

Hydro One Networks Inc.

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June 12, 2020

Ms. Christine Long
Board Secretary
Ontario Energy Board
Suite 2700, 2300 Yonge St.
Toronto, ON M4P 1E4

Dear Ms. Long:

Re: EB-2019-0234/EB-2016-0315 – Motion to Review and Revise OEB Decision to eliminate the Hydro One Networks Inc. Distribution Seasonal Rate Class – Merits of Motion Reply Submission

Further to the Board's P.O. #2 in the above-noted matter, enclosed is the reply submission of Hydro One Networks Inc.

Yours very truly,

ORIGINAL SIGNED BY MICHAEL ENGELBERG

Michael Engelberg

ONTARIO ENERGY BOARD

In the matter of the MOTION BY HYDRO ONE NETWORKS INC. TO REVIEW AND REVISE THE OEB DECISION TO ELIMINATE THE HYDRO ONE NETWORKS INC. DISTRIBUTION SEASONAL RATE CLASS

and in the Matter of P. O. NO. 2, DATED MAY 1, 2020

SUBMISSION OF HYDRO ONE NETWORKS INC. – JUNE 12, 2020

In Procedural Order No. 2 (“PO #2”) issued by the Board in the above-noted matter on May 1, 2020, the Board determined that Hydro One Networks Inc. (“Hydro One”) had met the threshold test for Hydro One’s July 19, 2019, motion to review part of the Board’s decision of March 12, 2015 (“the March 2015 Decision”) in Hydro One’s 2015-2019 Distribution rate application in proceeding EB-2013-0416 (“the Original Proceeding”).

In PO #2, the Board provided Hydro One with the right to make submissions on the merits, regarding the change in circumstances as a consequence of the Board’s subsequent decision to move to all-fixed residential rates and as a consequence of the subsequent introduction of Distribution Rate Protection.

Hydro One made those submissions on May 15, 2020. Reply submissions dated May 29th were received by the Board from Board Staff and the Balsam Lake Coalition (“BLC”); and a reply submission dated June 1st was received from the Consumers Council of Canada (“CCC”). Additionally, comments dated May 27th were received from the Federation of Ontario Cottagers’ Association (“FOCA”), an intervenor that represents a broad and large base of seasonal customers.

In its submission dated May 15, 2020, Hydro One provided solid grounds, on the merits, as to why the Board's March 2015 Decision to eliminate the Seasonal Class and move seasonal customers to the year-round residential classes according to their density should be reviewed and revised. The above-noted submissions and comment from BLC, Board Staff, CCC and FOCA all agree that, on the merits, the Board should grant Hydro One's request that the Board's March 2015 Decision be reviewed and revised. As BLC stated at page 7 of its submission, "The introduction of DRP has materially undermined the original solution proposed by the Board in its Decision, such that collapsing the status quo Seasonal Class and sending its members into the UR, R1 and R2 classes is no longer appropriate." And as Board Staff stated at page 7 of its submission, "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...anticipated reductions are reversed and become increases."

Hydro One notes that P.O. #2 also stated that the Board "will determine further steps, which may include the filing of additional evidence and/or submissions, upon reaching its decision on the merits of [Hydro One's] motion", which left open the possibility that there may or may not be further steps if the Board grants Hydro One's motion to review and revise the Decision, and there may or may not be a need or opportunity for parties to file additional evidence and/or submissions.

BLC submits that the Board should establish a process for further evidence and submissions to "explore various options" for reflecting density-based characteristics in seasonal customers' rates. That submission, and the balance of BLC's submission, makes it apparent that BLC wishes, in effect, that there be a new hearing to evaluate other alternatives that could have been explored during the Original Proceeding but which were not considered at that time.

As noted by the Board in PO #2, in a motion to review, the Board considers whether there is a question as to the correctness of the decision being reviewed, which in the case of the Original Proceeding was the Board's decision to eliminate the Seasonal Class and move seasonal customers

to the year-round residential classes according to their density.

Hydro One submits that if a motion to review and revise a Board Decision is successful, the review and revision by the Board should take place in a manner whose scope is circumscribed by the evidence in the Original Proceeding and new evidence within the grounds of the two changes in circumstances found by the Board to have met the threshold test for a review and revision of the March 2015 Decision. Those two circumstances, as noted in PO #2, are the Board's subsequent decision to "move to all-fixed residential rates" and the Ontario Government's "introduction of distribution rate protection ("DRP")". Hydro One submits that as part of a review and revision, the Board should not hold what would be, in effect, a new hearing, exploring other possibilities that could have been looked at, and considered, in 2015. Hydro One disagrees with BLC's idea that the outcome of a "review and revision" of any Decision by the Board, particularly a Decision rendered five years ago, should be the holding of what would be the equivalent of a new hearing based on new proposals, new analyses and other new evidence.

In the Original Proceeding, there were only two approaches considered for the treatment of seasonal customers: 1) the option of moving approximately 11,000 "high volume" seasonal customers into their respective density-based year-round residential classes, as proposed by Hydro One in its original Application; and 2) the elimination of the Seasonal Class by moving all seasonal customers to the UR, R1 and R2 residential classes, as proposed by BLC at the final argument stage. No other alternative approaches for the treatment of seasonal customers were ever considered in the Original Proceeding, e.g. moving seasonal customers into new, separate, density-based Seasonal Classes as is now being suggested by BLC.

The Board asked for and has received new evidence as to how the two grounds that met the threshold test for a review of the March 2015 Decision, namely the "move to fully-fixed charges" and "introduction of DRP", would have impacted the March 2015 Decision to eliminate the Seasonal Class. The new evidence on these two grounds was a natural outcome of completing the report requested by the Board in the March 2015 Decision, namely, a report on the implementation plan for eliminating the Seasonal Class by placing seasonal customers in the UR, R1 and R2

residential classes. The proceeding EB-2016-0315, established by the Board to review the report for implementing the March 2015 Decision, was not intended to explore or hear new evidence on alternative options for the treatment of seasonal customers, as is now being suggested by BLC.

Hydro One submits that creating and exploring new evidence on alternative treatments of seasonal customers that could have been considered during the Original Proceeding, as is now being suggested by BLC in its submission, would be going outside the scope of what the Board can consider in deciding how to vary its March 2015 Decision.

Assessing alternative options for seasonal customers would be a lengthy and complex exercise requiring substantial effort, including: developing the inputs and rerunning cost allocation models for alternative new rate class structures; rerunning the rate design process and evaluating the need for any revenue-to-cost ratio changes; and assessing the impacts on not only seasonal customers but also on all the other classes. All of those results would then need to be analyzed and considered by intervenors and by the Board.

One item that Hydro One would fully expect to arise in the exploration and assessment of any options that consider creating density-based seasonal classes is the fact that from at least the mid-1990's¹ to 2008, seasonal customers were in two separate "high" (R3) and "low" (R4) density-based rate classes, and that as part of proceeding EB-2008-0681 for setting 2008 distribution rates, the Board reviewed and approved the merging of the two density-based seasonal classes into a single Seasonal Class. This matter was not raised during the Original Proceeding because, as previously stated, this alternative was never considered at the time. The rate implications and impact on seasonal customers of going back in time to the rate structure that existed prior to 2008 would need to be considered by the Board.

Hydro One has stated its grounds for submitting that a successful motion for review and revision of a Board Decision should not, under any circumstances, be turned into what would be tantamount

¹ The density based R3 and R4 Seasonal Classes may have existed prior to this time but records are not readily available to confirm.

to a new hearing. Hydro One submits that a reasonable outcome of a successful motion for review and revision in this particular proceeding could be to require Hydro One to carry out further study on an alternative treatment of the Seasonal Class. In fact, as noted at page 47 of the March 2015 Decision, in their final arguments in the Original Proceeding, VECC and CCC argued that further study was needed before a solution to the inequities existing in the Seasonal Class could be reduced or eliminated.

Hydro One notes that where an issue is raised in a proceeding, but no or insufficient evidence was raised as part of that proceeding to allow the Board to reach a final decision on the issue, it is the Board's normal practice to direct that further work be done on the issue. There are a number of examples from past Board decisions specifically related to rate structure, cost allocation and rate design where the Board has recognized an issue raised by Staff or intervenors and has directed further study to be included in a utility's next cost-of-service application. The following are several examples from Hydro One proceedings in which that has occurred:

- a) In proceeding EB-2007-0681 for the setting of 2008 distribution rates the Board expressed concern with the relationship between density and cost allocation, and consequently required that Hydro One submit a study that considered alternatives for establishing density weightings as part of its next cost of service application. (Decision with reasons dated December 18, 2008, pg. 31);
- b) In proceeding EB-2009-0096 for the setting of 2010/2011 distribution rates, one intervenor identified concerns in a number of areas related to Hydro One's cost allocation methodology. While the concerns did not warrant rejecting the cost allocation as filed, the Board directed Hydro One to address these issues in the pre-filed evidence at its next cost of service application. (Decision with Reasons dated April 9, 2010, pgs. 63-64);
- c) In the same EB-2009-0096 proceeding, concerns were raised by one intervenor on the approach to the treatment of the unmetered scattered load ("USL") customers. Hydro One indicated that performing the revenue to cost ratio analysis requested by the

intervenor would have the effect of creating a separate class for USL. The Board noted that this outcome could well be warranted and directed Hydro One to prepare evidence on the revenue to cost ratio for USL customers for its next cost of service application. (Decision with Reasons dated April 9, 2010, pgs. 70-71); and

- d) Proceeding EB-2012-0031 for establishing 2013/2014 transmission rates included a study of possible options for setting the rates for Export Transmission Service (“ETS”). The Board found that absent an analysis of cost causality (through a cost allocation study), there was insufficient basis to conclude that any change to the ETS rate was just and reasonable. As a consequence the Board required Hydro One to perform a cost allocation study to establish a cost basis for the ETS rate to be included in Hydro One’s next cost of service transmission rate application. (Decision and Order dated June 6, 2013, pg. 9).

Hydro One has submitted above that a review and revision of a Board decision should not expand the scope of the Board’s task, and expand the proceeding, by introducing new matters and new avenues for the Board and the parties to develop, analyze and consider. But additionally, in the context of this particular proceeding, Hydro One submits that BLC’s suggestion that further evidence on an alternative treatment of the Seasonal Class should be considered as an outcome of the current motion to review is not reasonable or practical. Hydro One notes that it is actively preparing for its next rebasing application and that evaluating any alternative treatment of the Seasonal Class will require a substantial amount of time and effort to evaluate the impacts not just on seasonal customers, but also on the allocation of costs and rates for all of Hydro One’s other rate classes. As such, Hydro One strongly recommends that as a matter of efficiency and practicality, any alternative treatment of the Seasonal Class is best considered in the context of its next rebasing application, which Hydro One expects to submit next year.

With reference to the effort that would be required to assess options that were never suggested during the Original Proceeding, Hydro One notes that it lacks the resources to carry out all the work required to participate in what would amount to a new proceeding looking at alternatives for the Seasonal Class, while at the same time preparing for its next rebasing application. Completing and assessing the new evidence that BLC wishes to be introduced as part of this new proceeding

would require time to i) complete the cost allocation and rate design for the alternative treatment of the Seasonal Class, ii) document the new evidence, iii) complete all the normal steps associated with reviewing that evidence, e.g. notice, interrogatories, technical conference, hearing; and iv) allow for intervenor arguments and a Board decision. It is reasonable to expect that it would take many months to carry out all of this work, and as such, it is not clear how any alternatives or outcomes from this new proceeding would be coordinated with the work being done to prepare Hydro One's next rebasing application, the work for which would be happening concurrently.

In addition to resource availability, the other challenge is that Hydro One would be preparing similar cost allocation and rate design evidence concurrently in two proceedings, raising the question of what assumptions should be made about rate class structure in preparing the cost allocation and rate design evidence in the rebasing application, when there is another proceeding underway at the same time whose outcome would directly impact the evidence that must be put together for the rebasing application.

Hydro One submits that the extensive work described above would not be appropriate for the Applicant, other parties and Board to undertake in order to address a matter that BLC or another party failed to raise in the Original Proceeding. As part of the interrogatory process in the Original Proceeding, BLC only requested Hydro One to evaluate the alternative of eliminating the Seasonal Class and moving seasonal customers to the UR, R1 and R2 residential classes, which was the option proposed as part of their final argument. BLC could have submitted its own evidence on the alternative of creating separate density-based classes for seasonal customers or they could have requested Hydro One to evaluate the impacts of such an alternative. BLC did not take either of those steps.

Again, Hydro One submits that if the Board decides to review and revise the Decision, as requested by Hydro One and as supported by FOCA as well as all other intervenors and Board Staff, the Board should not be extending this already-protracted process by entertaining various new suggestions that could easily have been topics of the Original Proceeding but which were not. There was no event, no procedural order, and no ruling, that would have prevented such

suggestions from being raised; and such suggestions should not be explored and analyzed now, under the guise of a review and revision of a Board Decision, particularly at a time that is approaching the submission of a new Hydro One rebasing rate application.

As noted by FOCA in its May 27th comments, “The move to all-fixed rates largely addresses the concern expressed by the Board 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... The multitude of rate changes within the past few years has meant that almost no one understands the bill system and how and why we got to this point.” Hydro One has already made submissions regarding FOCA’s first point; and with regard to the second point, Hydro One understands FOCA’s concern and submits that the Board should now proceed in an efficient and practical manner that minimizes the potential for customer confusion, and that precludes the examination and analysis of newly suggested alternatives in advance of an imminent rebasing application where such alternatives would normally be explored.

ORDER REQUESTED

Hydro One therefore respectfully requests the following:

1. that the Board revise its March 2015 Decision so as not to eliminate the Seasonal Class and not to place seasonal customers in the UR, R1 and R2 residential classes;
2. that Hydro One be permitted to continue with the Board's previously approved move to all-fixed residential distribution rates for the Seasonal Class; and
3. that the Board order Hydro One to include, in its next Distribution rebasing application, an assessment of the alternative of placing Seasonal Class customers into new, density-based Seasonal rate classes.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

ORIGINAL SIGNED BY MICHAEL ENGELBERG

Michael Engelberg
Counsel for Hydro One Networks Inc.