

August 5, 2020

VIA RESS & EMAIL

Ontario Energy Board
Suite 2700, 2300 Yonge Street
P.O. Box 2319
Toronto, ON M4P 1E4

Attention: Ms. Christine E. Long, Board Secretary

Dear Ms. Long:

Re: EB-2019-0082 - Revenue Requirement and Charge Determinant Order in Hydro One Network Inc.'s 2020-2022 Transmission Custom IR Application

We are writing on behalf of Hydro One Networks Inc. (“Hydro One”) regarding the final Revenue Requirement and Charge Determinant Order issued by the Ontario Energy Board (the “Board”) in the above-referenced proceeding on July 16, 2020 (the “Revenue Requirement Order”).

In the Revenue Requirement Order, the Board found that it is “contrary to standard practice to include the disposition of regulatory assets (deferral and variance accounts) in the calculation of regulatory taxes to be included in revenue requirement, and inconsistent with the approach used by Hydro One for other deferral and variance accounts”. The Board calculated the regulatory tax impact to be \$2.7 million per year as a result of Hydro One including \$7.5 million each year from disposition of the balance in the OPEB Cost Deferral Account. Notwithstanding that this amount is less than the materiality threshold of \$3 million, the Board determined that it was appropriate to reduce Hydro One’s revenue requirement by \$2.7 million and record the regulatory tax impact as an offset to the Foregone Revenue Transmission Deferral Account for each of 2020, 2021 and 2022.¹

This letter is to advise the Board that Hydro One respectfully disagrees with the Board’s findings in this regard. The basis for Hydro One’s disagreement with the Board’s findings include, but are not limited to: (i) the Board’s finding results in an internally inconsistent outcome as the tax impacts of future OPEB costs are approved for recovery during the 2020-2022 rate period, but not recovered in respect of the period subject to the OPEB Cost Deferral Account, which was intended to place Hydro One in the same position with respect to revenue requirement (inclusive of regulatory tax) that it would have been had the disposed balance been incurred as part of approved revenue requirement for the applicable rate period; and (ii) the Board’s findings are contrary to the OEB’s regulatory taxes expense methodology as noted in the 2006

¹ Revenue Requirement Order, p. 14.

Electricity Distribution Rate Handbook where it provides that “the tax amount included in rates reflects taxes payable as a result of operating the [regulated] business”². On this basis, the tax impact associated with the disposition of the OPEB Cost Deferral Account, which tracks costs incurred in operating the business and which give rise to the taxes payable, should be included in the revenue requirement.

Notwithstanding the foregoing, as the amount of \$2.7 million that is at issue is less than Hydro One’s materiality threshold of \$3 million and the threshold question on a motion to review and vary under Rule 43 of the Board’s *Rules of Practice and Procedure* requires an alleged error to be material,³ Hydro One has concluded that it would not be regulatorily efficient to bring a review motion. However, Hydro One will elaborate further on each of its bases for disagreement in its joint transmission and distribution rate application as it is Hydro One’s intention to seek appropriate treatment of tax impacts on a prospective basis for 2023 to 2027.

Yours truly,



Charles Keizer

cc: Mr. Frank D’Andrea, Hydro One
Ms. Kathleen Burke, Hydro One
All Parties

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² 2006 *Electricity Distribution Rate Handbook*, pg. 58

³ OEB, Decision with Reasons, EB-2006-0322/0338/0340, May 22, 2007, pp. 17-18.