

November 25, 2019

RESS, EMAIL & COURIER

Ms. Christine E. Long
Registrar & Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Attention: Ms. Christine E. Long, Registrar & Board Secretary

Dear Ms. Long:

**Re: EB-2018-0270 - Hydro One Networks Inc. - MAAD Application re OPDC -
Scope of Hearing**

We are legal counsel to Hydro One Networks Inc. with respect to the above-noted matter (the "Orillia Application"). On November 11, 2019, the Ontario Energy Board ("OEB") issued Procedural Order No. 6 wherein the OEB asked parties to identify by November 21, 2019 topics of cross-examination for the oral hearing. School Energy Coalition ("SEC") responded on November 11 to the OEB's request and indicated that the areas SEC plans to cross-examine on during the oral hearing are set out in detail in its November 4, 2019 submissions related to the form of hearing.

Hydro One is concerned that SEC's proposed scope of inquiry set out in its November 4, 2019 letter is an attempt to extend the scope of the hearing beyond the consideration of the particular applications currently before the OEB in this proceeding. Hydro One is providing this letter to respond to SEC's submissions relating to the hearings scope.

In Hydro One's view, for the hearing to be conducted efficiently and in a manner that advances the Panel's consideration of the issues, it is essential for the OEB to clearly define the scope in advance of the hearing and limit the scope to specific issues where the OEB – not SEC – has determined the record to be incomplete, or where the OEB has determined that it would be assisted by hearing additional evidence.

Given the application of the no harm test, the focus of the hearing should be on questions relating to the risk of harm arising from Hydro One's proposed acquisition of OPDC. In EB-2016-0276 the OEB found, with respect to Hydro One's previous application for leave to acquire Orillia Power, that the OEB's primary concern is that there is a reasonable expectation that the underlying cost structures for the acquired utility are no higher than they would have been had the consolidation not occurred. In this regard, the OEB was of a view that it was reasonable to have seen a forecast of costs to service Orillia customers beyond the ten-year period and an explanation of the general methodology of how costs would be allocated to Orillia ratepayers after the deferral period.

In this regard, the proper scope of the proceeding is whether the costs related to the status quo and the cost to serve following the deferral period, together with Hydro One's cost allocation and rate design, results in no harm.

SEC asserts that the OEB should not consider the onus that Hydro One must discharge to show no harm. SEC seems to be proposing a new standard of review for MAADs application. SEC asserts this because its intention appears to be the pursuit of a broad range of inquiry that is tangential to the Orillia transaction. In arguing that the OEB should not constrain the scope of the hearing, it is apparent that SEC's strategy is to try to turn the current proceeding into a broad general inquiry on all past, present and future consolidation transactions by Hydro One in an effort to promote the adjudication of any transaction Hydro One has or will undertake.

SEC wants to dwell on transactions that have occurred in the past and ask questions about "the 70+ previous acquisitions" made by Hydro One (which implicitly refers to transactions going back almost 20 years), which are also not relevant to the current proceeding. None of these relate to the current transaction or the current proposal. As noted below, in EB-2013-0187, the OEB found that it would not require Hydro One to respond to inquiries related to Hydro One's past acquisitions and mergers.

The broad scope of SEC's submissions on the form of hearing also make it clear that the OEB needs to reiterate that what is relevant is the cost structures arising from the Orillia transaction and the proposal that Hydro One has made with respect to Year 11 following the deferred rebasing period.

Hydro One also notes that SEC's submission also made various assertions relating to credibility of the Applicants' and the respective witnesses' credibility. SEC's submission does the Applicants' witnesses a disservice. The Applicants' witnesses are professional people doing their best to fulfill their obligations to the OEB and the OEB's process. They have been forthright in their testimony and done their best to respond fully and properly to the many questions posed to them in the Technical Conference. SEC may not agree with the positions of the Applicants or like the responses received since they may not advance SEC's ultimate objective, but there is nothing about the testimony of the witnesses that justifies SEC's view that the credibility of the witnesses is or should be in question.

Hydro One urges the OEB to clearly define the scope of the hearing given the particular transaction that is before the OEB for approval. In contrast to SEC's submissions, these are aspects that will facilitate a more efficient and productive oral hearing.

Yours truly,



Charles Keizer

cc: Ms. Joanne Richardson, Hydro One
All Parties