmot Hydro. Kitchener-Wilmot Hydro also objected to DRC's request for cost eligibility on grounds that DRC represents the commercial interests of its members and not the direct interest of ratepayers.

DRC responded to the objection by stating that the Electric Vehicle Society's chapter in the Kitchener-Wilmot Hydro service territory is the Waterloo Region Electric Vehicle Association (WREVA). DRC states that the membership of WREVA includes Kitchener-Wilmot Hydro customers that own electric vehicles.

DRC's response to the objection also states that "Plug'n Drive is a Canada-wide non-profit organization whose policy mandate to accelerate the adoption of EVs in order to maximize their environmental and economic benefit is not limited to North York, Ontario, where its head office is located. EVS and Plug'n Drive are each highly active and engaged in the Kitchener-Wilmot Hydro service territory and have recently hosted local events in the region."

These events include National Drive Electric Week and an electric vehicle information day for customers in the region. WREVA has hosted an electric vehicle information day and plans to host future events in the service territory.

The Substantial Interest Test

Rule 22 of the OEB's *Rules of Practice and Procedure* requires that an entity seeking intervenor status must have a "substantial interest" in the proceeding. DRC takes the position that it has a direct and substantial interest in the proceeding in that its members are directly affected by the rates, services and approaches being proposed in the rate application.

Whether an intervenor has a substantial interest is determined based on the facts of each application. Therefore, the fact that an intervenor has been accepted in a previously heard application may be instructive, but it does not create a precedent for an intervenor having a substantial interest in a different application. An assessment of whether a substantial interest exists is undertaken for each application.

Policy Interest

Based on the information provided by DRC, it appears that Plug'n Drive seeks to bring a policy perspective to this rate application. DRC states that "Plug'n Drive is a non-profit organization whose policy mandate is to accelerate the adoption of EVs in order to maximize their environmental and economic benefit."

The policy issues DRC seeks to advance are more appropriately considered in a policy consultation and not Kitchener-Wilmot Hydro's rate application. The OEB has previously determined that a rates case is not the forum by which to develop broad policy directions for DERs¹.

On March 15, 2019, the OEB launched a policy initiative entitled "Responding to Distributed Energy Resources (DERs)", (EB-2018-0288). The consultation states that its purpose is to develop a more comprehensive regulatory framework that facilitates investment and operation of DERs on the basis of value to consumers and supports effective DER integration so the benefits of sector evolution can be realized. DRC has applied to be an intervenor in that policy consultation.

Substantial Interest

This leaves for consideration the participation of the Waterloo Region Electric Vehicle Association (WREVA). It is not clear, based on the information provided, the extent to which this group is comprised of end-use customers of Kitchener-Wilmot Hydro.

In addition, the intervention request does not address specific items that will be examined in relation to Kitchener-Wilmot Hydro's capital plan or OM&A expenditures. The letter of intervention speaks to "optimizing existing assets" and "facilitating

¹ EB-2018-0165, Decision on Appeal, dated December 14, 2018

integration of DERs”, as well as speaking to the benefits of DER, but there are no details provided specific to the application that the OEB has before it. It should be noted that the Kitchener-Wilmot Hydro rate application does not contain a specific EV customer rate.

Based on a review of the contents of the Kitchener-Wilmot Hydro application, and absent specific details on the part of DRC, it is not clear that DRC has a substantial interest in this application.

For the above reasons, DRC is denied intervenor status in this rate application.

Energy Probe, SEC and VECC are approved as intervenors. Energy Probe, SEC and VECC are eligible to apply for an award of costs under the OEB’s *Practice Direction on Cost Awards*. The list of parties in this proceeding is attached as Schedule A to this Procedural Order.

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.

Confidentiality

By the letter dated April 30, 2019 and pursuant to the OEB’s *Rules of Practice and Procedure* and the OEB’s *Practice Direction on Confidential Filings*, Kitchener-Wilmot Hydro requested confidential treatment for certain information in the following documents:

- Personal information contained in PILs income tax returns for 2017
 - Exhibit 4, Appendix 4-5
- Information on third parties engaged in complete business activities
 - Exhibit 2, Appendix 2-3 (Distribution System Plan) – CIS Replacement Business Case dated April 2019
 - Exhibit 4, Appendix 4-7 – Bill and Mail Processing Outsourcing Proposal dated March 19, 2017

In accordance with the OEB’s *Practice Direction on Confidential Filings*, Kitchener-Wilmot Hydro has provided reasons for the confidentiality request, including reasons why public disclosure of the information would be contrary to the *Freedom of Information and Protection of Privacy Act*, and why public disclosure of the information would be injurious to the financial interest of the third parties identified in the documents.

At this time, provision will be made for the filing of submissions on Kitchener-Wilmot Hydro's request for confidentiality. Counsel and consultants for intervenors that wish to make submissions on the request for confidentiality shall be granted access to the un-redacted documents provided they have executed the OEB's [Declaration and Undertaking](#). The signed Declaration and Undertaking shall be filed with the OEB and a copy shall be delivered to Kitchener-Wilmot Hydro. If Kitchener-Wilmot Hydro objects to a Declaration and Undertaking, the objection shall be filed with the OEB and copied to the relevant party within **5 days** from the receipt of the Declaration and Undertaking. The relevant party shall file its reply, if any, with the OEB and deliver a copy to Kitchener-Wilmot Hydro, within **5 days** from the receipt of the objection.

Issues List

It is the OEB's expectation that parties will be best positioned to identify issues relevant to Kitchener-Wilmot Hydro's application after the applicant has responded to interrogatories. Kitchener-Wilmot Hydro, OEB staff and the intervenors shall develop and OEB staff shall file a proposed issues list for the OEB's consideration. The OEB will approve an issues list prior to the settlement conference.

Interrogatories

At this time, provision will be made for written interrogatories. The OEB will review the single test year application both in the context of the projects and programs that are requested for the test year and from the perspective of the distributor's plans for the subsequent four years until the next scheduled rebasing application.

Parties should examine the value presented by the proposed investments as opposed to focussing only on the costs. Parties should also assess the fit between the applicant's plans and its stated objectives, and consider how the plans contribute to positive outcomes for customers, in particular those outcomes that arise from the asset management decisions reflected in the applicant's distribution system plan. The OEB will consider the entire five year distribution system plan to assess the planning and pacing proposals of the applicant and whether the test year requests are appropriately aligned with the distribution system plan. The OEB will also consider productivity and benchmarking results in assessing cost forecasts, bill impacts and distributor performance.

Parties should not engage in detailed exploration of items that do not appear to be material. Parties should use the materiality thresholds documented in Chapter 2 of the Filing Requirements as a guide. 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. Further procedural orders may be issued by the OEB.

IT IS THEREFORE ORDERED THAT:

1. OEB staff and intervenors who wish to make written submissions on Kitchener-Wilmot Hydro's confidentiality requests shall file such submissions with the OEB, and serve them on Kitchener-Wilmot Hydro and all other intervenors, by **June 25, 2019**.
2. If Kitchener-Wilmot Hydro wishes to respond to any of the submissions, the reply submission shall be filed with the OEB and served on all intervenors by **June 28, 2019**.
3. OEB staff and intervenors shall request any relevant information and documentation from Kitchener-Wilmot Hydro that is in addition to the evidence already filed, by written interrogatories filed with the OEB and served on all parties by **July 5, 2019**.
4. Kitchener-Wilmot Hydro shall file with the OEB complete written responses to all interrogatories and serve them on all intervenors by **July 25, 2019**.
5. OEB staff shall file a proposed issues list, or, alternatively, shall advise the OEB in writing that the parties and OEB staff have been unable to reach an agreement on a draft issues list by **August 7, 2019**.
6. A settlement conference among the parties and OEB staff will be convened on **August 14, 2019** starting at **9:30 a.m., at 2300 Yonge Street, 25th floor, Toronto**. If necessary, the settlement conference will continue on **August 15 and 16, 2019**.
7. Any settlement proposal arising from the settlement conference shall be filed with the OEB on or before **September 10, 2019**. In addition to outlining the terms of any settlement, the settlement proposal should contain a list of any unsettled issues, indicating with reasons whether the parties believe those issues should be dealt with by way of oral or written hearing.

8. Any submission from OEB staff on a settlement proposal shall be filed with the OEB and served on all parties by **September 17, 2019**.
9. If there is no settlement proposal arising from the settlement conference, Kitchener-Wilmot Hydro shall file a statement to that effect with the OEB by **August 30, 2019**. In that event, parties shall file and serve on the other parties by **September 10, 2019** any submissions on which issues shall be heard in writing, and for which issues the OEB should hold an oral hearing.

All filings to the OEB must quote the file number, **EB-2019-0049**, be made in searchable/unrestricted PDF format electronically through the OEB's web portal at <https://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.oeb.ca/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 USB memory stick 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 Registrar 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, Donald Lau at Donald.Lau@oeb.ca and OEB Counsel, Lawren Murray at Lawren.Murray@oeb.ca.

ADDRESS

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto ON M4P 1E4
Attention: Registrar

Email: boardsec@oeb.ca
Tel: 1-888-632-6273 (Toll free)
Fax: 416-440-7656

DATED at Toronto, **June 20, 2019**

ONTARIO ENERGY BOARD

By delegation, before: Christine E. Long

Original signed by

Christine E. Long
Registrar
Office of the Registrar

SCHEDULE A

LIST OF APPLICANT AND INTERVENORS

KITCHENER-WILMOT HYDRO INC.

EB-2019-0049

JUNE 20, 2019

**Kitchener-Wilmot Hydro Inc.
EB-2019-0049**

APPLICANT & LIST OF INTERVENORS

June 20, 2019

APPLICANT

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APPLICANT & LIST OF INTERVENORS

June 20, 2019

INTERVENORS

Rep. and Address for Service

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June 20, 2019

School Energy Coalition

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**Vulnerable Energy
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June 20, 2019

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