



Ontario  
Energy  
Board

Commission  
de l'énergie  
de l'Ontario

Ontario

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# **DECISION AND ORDER**

**EB-2019-0234/EB-2016-0315**

## **HYDRO ONE NETWORKS INC.**

**Motion to review and vary the Decision dated March 12, 2015 regarding Hydro One Networks Inc.'s electricity distribution rates and other charges beginning January 1, 2015 (EB-2013-0416/EB-2014-0247)**

**BEFORE: Cathy Spoel**  
Presiding Member

**Ken Quesnelle**  
Member

**Emad Elsayed**  
Member

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**September 17, 2020**

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# 1 INTRODUCTION AND SUMMARY

This is a decision on a motion (the Motion) regarding the Decision<sup>1</sup> (2015 Decision) in the Ontario Energy Board (OEB) proceeding that considered the Hydro One application for electricity distribution rates and other charges to be effective January 1, 2015, and each year thereafter until December 31, 2019 (Original Proceeding).

One of the findings in the 2015 Decision was that the Hydro One seasonal class was to be eliminated and existing seasonal class customers should be moved to one of three Hydro One residential rate classes according to their density (Seasonal Rates Elimination Determination). The OEB initiated a proceeding in 2016 to implement the Seasonal Rates Elimination Determination (the Seasonal Class Elimination Proceeding).<sup>2</sup>

The seasonal class was described by the OEB as follows:

These are customers that receive electricity service at dwellings that are not occupied long enough during the year to meet the current requirements for Hydro One's other, year-round residential distribution rate classes. The dwellings in question include cottages, chalets and camps.

The seasonal class is defined largely on the basis of the number of months of occupancy per year. By contrast, Hydro One's other residential classes are density-based, defined by their geographic location and the number of customers per km of distribution line.

Although seasonal customers occupy their dwellings for less than the full year, the distribution system assets that meet their need for electricity service have to be maintained by Hydro One on a year-round basis.<sup>3</sup>

Further to the 2015 Decision, Hydro One prepared a "Report on Elimination of the Seasonal Class" (2015 Seasonal Report). The 2015 Seasonal Report was updated in 2016 and again in 2019 (the 2019 Seasonal Report, filed on July 19, 2019), as part of the Seasonal Class Elimination Proceeding. The OEB determined that it would treat Section 5 of the 2019 Seasonal Report – a section entitled "Alternative Approach to Elimination of the Seasonal Class" – as a motion to review the Seasonal Rates

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<sup>1</sup> EB-2013-0416/EB-2014-0247 – Decision March 12, 2015

<sup>2</sup> EB-2016-0315

<sup>3</sup> See EB-2016-0315, Procedural Order No. 3, at pp. 1-2

Elimination Determination (Motion) under Part VII of the OEB's *Rules of Practice and Procedure* (Rules).

The OEB established a separate panel for the purpose of determining the threshold question of whether the Seasonal Rates Elimination Determination should be reviewed before conducting any review on the merits of the Motion. The OEB assigned OEB file number EB-2019-0234 to this matter.

Hydro One was allowed to file such additional material as it considered desirable for the purposes of the Motion and to make submissions on the threshold question.

On October 1, 2019, Hydro One filed additional material and submissions on the threshold question. Hydro One noted that the Motion is subject to Rule 42.01 of the Rules, which states that the 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 circumstances;
- 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.

Hydro One submitted that although it needed to show only one of these grounds in order to meet the threshold, all four grounds had been met.

On March 12, 2020, the OEB issued its decision and order on the threshold question (the motion threshold decision), which found that the threshold test had been met on two of the grounds cited by Hydro One in its submissions, but not the remainder. The OEB stated that further direction with respect to the next steps to hear the merits of the Motion would be given in due course.

On May 1, 2020, the OEB issued Procedural Order No. 2 (PO#2), which among other matters determined that the Seasonal Class Elimination Proceeding was to be combined with the motion threshold proceeding. The OEB assigned OEB file number EB-2019-0234/EB-2016-0315 to the combined proceeding. The OEB further stated that at this time, the combined proceeding would only deal with the merits of the Motion, and the OEB asked for any additional submissions parties may have on the merits.

For the reasons provided herein, the OEB finds that Hydro One's Motion fails on its merits and that the 2015 Decision stands. Having considered both of the changes cited in the motion threshold decision (the move to all-fixed distribution rates and the introduction of Distribution Rate Protection, referred to below as DRP), the OEB finds that the OEB's 2015 Decision to eliminate the seasonal class in order to more

accurately reflect those customers' relative use of distribution assets should not be varied.

Hydro One is directed to update its 2019 Seasonal Report,<sup>4</sup> including the identification of mitigation measures. The updated version of the 2019 Seasonal Report should exclude section 5 "Alternate Approach to Elimination of the Seasonal Class", or similar proposals, as these matters have been determined by the OEB in this proceeding.

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<sup>4</sup> "Hydro One Report on Elimination of the Seasonal Class EB-2013-0416," July 19, 2019

## 2 THE PROCESS

The OEB determined in the 2015 Decision 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 directed Hydro One to prepare a plan by August 4, 2015 for the elimination of the seasonal class commencing January 1, 2016.

Hydro One filed its initial 2015 Seasonal Report on August 4, 2015. The OEB initiated a new proceeding (the Seasonal Class Elimination Proceeding)<sup>5</sup> to consider the remaining steps for the elimination of the seasonal class in November 2016. The OEB ordered Hydro One to update its 2015 Seasonal Report, and Hydro One filed an updated report on December 1, 2016 (2016 Seasonal Report).

In March of 2017, Hydro One filed an application for approval of its proposed 2018-2022 distribution rates.<sup>6</sup> By letter dated September 20, 2018, the OEB informed parties that it intended to resume the Seasonal Class Elimination Proceeding at the conclusion of its review of Hydro One's proposed 2018-2022 distribution rates. The OEB indicated that an update to the 2016 Seasonal Report was expected after the 2018-2022 distribution rates proceeding concluded and that Hydro One could, if it wished, propose a revised approach to the elimination of the seasonal class. The OEB issued its Decision and Order on Hydro One's 2018-2022 distribution rate application on March 7, 2019.

The OEB resumed the Seasonal Class Elimination Proceeding on April 17, 2019, by issuing Procedural Order No. 2 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 proceeding. The OEB noted that "the objective of the current proceeding is to review the updated report, determine if rate mitigation over time is required and select the preferred approach to achieve such mitigation."

Hydro One filed its 2019 Seasonal Report on July 19, 2019. The 2019 Seasonal Report includes a proposed alternative that would maintain the seasonal class. This is set out in Section 5 of the 2019 Seasonal Report entitled "Alternate Approach to Elimination of the Seasonal Class."

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<sup>5</sup> EB-2016-0315

<sup>6</sup> EB-2017-0049

On September 17, 2019, the OEB issued Procedural Order No. 3 in the Seasonal Class Elimination Proceeding which noted that requests to reconsider an earlier OEB decision are made to the OEB by means of a motion to review under Part VII of the OEB's Rules. In a motion to review, the OEB considers whether there is a question as to the correctness of the decision being reviewed.

The OEB further stated that it had determined that it would treat Section 5 of Hydro One's 2019 Seasonal Report as a motion to review the Seasonal Rates Elimination Determination.

The OEB noted that under Rule 43.01 of the Rules 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.

As a first step in this proceeding, the OEB determined that it would allow 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. The OEB stated that Hydro One should include, at a minimum, the information set out in Rule 42.01 indicating why, in its view, there is a question as to the correctness of the 2015 Decision. The OEB stated that any further procedural steps would be determined after receipt of Hydro One's material and submissions.

Hydro One filed this material on October 1, 2019.

On November 28, 2019, the OEB issued Procedural Order No. 1 (PO#1), which provided that OEB staff and intervenors were to file any submissions on the threshold test by December 19, 2019. OEB staff, the Vulnerable Energy Consumers Coalition (VECC), the Consumers Council of Canada (CCC), the Federation of Ontario Cottagers' Association (FOCA) and the Balsam Lake Coalition (BLC) filed submissions. Hydro One filed a reply submission on January 9, 2020.

On March 12, 2020, the OEB issued the motion threshold decision, which found that the threshold test had been met on two of the grounds cited by Hydro One in its submissions, but not the remainder. The OEB stated that further direction with respect to the next steps to hear the merits of the Motion would be given in due course.

The two grounds on which the OEB determined that the threshold test had been met were:

1. The ground cited by Hydro One in its submission under the change in circumstances category as “The Board’s Subsequent Decision to Move to All-Fixed Residential Rates”.
2. The ground cited by Hydro One in its submission under the change in circumstances category as “The Subsequent Introduction of Distribution Rate Protection”.

On May 1, 2020, the OEB issued PO#2, which among other matters determined that the seasonal rates elimination proceeding<sup>7</sup> was to be combined with the motion proceeding. The OEB further stated that at this time, the combined proceeding would only deal with the merits of the Motion, and the OEB asked for any additional submissions parties may have had on the merits of the two grounds that had passed the threshold test, but no other matters at that time.

OEB staff, CCC, FOCA and the BLC filed submissions. Hydro One filed a reply submission on June 12, 2020.

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<sup>7</sup> EB-2016-0315



### 3 DECISION

#### The 2015 Decision

Before addressing the submissions of the parties, the OEB considers it helpful to reiterate the OEB's findings on seasonal rates in the 2015 Decision. More particularly, the OEB made the following finding:

The OEB finds the arguments of BLC to be persuasive. Hydro One has developed the technical capability to implement and maintain density-based rates for its non-seasonal residential classes. These classes are defined by their geographic location in relation to the amount of distribution system assets that are required to serve each customer. The OEB considers the relative use of distribution assets to be a significant and predominant cost causality driver for the establishment of residential rate classes. The OEB agrees with BLC that the existence of density-based rate classes erodes justification for the retention of the seasonal class. The OEB finds that the seasonal class should be eliminated for rate setting purposes. Existing seasonal class customers shall be placed in a residential class according to their density.<sup>8</sup>

In making that finding, the OEB recognized that the elimination of the seasonal class would cause rate impacts for certain seasonal customers, and that mitigation of large impacts to seasonal customers was desirable:

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.<sup>9</sup>

The OEB requires Hydro One to bring forward a plan for the elimination of the seasonal class. The plan should propose a phase-in period for those customers expected to experience a total bill impact of greater than 10% as a result of migrating to another class.

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<sup>8</sup> EB-2013-0416/EB-2014-0247 *Decision*, March 12, 2015, at p.48

<sup>9</sup> EB-2013-0416/EB-2014-0247 *Decision*, March 12, 2015, at pp.48-49

## Position of the Parties on the Merits of the Motion

Hydro One submitted that the seasonal class customers should be maintained in their own rate class and that their distribution rates should continue the transition to a fully-fixed charge, in accordance with the existing schedule approved by the OEB. Hydro One stated that the currently approved schedule for transition to fully-fixed distribution charges will result in all residential customers, including seasonal customers, being at a fully-fixed charge starting January 1, 2023.

Hydro One argued that this approach should be adopted because it fully addresses the concerns identified in the 2015 Decision, which were the disparity in costs paid by high and low volume seasonal customers and ensuring that seasonal customers' rates reflect cost causality. Furthermore, Hydro One submitted that it provides the approximately 70,000 seasonal customers that would move to the R1 (medium density) residential class with benefits similar to those they would receive under the approach contemplated by the 2015 Decision, while avoiding the very large negative impacts to the approximately 78,000 seasonal customers that would move to the R2 (low density) residential class under the approach contemplated by the 2015 Decision.

Hydro One submitted that such an approach also keeps seasonal customers together as a group, which allows them to benefit from a lower allocated cost-to-serve consistent with cost causality principles and the cost allocation methodology approved by the OEB for Hydro One.

Hydro One argued that it also avoids a likely increase in customer confusion and customer complaints under the approach contemplated by the 2015 Decision resulting from "seasonal" customers apparently having significantly different rates than year-round customers within the "same" R1 and R2 residential classes, as existing Rural or Remote Rate Protection (RRRP) and DRP regulations exclude seasonal customers from receiving those subsidies.

Hydro One submitted that this approach also does not result in any seasonal customer impact mitigation costs. Hydro One stated that any mitigation costs would eventually have to be recovered from all non-seasonal class customers, and they are estimated to be significant; totaling \$209M if the seasonal class were eliminated according to the approach contemplated by the 2015 Decision, or totaling \$30M if the transition to fully-fixed charges for the seasonal class were advanced to be completed by January 1, 2021.

Hydro One therefore requested that the OEB rely on this submission, as well as on the evidence in the proceeding that led to the 2015 Decision, to find that: (1) the 2015 Decision should be revised so as not to eliminate the seasonal class; and (2) Hydro

One should 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.<sup>10</sup>

OEB staff took the position in its submission on the threshold question that the first ground, the OEB's subsequent decision to move to all-fixed residential rates, represented a change in circumstances as there was no consideration or assessment of the impact of the move to all-fixed residential rates on the record leading to the 2015 Decision, nor could there have been.

OEB staff submitted that the question at this time is whether this change in circumstances warrants a variance of the 2015 Decision. OEB staff argued that 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 submitted that this constituted a ground for varying the 2015 Decision.

With respect to the second ground, that being that the subsequent introduction of DRP, OEB staff noted that in its submission on the threshold test, it had argued that because the RRRP existed at the time of 2015 Decision, the issue of the continuing need to be able to distinctly identify seasonal customers for billing purposes had been 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.

OEB staff, however, noted that in its merits submission, Hydro One had 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. As such, OEB staff expressed the view that this information had put 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.

OEB staff, accordingly submitted that, 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, this ground now also passed the merits test and the 2015 Decision should be varied.

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<sup>10</sup> EB-2013-0416/EB-2015-0257 *Order*, September 30, 2015.

OEB staff further stated that it was mindful of the OEB's direction in PO#2 that parties should restrict their submissions at this point in time to the merits of the Motion and, as such, would not comment on the specific request for relief being made by Hydro One in its submission. However, OEB staff submitted that, in the event that the OEB determines that the 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. On this basis, OEB staff submitted that it would be premature to simply order that the seasonal class should be maintained, in the absence of further steps (which may include the filing of additional evidence and/or submissions) contemplated in PO#2.

FOCA submitted that, based on the information now available to the OEB as set out by Hydro One, as well as on the evidence in the proceeding that led to the 2015 Decision, the OEB should find that the 2015 Decision should be revised so as not to eliminate the seasonal class.

CCC took a similar view submitting that the changes in circumstances cited by Hydro One warrant a review of the OEB's 2015 Decision regarding the elimination of the seasonal class.

CCC noted that Hydro One had submitted a new proposal with respect to the seasonal class that has been circulated to its customers. CCC submitted that there is a question as to how, if the Motion fails, it will be communicated to customers that this proposal will not be considered by the OEB. CCC further noted that there may be other alternatives to deal with the issues associated with seasonal rates, one of which might be to eliminate the seasonal class in a different way from that which was contemplated in the 2015 Decision.

CCC noted that the introduction of the DRP has created a scenario which would have customers in the same rate class paying different rates based on months of occupancy. CCC submitted that the OEB should, at this time, reconsider its 2015 Decision and consider a full range of alternatives to deal with seasonal rates that will result in just and reasonable rates for all of Hydro One's customers.

CCC argued that circumstances have changed since the 2015 Decision and as a result, it is incumbent on the OEB to reconsider its Decision. Furthermore, all parties, including Hydro One, should be given the opportunity to present new evidence or proposals for the OEB's consideration, as this is what is best for Hydro One's customers.

BLC argued that the introduction of DRP completely eliminated the proposed sharing of like rates between R1 seasonal and "year round" customers and exacerbated the RRRP

based gap between R2 seasonal and “year round” customers, with the probable result of increased customer confusion and frustration as most seasonal customers would, while notionally included in the same rate classes as their neighbours, end up with materially different distribution rate impacts.

BLC submitted that instead of reducing the number of rate classes, the OEB’s approach, as a result of DRP, effectively creates five rate classes. Accordingly, BLC submitted that the solution set out by the OEB in the 2015 Decision is no longer appropriate, having been materially undermined by the introduction of the DRP.

Where the move to fixed rates is concerned, BLC argued that it was not in its essence a measure that addresses cost allocation mechanics, but was instead a change in rate design. BLC argued that such a move likely eliminates any subsidy, in all of the residential rate classes, that may exist between high volume and low volume customers through the elimination of a volumetric charge. However, BLC submitted that all-fixed rates do nothing to eliminate any subsidy as between high density and low density customers where those customers continue to be included in the same rate class. BLC further argued that it is the failure of the status quo seasonal class to distinguish between the disparate density-based characteristics of its members that the OEB identified as an issue in the 2015 Decision, an issue that remains despite the introduction of all-fixed rates.

BLC also submitted, however, that the finding by the OEB that the status quo Seasonal Class is unjustified remains appropriate as it was not impugned by the introduction of DRP. BLC summarized its view as being that while the OEB’s solution is no longer appropriate, the problem identified by the OEB remains.

BLC summarized its position as follows:

- a) the introduction of DRP materially undermines the manner in which the OEB decided to eliminate the status quo Seasonal Rate Class, such that an alternative to moving all seasonal customers to the remaining residential classes (UR, R1 and R2) based on each customer's density-based characteristics should be considered;
- b) the introduction of DRP has no effect on the OEB's finding that the status quo Seasonal Rate Class is no longer justified as a result of Hydro One's ability to implement and maintain density-based rates, such that steps remain necessary to ensure that seasonal customers are placed in rate classes that appropriately reflect their density-based characteristics, and
- c) the introduction of all-fixed rates has no effect on the OEB's finding that the status quo Seasonal Rate Class is no longer justified as a result of Hydro One's ability to implement and maintain density-based rates, such that steps remain necessary to ensure that seasonal customers are placed in rate classes that appropriately reflect their density-based characteristics.

BLC accordingly submitted that it believes it is appropriate to move on to consider additional evidence and submissions from the parties, as contemplated in PO#2, in order to determine how to best reflect the density-based characteristics of Hydro One's seasonal customers given the impact of DRP on the OEB's Decision.

BLC noted in this context that it has, in its earlier submission,<sup>11</sup> outlined in detail how it believes the OEB's original determination that the status quo seasonal class is unjustified may be addressed and stated that it welcomed the opportunity to have additional evidence and submissions filed in relation to that proposal and any alternatives that may be proposed by other parties in order that the OEB can provide appropriate relief.

Hydro One, in its reply submission, stated that it had provided solid grounds, on the merits, as to why the OEB's 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. Hydro One further noted that the submissions from BLC, OEB staff, CCC and FOCA had all agreed that, on the merits, the OEB should grant Hydro One's request that the 2015 Decision be reviewed and revised.

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<sup>11</sup> December 19, 2019

Hydro One disputed BLC's submission that the OEB should establish a process for further evidence and submissions to "explore various options" for reflecting density-based characteristics in seasonal customers' rates. Hydro One argued that the review and revision by the OEB 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 OEB to have met the threshold test for a review and revision of the 2015 Decision.

Hydro One submitted that the proceeding<sup>12</sup> established by the OEB to review the report for implementing the 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, and that creating and exploring new evidence on alternative treatments of seasonal customers that could have been considered during the Original Proceeding would be going outside the scope of what the OEB can consider in deciding how to vary its 2015 Decision. As such, Hydro One strongly recommended that as a matter of efficiency and practicality, any alternative treatment of the seasonal class would be best considered in the context of its next rebasing application, which Hydro One stated it expected to submit next year.

Hydro One summarized its requests as follows:

1. that the OEB revise its 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 OEB's previously approved move to all-fixed residential distribution rates for the seasonal class; and
3. that the OEB 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 classes.

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<sup>12</sup> EB-2016-0315

## Findings

The motion threshold decision cited two grounds where it was determined that the threshold test had been met. They are addressed in the sections that follow. The OEB also has a number of more general observations.

As discussed previously, on a motion to review the OEB considers whether there is a question as to the correctness of the decision being reviewed. While the OEB found, in the motion threshold decision, that there are two changes in circumstances that raise a question as to the correctness of the 2015 Decision, that finding is not determinative of whether the 2015 Decision is actually incorrect and should be varied. That question remained to be determined through the hearing on the merits of the Motion.

As also noted above, in the 2015 Decision the OEB considered the relative use of distribution assets to be a significant and predominant cost causality<sup>13</sup> driver for the establishment of residential rate classes. While the move to all-fixed distribution rates and the introduction of the DRP represent changes in circumstances relative to the 2015 Decision, none of the submissions on the merits of the motion has led the OEB to conclude that the decision to move seasonal customers into rate classes that more accurately reflect their relative use of distribution assets was incorrect. For example, as discussed above, BLC submitted that neither the introduction of all-fixed rates nor the introduction of the DRP has any effect on the OEB's finding that the status quo seasonal class is no longer justified as a result of Hydro One's ability to implement and maintain density-based rates. According to BLC, steps remain necessary to ensure that seasonal customers are placed in rate classes that appropriately reflect their density-based characteristics.<sup>14</sup>

Rather, the submissions of the parties generally focused more on the bill impacts that would flow from the elimination of the seasonal class, having regard to the bill impact implications of the move to all-fixed rates and the DRP. The fact that there are impacts associated with the elimination of the seasonal class does not render the decision to eliminate the class in order to more accurately reflect those customers' relative use of distribution assets incorrect.<sup>15</sup>

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<sup>13</sup> The cost causality principle means that a customer class should be responsible for the cost of the service it receives, and the cost should not be borne by other classes that do not benefit from that cost.

<sup>14</sup> BLC Submission, December 19, 2019, pp. 1-2.

<sup>15</sup> For instance impacts are discussed in the Hydro One Submission, May 15, 2020, pp. 8-9, Tables 3 and 4, OEB Staff Submission, May 29, 2020, pgs 7 and 11, FOCA Submission, May 27, 2020, pp. 1-2 and BLC Submission, May 29, 2020, p. 7.



## **The move to all-fixed distribution rates**

The establishment of rate classes and costs allocated to those classes is distinct from rate design.

As noted above, in the 2015 Decision, the OEB found that the relative use of distribution assets, which is a function of density, is a significant and predominant cost causality driver for the establishment of residential rate classes. This finding is independent from the rate design for these rate classes, which is applied after the rate classes have been established.

In the 2015 Decision, the OEB found that seasonal customers should be paying distribution rates based on their use of distribution assets, which the OEB considers to be a significant and predominant driver for the establishment of residential rate classes. No party has suggested that the OEB was incorrect in determining that seasonal customers should pay for distribution service on the basis of their relative use of distribution assets.

The decision to move to all-fixed distribution rates does result in the elimination of subsidies between high volume and low volume customers within a certain density classification. However, this change in residential rate design does not in any way affect the principle underlying the 2015 Decision that seasonal customers should be in the same class as other residential customers with similar use of distribution assets. Stated another way, it does not affect the primary issue raised in the 2015 Decision related to the density-based cost allocation associated with seasonal customers.

The OEB therefore does not consider the move to all-fixed distribution rates to be a reason to vary the 2015 Decision, although it may be important for rate mitigation in the implementation of the 2015 Decision.

Regarding rate mitigation, the OEB finds that the mitigation costs cited by Hydro One are a reflection of the magnitude of existing cross subsidies which the 2015 Decision aimed to eliminate. While it would be appropriate for the 2015 Decision to be implemented over a reasonable period of time for those customers that will have a high impact if the full change were to take place at once, neither the fact that there are bill impacts associated with the elimination of the seasonal class nor the magnitude of those impacts go to the primary principle on which the 2015 Decision is based, which is cost causality.

## The Introduction of Distribution Rate Protection

The DRP was introduced in 2017, as a rate relief program for eligible residential customers of a number of utilities including Hydro One.

As with RRRP, eligibility for relief under the DRP is provided for by provincial regulation and is not within the OEB's mandate.

Both the DRP and RRRP are provincial programs designed to provide relief from the rates charged for electricity distribution predominantly in rural and remote areas of the Province. They are not an input to the OEB's rate setting process, or its determination of rate classes, but are applied as a subsidy after rates have been set by the OEB.

The 2015 Decision noted that the RRRP could not be applied to Hydro One's seasonal customers who were going to join the other existing residential rate classes, since the program is restricted to customers that reside continuously at the service address for at least 8 months of the year. The same holds true of the DRP.

The analysis above regarding the introduction of all-fixed rates applies equally to a consideration of the introduction of the DRP. The OEB similarly finds that the introduction of the DRP does not affect the cost causality principle behind the OEB's 2015 Decision that seasonal customers should be placed in rate classes that reflect their density-based characteristics and relative use of distribution assets.

The OEB does not and cannot factor provincial programs such as the DRP into rate design as the OEB does not determine how and when they may change, or which customers are eligible to receive them. It would be inappropriate for the OEB to use rate design to, in effect, extend these programs to customers who are not otherwise eligible.

## Cost Awards

On December 10, 2019, the OEB issued a letter which confirmed that cost eligible intervenors in both the proceeding on Hydro One's application for approval of distribution rates for 2015 to 2019<sup>16</sup> and the proceeding on Hydro One's application for electricity distribution rates and other charges beginning January 1, 2016,<sup>17</sup> participating in this Motion proceeding, would be eligible for cost awards. CCC, FOCA and BLC were previously determined to be cost eligible, and may recover their reasonable costs of participation in the merits phase of the Motion. The OEB considers it appropriate to address cost awards for participation in respect of the merits question at this time.

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<sup>16</sup> EB-2013-0416/EB-2014-0247

<sup>17</sup> EB-2013-0416/EB-2015-0079

It is necessary to make provision for the following matters related to this proceeding.  
Further procedural orders may be issued by the OEB.

## 4 ORDER

### THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Hydro One's motion to review and vary the OEB's Decision and Order in the EB-2013-0416/EB-2014-0247 proceeding fails on its merits.
2. Hydro One shall file an updated report on the elimination of the seasonal class no later than **October 15, 2020**. The updated report is to be a revised version of the previously filed report entitled "Hydro One Report on Elimination of the Seasonal Class EB-2013-0416 July 19, 2019" with the removal of section 5 "Alternate Approach to Elimination of the Seasonal Class", as this matter has now been determined by the OEB.
3. CCC, FOCA and BLC shall submit their cost claims for their participation in the merits phase of the Motion proceeding no later than **September 24, 2020**.
4. Hydro One shall file with the OEB and forward to CCC, FOCA and BLC any objections to the claimed costs no later than **October 1, 2020**.
5. CCC, FOCA and BLC shall file with the OEB and forward to Hydro One any reply to any objections to the cost claims no later than **October 8, 2020**.
6. Hydro One shall pay the OEB's costs incidental to this proceeding upon receipt of the OEB's invoice.

All materials filed with the OEB must quote the files number, **EB-2019-0234/EB-2016-0315**, and be submitted in a searchable / unrestricted PDF format with a digital signature through the OEB's web portal at <https://pes.ontarioenergyboard.ca/eservice>. Filings must clearly state the sender's name, postal address, telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guidelines found at <http://www.oeb.ca/OEB/Industry>. If the web portal is not available, parties may email their documents to [boardsec@oeb.ca](mailto:boardsec@oeb.ca).

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Martin Davies, at

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**DATED** at Toronto September 17, 2020

**ONTARIO ENERGY BOARD**

*Original Signed By*

Christine E. Long  
Registrar and Board Secretary