SOCIETY of
UNITED PROFESSIONALS
IFPTE 160

26th February, 2021

Chris Graham
Executive Vice-President
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2239 Yonge St
Toronto, ON M4S 2B5

VIA Email and RSS Filing

Ms. Christine E. Long
Registrar
Ontario Energy Board
P.O. Box 2319
2300 Yonge St.
Toronto, ON
M4P 1E4

Re: Hydro One Networks Inc.
2017-2022 Transmission Revenue Requirement and Charge Determinants and 2018-2022 Distribution Revenue Requirement and Rates, Remittal of Future Tax Savings Issue (EB-2020-0194) Submissions of the Society of United Professionals

Dear Ms. Long,

Please find attached the Society of United Professionals' (SUP) Submissions in the matter of the 2017-2022 Transmission Revenue Requirement and Charge Determinants and 2018-2022 Distribution Revenue Requirement and Rates, Remittal of Future Tax Savings Issue (EB-2020-0194).

Consistent with OEB direction, no hard copies of this submission are being sent to your attention.

Sincerely,

[Original signed by]

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Copy by email: interested parties

SOCIETY *of*
UNITED PROFESSIONALS
IFPTE 160

Society of United Professionals'
SUBMISSIONS

Re: Hydro One Networks Inc.
2017-2022 Transmission Revenue Requirement and Charge Determinants and 2018-2022 Distribution Revenue Requirement and Rates, Remittal of Future Tax Savings Issue (EB-2020-0194)

26th February, 2021

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EB-2021-0194 - Society of United Professionals' Submissions

Introduction

These are the submissions of the Society of United Professionals ("the Society" or "SUP") in matter of Hydro One Networks Inc.'s ("Hydro One") 2017-2022 Transmission Revenue Requirement and Charge Determinants and 2018-2022 Distribution Revenue Requirement and Rates, Remittal of Future Tax Savings Issue (EB-2020-0194).

On October 28, 2020, Hydro One filed its application to amend distribution and transmission rates revenue requirements to allow recovery of disputed tax savings amounts that were the subject-matter of appeals before the Ontario Energy Board ("OEB" or "Board") and the Ontario Divisional Court since the issuance of Board Decision EB-2016-0160 ("Original Decision"). Contrary to the OEB's prior decision, the Court ruled that all the future tax savings under appeal should have been assigned to Hydro One's shareholders, rather than being shared with rate payers.

Hydro One proposed two main amendments to its approved rates revenue requirements. Specifically, Hydro One proposed that the OEB approve temporary Distribution and Transmission rate adjustments (i.e. rate riders) commencing in 2021 intended to recover tax savings amounts incorrectly allocated to ratepayers during the Appeal Period (i.e. 2017-2021). In addition, Hydro One proposed that the methodology used to calculate regulatory income taxes in rate years after the Appeal Period (i.e. from 2022 going forward) must appropriately reflect the court decision. This proceeding is intended to address the first of these two issues.

The OEB rate decisions in the Appeal Period impacted by the court decision were:

- 2017-2018 Transmission Revenue Requirement (EB-2016-0160);
- 2019 Transmission Revenue Requirement (EB-2018-0130);
- 2018-2022 Distribution Revenue Requirement (EB-2017-0049); and
- 2020-2022 Transmission Revenue Requirement (EB-2019-0082).

Misallocated Tax Savings Amounts to be Corrected

Hydro One's annual calculated tax saving amounts to be corrected are found in the Company's submitted evidence for EB-2020-0194: Exhibit A, Tab 1, Schedule 1, page 7. Per the Hydro One submission, these amounts total $165 million for Transmission (2017-2021) and $92.4 million for Distribution (2018-2021). This total of $257.4 million is the total of known misallocated tax savings amounts deducted from regulatory income tax as a one-line adjustment.

SUP submits that Hydro One have appropriately met the requirements of the OEB's Procedural Order #1 by identifying the amounts to be adjusted in respect of the

Appeal Period (2017-2021). SUP notes that OEB Staff arrived at this same conclusion in its February 22, 2021 submission.

Carrying Costs to be Recovered in Respect of the Appeal Period

Hydro One submits that interest should be added to the misallocated interest amounts to compensate its shareholders for the adverse economic impacts of inappropriately having had tax benefits shared with rate payers during the Appeal Period. This seems reasonably clear in terms of fairness and economic and regulatory theory. OEB Staff accept the need to include interest in their submission. The question at issue is what the most appropriate rate to use is given multiple options and limited Ontario regulatory precedents.

Hydro One notes an analogous Alberta regulatory precedent for using the Bank of Canada rate plus 150 basis points as a proxy for the weighted average cost of capital in several affected years. Hydro One has proposed instead that its weighted average cost of long-term debt ("WACD") be used to adjust the recoverable amounts because "the cost to finance this shortfall would reasonably attract Hydro One's WACD given that it was over a four year period." (Exhibit A, Tab 1, Schedule 1, p.10)

As noted above, OEB Staff accepts that implementing the Court Decision requires that the time value of money be factored into the calculation. However, Staff does not accept the Hydro One suggestion that the WACD is the appropriate rate. Staff analogizes that Hydro One shareholders have essentially loaned funds to rate payers over a four year period. That suggests to Staff that the WACD rate is not a good match as the rate relates to a blended debt pool rate with an average life closer to about 30 years. Instead, Staff argue for using either the OEB's prescribed CWIP rate or a close medium-term proxy of the Bank of Canada rate plus 150 basis points (i.e. the same rate used in the Alberta precedents).

SUP supports Hydro One's proposal to use WACD under the view that, had the misallocated funds been available to the company, long term debt could theoretically have been retired and interest costs could have been avoided. Without knowing which specific debt instrument could have been retired, the WACD is a reasonable option to use.

Start Date for Recovery

Hydro One proposed that the Misallocated Tax Savings Amounts should commence recovery on either January 1, 2021 or, if not possible, approximately 30 days from the date that the Board decision in this matter. Staff concurs that recovery should begin as soon as administratively possible and suggests a commencement date of January 1, 2022, when rates would be changing in any case.

SUP also agrees that the recovery period should begin as soon as reasonably and administratively possible. However, it does not consider the start date to be a particularly controversial issue. SUP presumes all parties have an interest in recovery beginning as soon as reasonably possible to limit total carrying costs and to avoid intergenerational inequities. SUP can support commencement of recovery either on January 1, 2022 or on an earlier date in 2021.

Options for the Period of Recovery

Hydro One put forward three discreet scenarios for recovery. Others exist as well.

1. Option 1 – Recovery Over 2021 & 2022 (2 years)
2. Option 2 – Recovery From 2021 – 2024 (4 years)
3. Option 3 – Recovery From 2021 – 2027 (7 years)

In each case, based on Staff's suggestion of commencement of recovery on January 1, 2022, the periods of recovery would be adjusted to 1 year, 3 years and 6 years, assuming no extension in the originally proposed recovery periods. Alternately, the same recovery periods proposed by Hydro One could be retained with the effect that the recovery periods would be extended by a year.

Hydro One took no explicit position in terms of recommending which option the OEB should approve, as long as the time value of money was reflected in the recovery. While a longer period of recovery reduces the annual rate impact on customers, a longer recovery period also increases total carrying costs to be collected and theoretically moves recovery farther from customer generations that benefited from the initial misallocation, thus increasing the intergenerational inequity that already exists.

SUP agrees with Staff that option 3 is best given that this decision is being made in the context of a worldwide pandemic. Customers are currently under considerable economic strain, as extensively discussed in the ongoing COVID-19 consultation (EB-2020-0133). Minimizing annual rate impact should be a priority even if carrying costs increase and theoretical intergenerational inequity grows. As such, SUP agrees with Staff's reasoning and recommendation on the period of recovery.

Recovery of Misallocated Tax Savings Amounts

SUP agrees with Hydro One's proposal to include misallocated tax savings amounts and carrying costs attributable to Transmission as an adjustment in the Hydro One rates revenue requirement collected via Ontario Uniform Transmission Rates (UTRs).

SUP supports Hydro One's proposed recovery method for the Distribution portion of the misallocated tax savings amounts. Hydro One proposed that the base rate adjustment riders would be calculated assuming a recovery of the amount allocated to each rate class over the balance of 2021 and the 2022/2024/2027 (or one year later) periods, depending on option selected.

Both of these proposals were also supported by OEB Staff, subject to a later than proposed date for commencement of recovery.

ALL OF WHICH IS RESPECTFULLY SUBMITTED ON THIS
26th DAY OF FEBRUARY, 2021