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December 19, 2019

VIA E-MAIL

Christine E. Long
Registrar and Board Secretary
Ontario Energy Board
2300 Yonge Street
Toronto ON
M4P 1E4

Dear Ms. Long:

**Re: Hydro One Networks Inc. 2015 to 2017 Distribution Rates Approval
EB-2019-0234: Motion to Review Decision to Eliminate Seasonal Rates
VECC's Submissions Re: Threshold Issue**

On April 17, 2019, the Board issued a Procedural Order which directed Hydro One to file an updated report on the elimination of the seasonal class and reiterated that the OEB's decision to eliminate the seasonal class had been made in a prior proceeding¹. Hydro One filed its updated Seasonal Report on July 19, 2019 (2019 Seasonal Report) which included a proposed alternative that would maintain the seasonal class.

On September 17, 2019, the OEB issued Procedural Order No. 3 in the seasonal class elimination implementation proceeding in which it indicated that it would treat Hydro One's 2019 Seasonal Report as a motion to review that part of the March 2015 Decision in which the OEB determined that Hydro One's seasonal class should be eliminated and existing seasonal class customers should be moved to one of three Hydro One residential rate classes according to their density. The OEB also noted that under Rule 43.01 the OEB may, with or without a hearing, decide a threshold question of whether the matter should be reviewed before conducting any review on the merits. The OEB stated that it intended to proceed on this basis and would establish a separate panel for the purposes of deciding the threshold question. This proceeding was assigned OEB file number EB-2019-0234.

In the same Procedural Order the Board allowed Hydro One an opportunity to file such additional material as it considered desirable for the purposes of the motion, and to make submissions on the threshold question. Hydro One filed this material on October 1, 2019. The Board subsequently issued Procedural Order No. 1 in proceeding EB-2019-0234 where it provided for written submissions from OEB staff and parties on the material filed by Hydro One on October 1, 2019.

Set out below are VECC's submissions on the threshold issue regarding Hydro One's motion to review that part of the March 2015 Decision in which the OEB determined that Hydro One's seasonal class should be eliminated and existing seasonal class customers should be moved to one of three Hydro One residential rate classes according to their density.

¹ EB-2013-0416/EB-2014-0247 regarding Hydro One's Distribution Rates for 2015 to 2019.

Submissions

Rule 42.01 states that a requesting party shall set out the grounds for the motion that raise a question as to the correctness of the decision, which grounds may include:

- a) Error in fact;
- b) Change in circumstance;
- c) New facts that have arisen; and
- d) Facts that were not previously in evidence in the proceeding and could not have been discovered by reasonable diligence at the time.

In its October 1, 2019 filing Hydro One submits that all four grounds are met².

In terms of change in circumstance, new facts that have arisen and facts not previously in evidence Hydro One cites the Board's subsequent decision to move to all-fixed Distribution Rates for Residential and Seasonal customers and government's introduction of Distribution Rate Protection (DRP).

VECC agrees that these represent a change in circumstances from those that existed at the time of the Board's EB-2013-0416/EB-2014-0247 Decision. Furthermore, these changes fundamentally impact the facts that the Board relied on in coming to its decision to eliminate seasonal rates.

In its Decision³ to eliminate seasonal rates the Board relied heavily on the arguments of the Balsam Lake Coalition (BLC). In its argument⁴ BLC sought to address two key issues: a) the proper reflection of the density weightings with respect to each seasonal class member and b) the lessening (if not elimination) of the subsidy associated with the volumetric rate design. Specifically with respect to the latter issue the Board noted⁵ in its Decision that:

'The OEB is aware that the elimination of the seasonal class will cause rate impacts, particularly for lower volume seasonal customers. At the same time, the OEB is mindful of BLC's submission that this group of customers is not paying the full costs of the service they receive. That said, the OEB wishes to mitigate any large impacts to seasonal customers.'

It is clear from the above quote that the Board's Decision to eliminate the Seasonal class was, in part, based on the fixed/variable rate design used at the time and the impact it had on high volume versus low volume Seasonal customers. The introduction a fully fixed Distribution Rate for Seasonal customers addresses BLC's concerns regarding high volume Seasonal customers "cross-subsidizing" low volume Seasonal customers. Indeed, under a fully fixed distribution rate, the reverse is now likely to be true in that low volume Seasonal customers are now cross subsidizing high volume Seasonal customers.

Also, as noted by Hydro One⁶, the move to a fully fixed Distribution charge for both Residential and Seasonal customers also materially changes the bill impacts associated with the elimination of seasonal rates – another key consideration in the Board's Decision as evidenced by the above quote.

In VECC's view these changes in circumstances and their impacts on the facts considered in the Board's Decision alone are sufficient to meet the threshold issue and warrant the Board proceeding with a full review of the merits of Hydro One's motion.

Yours truly,

John Lawford

Counsel for VECC

² Motion Materials, page 2

³ See pages 47-49

⁴ BLC Argument, page 6

⁵ Pages 48-49

⁶ Motion Materials, pages 4-5