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**BY E-MAIL**

May 29, 2020

Attention: Ms. Christine Long, Registrar and Board Secretary

Dear Ms. Long:

**Re: Hydro One Networks Inc.**
**Motion on Seasonal Rates Elimination**
**OEB File Number EB-2019-0234/EB-2016-0315**

Please find attached OEB staff's submission on the motion submission filed by Hydro One Networks Inc. on May 15, 2020.

*Original Signed By*

Martin Davies
Project Advisor, Rates
Electricity Distribution: Major Rate Applications & Consolidations

# Hydro One Networks Inc.

# EB-2019-0234/EB-2016-0315

# ONTARIO ENERGY BOARD

# STAFF SUBMISSION ON MERITS OF THE MOTION TO REVIEW THE SEASONAL RATES DECISION

# May 29, 2020

## INTRODUCTION

On September 17, 2019, the Ontario Energy Board (OEB) issued Procedural Order (PO) No. 3 in the proceeding to implement the OEB's Decision to eliminate Hydro One Networks Inc.'s (Hydro One) distribution seasonal rate class (the seasonal rates proceeding).[1] The OEB stated that the purpose of PO #3 was to address how the OEB intended to treat a portion of the July 19, 2019 filing (2019 Seasonal Report)[2] made by Hydro One in that proceeding. This was Section 5 of the filing entitled "Alternate Approach to Elimination of the Seasonal Class." The OEB determined that Section 5 would be treated by the OEB as a motion by Hydro One to review and vary part of the OEB's decision of March 12, 2015 on Hydro One's distribution rate application (March 2015 Decision)[3] and established the current proceeding for that motion (motion proceeding). As a first step, the OEB would consider whether the motion passed the OEB's threshold test.[4] To that end, the OEB issued PO #1 in the motion proceeding making provision for the filing of written submissions.

On March 12, 2020, the OEB issued its decision and order on the threshold test in the motion proceeding (the motion threshold decision). The OEB agreed with Hydro One that the threshold test has been met on two of the grounds cited by Hydro One in the "change of circumstances" category, with respect to both the OEB's decision to move to all-fixed residential distribution rates, and the introduction of Distribution Rate Protection (DRP), and that these grounds raise a question as to the correctness of the March 2015 Decision. As such, the OEB would move to a consideration of the merits of the motion, with further direction to be given in due course. The OEB found that the remainder of the grounds did not meet the threshold test.

On May 1, 2020, the OEB issued PO #2, in which it determined that the seasonal rates proceeding was to be combined with the motion proceeding and that at this time, the combined proceeding would only deal with the merits of the motion.

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[1] EB-2016-0315
[2] Hydro One Networks Inc. EB-2016-0315 "Implementation of the Ontario Energy Board Decision to Eliminate the Seasonal Rate Seasonal Class – Updated Seasonal Report," July 19, 2019.
[3] EB-2013-0416/EB-2014-0247
[4] Rule 43.01 of the OEB's *Rules of Practice and Procedure* provides that In respect of a motion brought under Rule 40.01, the Board may determine, with or without a hearing, a threshold question of whether the matter should be reviewed before conducting any review on the merits.

The OEB asked for any additional submissions parties may have on the merits, stating that parties should restrict their submissions to the merits of the two grounds which the OEB determined passed the threshold test.

The OEB further stated that parties should not make submissions on any other grounds contained in the motion as these did not pass the threshold test, or any other matters at this point in time.

The OEB invited Hydro One, as an initial step, to file additional material and submissions on the merits of the motion. Hydro One did so on May 15, 2020.

**OEB Staff Submission**

The comments that follow include OEB staff's review of Hydro One's arguments on each of these two grounds and its submissions on whether, in OEB staff's view, the motion should succeed on the merits.

A finding that the threshold test is met does not mean in itself that the March 2015 Decision must be varied. It merely signifies that the grounds for review raise a question as to the correctness of the March 2015 Decision. The OEB has found on various occasions that, while the threshold test had been met, the motion failed on the merits. In the current case, OEB staff submits that the motion should succeed and that the March 2015 Decision should be varied, for the reasons given below.

**The OEB's Subsequent Decision to Move to All-Fixed Residential Rates**

OEB staff is including in this submission a comprehensive description of Hydro One's submissions for the assistance of the Panel.

Hydro One noted that on April 2, 2015, several weeks after the March 2015 Decision, the OEB issued its policy regarding a new distribution rate design for residential electricity consumers. In September 2015, the OEB ordered that the move to all-fixed rates would apply to customers in Hydro One's Seasonal Class (the September 2015 Order).[5]

[5] EB-2013-0416/EB-2015-0257, *Order,* September 30, 2015

Hydro One submitted that the September 2015 Order had a significant and dramatic impact on the evidence led in the Hydro One distribution proceeding (Original Proceeding) leading to the March 2015 Decision[6] and in the assessment of that evidence by Hydro One, intervenors and the OEB. Hydro One argued that the changes to Seasonal Class distribution rates resulting from the September 2015 Order largely addressed the concerns raised by the Balsam Lake Coalition (BLC), the intervenor whose concerns Hydro One stated were relied upon by the OEB in the March 2015 Decision.

Hydro One submitted that in the March 2015 Decision the OEB had been voicing its concern that low-volume seasonal customers were not paying the full costs of serving them, and the OEB was relying on that fact as a ground to eliminate the Seasonal Class. Hydro One argued that, understandably, it was not in anyone's knowledge at that time that the soon-to-follow policy decision and September 2015 Order would fully address that problem by requiring the move to all-fixed residential distribution rates which, when completed, would result in low and high volume seasonal customers paying the same charge for distribution service. Hydro One submitted that the significance of that decision was, and remains, that both low and high volume customers will be paying an equal and fair share of their costs, which was the major driver for the elimination of the Seasonal Class.

Hydro One argued that during the rates proceeding that resulted in the March 2015 Decision, neither Hydro One, intervenors, nor the OEB could have contemplated the customer impacts resulting from the combined effect of moving to all-fixed rates and eliminating the Seasonal Class. Hydro One observed that while some customer bill impact information was provided in the Original Proceeding,[7] that information demonstrated only the impacts of moving seasonal customers to the year-round residential classes at the fixed and variable rates that existed at the time, and as it is now known, those bill impacts are not an accurate reflection of what will happen to seasonal customers as a result of eliminating the Seasonal Class.

In its submission, Hydro One reproduced the table shown below from the Original Proceeding[8] that illustrated the bill impacts presented in the evidence available to the OEB at the time of its March 2015 Decision. The impacts were based on seasonal customers paying the fixed and variable rates that existed at the time

[6] EB-2013-0416/EB-2014-0247, March 12, 2015
[7] Exhibit I, Tab 7.02, Schedule 1 Staff 94
[8] Exhibit I, Tab 7.02, Schedule 1 Staff 94 Table 2

for the year-round residential classes (i.e. not the all-fixed rates to which it is now known the year-round residential classes are moving).

**Table 1**

**Distribution and Total Bill Impacts for Seasonal Customers Moving to R1 and R2 Residential Rate Classes**

| Rate Class | Consumption Level | Monthly Consumption (kWh) | Change in Distribution Bill | | Change in Total Bill | |
|---|---|---|---|---|---|---|
| | | | $ | % | $ | % |
| Seasonal to R1 | Low | 50 | $0.79 | 2.8% | $0.72 | 2.0% |
| | Typical | 400 | ($18.50) | -31.9% | ($19.40) | -17.4% |
| | High | 1,000 | ($51.55) | -47.0% | ($53.91) | -22.4% |
| Seasonal to R2 (no RRRP) | Low | 50 | $39.25 | 140.5% | $39.97 | 111.4% |
| | Typical | 400 | $23.04 | 39.7% | $23.87 | 21.4% |
| | High | 1,000 | ($4.73) | -4.3% | ($3.74) | -1.5% |

Hydro One observed that the evidence in the above table showed that the low volume seasonal customers moving to the R2 residential class (and not eligible for the Rural or Remote Rate Protection (RRRP) program) would experience a significant bill increase of 111.4%. Hydro One also observed that the evidence also showed that a typical volume customer would see what Hydro One described as only a moderate increase of 21.4%, and that a high volume customer would actually see a reduction of 1.5% in their bills.

Hydro One stated that with the new knowledge that the move to all-fixed rates applies to the Seasonal Class, it is now able to determine and evaluate the bill impact on seasonal customers resulting from both the move to all-fixed residential rates and the elimination of the Seasonal Class. In particular, Hydro One noted, it is now possible to demonstrate the incremental impact on seasonal customers as a result of eliminating the Seasonal Class and moving to the applicable all-fixed year-round residential class rates, as compared to the impact on seasonal customers as a result of moving to all-fixed Seasonal Class rates.

Hydro One summarized this information in the updated Seasonal Report, as shown below:[9]

**Table 2**

**Break Out of End State Impacts Resulting from the Seasonal Class Moving to All-Fixed Rates and the Elimination of the Seasonal Class**

| Monthly Consumption (kWh) | 2021 Seasonal Status Quo Total Bill | 2021 Impact of Seasonal Class Moving to All-Fixed Rates | | 2021 Impact of Eliminating Seasonal Class | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | | | Seasonal-R2 | | Seasonal-R1 | | Seasonal-UR | |
| | ($/month) | $ | % | $ | % | $ | % | $ | % |
| 50 | 61.44 | 11.94 | 19% | 67.47 | 110% | -6.66 | -11% | -30.18 | -49% |
| 350 | 109.31 | -1.76 | -2% | 68.09 | 62% | -6.61 | -6% | -30.37 | -28% |
| 1000 | 213.03 | -31.45 | -15% | 69.44 | 33% | -6.51 | -3% | -30.78 | -14% |

Hydro One submitted that the breakout of bill impacts provided in the above table demonstrates that the bulk of the benefit for high volume seasonal customers comes from the move to all-fixed rates, which results in a 15% ($31.45) reduction in the total bill for a 1000 kWh customer. The incremental impact from elimination of the Seasonal Class results in a relatively minor additional reduction of 3% ($6.51) in the bill for high volume seasonal customers moving to the R1 residential class but an increase of 33% ($69.44) in the bill for high volume seasonal customers moving to the R2 residential class.

Hydro One argued that this information about what it characterized as the small incremental bill reductions for the subset of seasonal customers moving to the R1 residential class being at the expense of large incremental bill increases for those seasonal customers moving to the R2 residential class was not available to the OEB at the time of the March 2015 Decision. Hydro One argued that, as it is now known, but could not have been known during the Original Proceeding that led to the March 2015 Decision, those bill impacts are not an accurate reflection of what will happen.

Hydro One stated that the combined impact on seasonal customers moving to the R2 residential class as a result of the move to all-fixed rates and the elimination of the Seasonal Class, demonstrated by combining the impacts shown in Table 2 above, from the updated Seasonal Report, will be a 129%

[9] Hydro One Networks Inc. EB-2016-0315 “Implementation of the Ontario Energy Board Decision to Eliminate the Seasonal Rate Seasonal Class – Updated Seasonal Report,” July 19, 2019, Table 10.

increase for low volume seasonal customers, a not-so-moderate 60% increase for typical consumption seasonal customers, and an 18% increase for high volume seasonal customers.

Hydro One submitted that the significantly higher bill impacts (from 21% to 60%) for a typical seasonal customer moving to the R2 class, and the complete reversal in benefits (from a bill reduction of 1.5% to a bill increase of 18%) for high volume seasonal customers moving to the R2 class, represents new information not available to the OEB in reaching its March 2015 Decision.

Hydro One further argued that while the combined impact on seasonal customers moving to the R1 residential class as a result of the move to all-fixed rates and the elimination of the Seasonal Class is not as dramatically different from the information available to the OEB at the time of the March 2015 Decision and what is now known to be the case, there are still notable differences, as can be seen by comparing the total bill impacts in the above tables.

Hydro One stated that the most notable of those differences is instead of the 22% bill reduction that the OEB would have anticipated for high volume seasonal customers moving to the R1 residential class, those customers will now see only an 18% bill reduction.[10] Hydro One observed that while those two numbers are not very different, what is significantly different from the information available to the OEB at the time of its March 2015 Decision is that most of the bill reduction (i.e. 15%) results from the move to all-fixed rates, while the elimination of the Seasonal Class results in only a small additional bill reduction (i.e. 3%).

Hydro One further submitted that, as illustrated in the Table 2 above from the updated Seasonal Report, the move to all-fixed rates largely addresses the concern expressed by the OEB regarding the disparity in distribution charges between high and low volume seasonal customers and results in a significant bill reduction for all high volume seasonal customers.

Hydro One noted that the incremental impact from eliminating the Seasonal Class is only a small bill reduction of about $7 per month for the subset of seasonal customers moving to the R1 residential class, but a large incremental bill increase of about $68 per month for those seasonal customers moving to the

[10] As shown in Table 2 above, this impact arises from netting the 15% reduction arising from the move to all-fixed rates for a seasonal rates customer with a 1,000 kWh monthly consumption with the 33% increase for those seasonal customers at this consumption level moving to the R2 class for a net increase of 18%.

R2 residential class, including any high volume seasonal customers moving to the R2 residential class. Hydro One argued that high volume seasonal customers moving to the R2 residential class will not benefit from the March 2015 Decision, contrary to the evidence available to the OEB at the time of that Decision and contrary to the objective stated in the March 2015 Decision that the elimination of the Seasonal Class would address the concern of high volume seasonal customers.

Hydro One concluded that information on the impact to seasonal customers resulting from the move to all-fixed distribution rates, and the combined impact of both moving to all-fixed distribution rates and eliminating the Seasonal Class as discussed above, was not available to the OEB at the time of the March 2015 Decision. Hydro One submitted that the March 2015 Decision should be revised so as not to eliminate the Seasonal Class; and that the OEB should direct it to proceed with the OEB's move to all-fixed residential distribution rates for the Seasonal Class, as previously approved by the OEB in its September 2015 Order.

**Submission**

In its submission on the threshold test, OEB staff agreed with Hydro One that the OEB's subsequent decision to move to all-fixed residential rates, announced three weeks after the March 2015 Decision, represents a change in circumstances. There was no consideration or assessment of the impact of the move to all-fixed residential rates on the record leading to the March 2015 Decision, nor could there have been.

The question at this time is whether the change in circumstances (here, related to the move to all-fixed residential rates) warrants a variance of the March 2015 Decision.

When the impacts of the move to all-fixed rates are considered, it becomes apparent that the incremental benefits of the elimination of the Seasonal Class are minimal at best, while incremental adverse impacts on certain customers will be significant, and in some cases (for high volume seasonal customers moving to the R2 class), anticipated reductions are reversed and become increases.

Accordingly, OEB staff submits that this constitutes a ground for varying the March 2015 Decision.

**The Subsequent Introduction of Distribution Rate Protection**

As with the previous section, OEB staff is including in this submission a comprehensive description of Hydro One's submissions for the assistance of the Panel.

Hydro One noted that the *Ontario Energy Board Act, 1998* was amended after the March 2015 Decision, to add a new section 79.3, which established the Distribution Rate Protection plan (the DRP). The DRP, as subsequently detailed in O. Reg. 198/17 (Distribution Rate-Protected Residential Consumers) (Regulation 198/17), applies to residential customers of certain specified electricity distributors, including Hydro One's R1 and R2 residential customers.

Regulation 198/17 further specifies that the DRP applies only to a Hydro One R1 and R2 residential customer "if he or she resides continuously at the service address to which the account relates for at least eight months of the year." This is the same criterion used in O. Reg. 442/01 (Rural or Remote Rate Protection) (Regulation 442/01) governing the RRRP, which the OEB has previously ruled makes seasonal customers ineligible to receive the RRRP subsidy and which therefore also means that seasonal customers are also not eligible for DRP.

Hydro One argued that this new fact means that even if the Seasonal Class is eliminated, customers in the same rate class will still be paying vastly different distribution charges because seasonal customers moving to the R1 and R2 residential classes will not get DRP, whereas existing or future R1 and R2 year-round residential customers will.

Hydro One submitted that while the OEB had information about the disparity in what seasonal customers moving to the R2 residential class (seasonal-R2 customers) would pay in the context of the RRRP subsidy, introduction of the DRP subsidy has significantly exacerbated the problem in the R2 residential class, where existing year-round customers will get both the RRRP and DRP subsidies.

Hydro One in its submission provided the table below which compares what seasonal R2 and year-round customers in the R2 residential class would pay as a result of eliminating the Seasonal Class, with and without the RRRP and DRP subsidies:

**Table 3**
**Comparison of 2021 Charges for R2 Residential Customers Assuming Elimination of Seasonal Class**

| Customers | Monthly Consumption (kWh) | Without RRRP or DRP | | With RRRP | | With RRRP and DRP | |
|---|---|---|---|---|---|---|---|
| | | Dx Charges | Total Bill | Dx Charges | Total Bill | Dx Charges | Total Bill |
| Year-round R2 | 50 | $106.92 | $118.92 | $46.42 | $55.40 | $36.86 | $45.36 |
| | 350 | $114.21 | $161.36 | $53.71 | $97.84 | $36.86 | $80.15 |
| | 1000 | $130.00 | $253.33 | $69.50 | $189.80 | $36.86 | $155.53 |
| R2-Seasonal | 50 | $106.92 | $118.92 | $106.92 | $118.92 | $106.92 | $118.92 |
| | 350 | $114.21 | $161.36 | $114.21 | $161.36 | $114.21 | $161.36 |
| | 1000 | $130.00 | $253.33 | $130.00 | $253.33 | $130.00 | $253.33 |
| % Increase for Seasonal vs year-round customers | 50 | 0% | 0% | 130% | 115% | 190% | 162% |
| | 350 | 0% | 0% | 113% | 65% | 210% | 101% |
| | 1000 | 0% | 0% | 87% | 33% | 253% | 63% |

Hydro One argued that the OEB would have understood the disparity between what seasonal R2 and year-round customers would pay as a result of the RRRP subsidy, as shown in the “With RRRP” columns of the above table (i.e., differences in distribution charges ranging from 130% to 87%), but that the introduction of the DRP, the impact of which is illustrated in the “With RRRP and DRP” columns of the above table, significantly increased the disparity between what seasonal customers moving to the R2 class and year-round R2 customers would pay.

Hydro One noted that the result is that the introduction of the DRP means that seasonal R2 customers would be paying upon elimination of the seasonal class be paying distribution charges between 190% to 253% more than the year-round R2 customers (for low and high volume customers respectively), which represents a significant increase in the differences the OEB would have anticipated under RRRP alone.

Hydro One further submitted that the issue of the disparity in distribution charges between seasonal customers moving to the R1 residential class (seasonal R1 customers) and the year-round R1 residential customers is even more significant because the OEB and parties to the Original Proceeding would have believed that seasonal R1 customers would pay exactly the same rates as year-round R1 customers; but that anticipated result changed completely when the DRP subsidy came into effect and seasonal customers were not eligible to receive the subsidy.

In its submission, Hydro One provided a table which compares what seasonal-R1 and year-round customers in the R1 residential class would pay, with and without the DRP subsidy, as a result of eliminating the Seasonal Class:

**Table 4**
**Comparison of 2021 Charges for R1 Residential Customers Assuming Elimination of Seasonal Class**

| Customers | Monthly Consumption (kWh) | Without DRP | | With DRP | |
|---|---|---|---|---|---|
| | | Dx Charges | Total Bill | Dx Charges | Total Bill |
| Year-round R1 | 50 | $46.94 | $55.85 | $36.86 | $45.27 |
| | 350 | $51.32 | $94.67 | $36.86 | $79.48 |
| | 1000 | $60.81 | $178.76 | $36.86 | $153.62 |
| R1-Seasonal | 50 | $46.94 | $55.85 | $46.94 | $55.85 |
| | 350 | $51.32 | $94.67 | $51.32 | $94.67 |
| | 1000 | $60.81 | $178.76 | $60.81 | $178.76 |
| % Increase for Seasonal vs year-round customers | 50 | 0% | 0% | 27% | 23% |
| | 350 | 0% | 0% | 39% | 19% |
| | 1000 | 0% | 0% | 65% | 16% |

Hydro One noted that the RRRP does not apply to the R1 residential class and stated that in the case of seasonal customers moving to the R1 residential class, the OEB would have based its decision in the Original Proceeding on the understanding that seasonal R1 and year-round R1 customers would be paying the same distribution charges as a result of the elimination of the seasonal class (i.e., 0% difference, as shown in the “Without DRP” columns in Table 4).

Hydro One further stated that with the introduction of the DRP, seasonal R1 customers will be paying distribution charges ranging from 27% to 65% more than the year-round R1 customers (for low and high volume customers respectively).

Hydro One argued that the result is that, while the Seasonal Class would be technically eliminated by the March 2015 Decision, in practice, and in fact, seasonal customers moving to the R1 and R2 residential classes would continue to be distinctly identified for billing purposes and would continue to pay distinctly different distribution charges from those paid by the R1 and R2 year-round

residential customers in the same classes. Hydro One submitted that this is contrary to the outcome anticipated by the OEB in the March 2015 Decision.

**Submission**

In its submission on the threshold test, OEB staff noted that the creation of the DRP may have increased the magnitude of the issue of the continuing need to be able to distinctly identify seasonal customers for billing purposes, but because the RRRP existed at the time of the March 2015 Decision, this issue was known to the OEB when it made the decision to eliminate the seasonal class and as such is not a new fact. Accordingly, at the time OEB staff took the view that this ground for the motion did not meet the threshold test.

However, OEB staff notes that in its merits submission, Hydro One has provided additional information on the rate impacts of the DRP that the OEB would not have been aware of at the time of the 2015 Decision. OEB staff is of the view that this information now puts the DRP issue in the same context as the introduction of all-fixed residential rates ground; namely, as rate impact information of which the OEB would not and could not have been aware at the time of the 2015 Decision.

As with the move to all-fixed residential distribution rates, and based on the additional information provided by Hydro One in its submission on the merits, OEB staff submits that the March 2015 Decision should be varied.

**Conclusion:**

In Hydro One's May 15, 2020 submission on the merits, Hydro One requested an Order finding that:

> i. the March 2015 Decision should be revised so as not to eliminate the Seasonal Class; and
> ii. Hydro One should proceed with the Board's move to all-fixed residential distribution rates for the Seasonal Class, as previously approved by the Board in its September 2015 Order.

Hydro One recommended this approach for the reasons discussed in its submission on the merits and the 2019 Seasonal Report, and noted that "the currently approved schedule for transition to fully-fixed distribution charges will result in seasonal customers being at a fully-fixed charge starting January 1, 2023".[11]

As discussed above, OEB staff agrees with Hydro One that the March 2015 Decision should be varied.

However, OEB staff is mindful of the OEB's direction in PO#2 that:

> Parties should not make submissions on any other grounds contained in the motion as these did not pass the threshold test, or any other matters at this point in time. The OEB will determine further steps, which may include the filing of additional evidence and/or submissions, upon reaching its decision on the merits of the motion.

OEB staff will not comment here on the specific request for relief being made by Hydro One. OEB staff submits that, in the event that the OEB determines that the March 2015 Decision should be varied, and that the Seasonal Class should not be eliminated, there may be a variety of alternatives to the treatment of the Seasonal Class. OEB staff respectfully submits that it would be premature to simply order that the Seasonal Class should be maintained, in the absence of the further steps (which may include the filing of additional evidence and/or submissions) contemplated in PO#2.

- All of which is respectfully submitted-

[11] EB-2019-0234 *Submission of Hydro One Networks Inc.,* May 15, 2020, p.10.