

## **SUBMISSIONS OF SUNSET SHORES PENINSULA ASSOCIATION (SSPA)**

### **TO ONTARIO ENERGY BOARD**

**Case file number: EB-2020-0246**

#### **Introduction**

1. SSPA is a not for profit community association in South Frontenac Twp. Hydro One proposes to move its seasonal customers, who are SSPA members, into the R2 low density rate class, based on Hydro's application of the OEB Density Guidelines (Hydro letter to SSPA members February 2021). Most of the members of SSPA are low usage customers, not entitled to rate relief under DRS or RRRP, with the result that Hydro advises that the rates for delivery are expected to go up by 111% for R2 for customers under 50 kw/month (Updated Report, Oct. 2020 p. 6).
2. By contrast, rates for Medium Density Customers transferred from the Seasonal Class do not rise materially and stay flat (Updated Report, Oct 2020, p 19, table 9). Urban rates go down slightly. Generally the rate classes are urban centric, favouring city dwellers and charging considerably more for the countryside.
3. SSPA members are amongst the most adversely affected Seasonal Class customers. There is no Ontario precedent for an increase of rates over 100%, and the closest historical precedent cited by Hydro One was an increase of 35%. The SSPA service area has dirt lanes, a hydro pole line over 50 years old, no municipal services and barely any wireless internet reception. This is the context of this proceeding.
4. SSPA summarizes its submissions under the following headings:
  - a. Procedural Background: the failure of natural justice and common fairness,
  - b. The need to direct more detailed review of the class split into UR, R1 and R2;
  - c. Mitigation

#### **Procedural Background: the failure of natural justice and common fairness**

5. Members of the Seasonal Class were not given notice of the proceeding which led to the OEB Decision to eliminate the Seasonal Class, nor of Stakeholders process, nor of the subsequent review and implementation steps and Orders. Similarly members of the Seasonal Class were not given prior notice of the proposal to move to flat rate distribution and the subsequent order to that effect. First notice was provided February,

2021 for a proceeding limited to implementation of the OEB Decision, within limits and constraints preset by the OEB. (Interrogatory Answers of Hydro pdf pp 138-140, Ex 1-04-46,47,48).

6. The failure to give notice to SSPA members, indeed all Seasonal Class customers, of the proposal to eliminate the Seasonal Class and the proposal to move to flat rate distribution derogates from bedrock principles of Ontario administrative justice, namely that persons affected by orders be first given notice of the orders sought with the opportunity to respond and be heard before the orders are made. This is the basis of the *audi alteram partem* and common fairness doctrines of administrative law.
7. In 2021 the OEB has repeatedly advised the Seasonal Class customers that it will not in this proceeding revisit the orders previously made to eliminate the Seasonal Class and by extension the order to move to flat rate distribution.
8. While the Seasonal Class members have no choice but to accept the OEB orders previously made, SSPA does wish the OEB to understand that amongst low usage rural customers there is an abiding sense of a failure of due process in this affair. By analogy the Notice of this proceeding in February 2021 was an invitation to the sentencing (constrained by previously published guidelines) when the interested persons were not invited to their trial. For the low usage rural customers this proceeding is about how the pain will be inflicted and over what period of time. That they were not invited to the threshold hearings over whether their class should be eliminated at all is the irreparable miscarriage.
9. The OEB has set out that Cost Causality was the basis of the 2015-2017 decision to eliminate the Seasonal Class. The Board found that seasonal customers should be paying distribution rates based on their use of the distribution assets: EB-2017-0049. How then to apply this principle to the low usage rural customers? The result should be clear: low usage customers should pay lower rates, or amounts, based on low usage of distribution assets; conversely high usage customers should pay higher rates. Unfortunately the reverse of this application of the Cost Causality principle is proposed in this implementation proceeding. The elimination of the Seasonal Class taken together with the move to fixed distribution rates has the effect of charging the highest increase to the lowest usage customers. This is neither fair nor in accord with the Cost Causation rule.

## Directing a more detailed review of the class split into UR, R1 and R2

10. The OEB Decision requires that the Seasonal Rate customers be transferred into one of three rate classes in accordance with Density Guidelines set out by the OEB at page 8 of the Hydro One Answers to Interrogatories. There are four essential requirements of the Guidelines:
- i GIS system that identifies customers and transmission assets, used to identify clusters of contiguous customers;
  - ii drawing of boundaries around clusters of customers with boundaries that are (a) easily identifiable physical boundaries (roads, lakes, rivers) located in close proximity to a cluster, or (b) non physical boundaries (property lines) where physical boundaries are remote;
  - iii The GIS system counts customers and circuit km of line within the proposed zone and makes a density calculation;
  - iv confirm density based on Hydro approved density zones which are
    - High (Urban) Density (UR)  $\geq 3000$  customers and  $\geq 60$  cust/cct-km
    - Medium Density (R1)  $\geq 100$  customers and  $\geq 15$  cust/cct-km
    - Low Density (R2) all the rest
11. Hydro has chosen to show how it divides R1 from R2 by pointing to Inverary, a town in South Frontenac Township, identified as Medium Density, with 287 customers and density of 25 cust/cct-km. This map of the Inverary area shows customer meters and circuit line (Interrogatory pp 9-10, Ex 1-01-3)
12. The Hydro One Medium Density zone at Inverary does not meet the density guidelines in two respects:
- a. The density as calculated by Hydro is 25 cust/cct-km, a full 60% above the mandated density of 15 cust/cct-km. If the boundaries were moved outwards to encompass more customers, the medium density guideline would still be met but many more customers currently rated as low density would be included;

- b. The boundary on the west is not fixed on an identifiable physical boundary (and not apparently on modern property lines), but such a feature readily exists in the north/south road proximate on the West (Arthur Rd.) on which Hydro customers are located. Similarly the boundary on the north should be the county road to the north, not in the middle of farm fields (again bringing more customers to the medium zone).
13. The Board thus has evidence from Hydro One that it is not following the Board published guidelines for density review. Based on the Inverary example offered by Hydro One, this Board should be minded to order detailed guidance for the “density review” of boundaries in 2022 as proposed by Hydro One. SSPA submits that the review should have all the characteristics suggested by VECC in its submissions at pdf pages 9-10. In addition SSPA asks the board to order third party audit of the Hydro One density review. This audit should be carried out by a party that has access to the customer locations and hydro lines, similar to those disclosed by Hydro One for Inverary and the name of the GIS software supplier to Hydro One, so that the relationship of the data to the zone results can be confirmed.

## **Mitigation**

14. When addressing mitigation of the effects of the elimination of the Seasonal Class, SSPA submits that the Board should focus on the unprecedented magnitude of the increase sought to be imposed on low usage rural customers: amounts variously calculated as exceeding 100% and possibly as high as 111% (see paragraphs 1 and 3 above). This fact alone should bring the Board to stand firm on its published policy that distribution rates should not increase more than 10% per year.
15. The magnitude of the requested increase, taken with the Board policy limit of 10% per year, means that the period during which the rates are mitigated will need to be more than 10 years for the low usage customers. Generally the body of evidence shows there is little gain for the other classes of users, so that the Mitigation portion of the hearing should in fact concentrate on mitigating the harm caused by elimination of the Seasonal Class.

All of which is respectfully submitted

Sunset Shores Peninsula Association

September 8, 2021

