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23 July 2008

Ms. Kirsten Walli, Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, ON
M4P 1E4

Dear Ms. Walli:

Re: EB-2007-0681 Hydro One Distribution Rates – GEC Argument

Attached please find our final submissions in this matter.

Sincerely,

David Poch

David Poch

Cc: all parties

1649 Old Brooke Road, Maberly, Ontario K0H 2B0 e-mail: dpoch@eelaw.ca

EB-2007-0681

THE ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act 1998*, S.O.1998, c.15, (Schedule B);

AND IN THE MATTER OF an application by Hydro One Networks Inc. for an order approving or fixing just and reasonable rates and other charges for the distribution of electricity.

Final Argument of GEC

GEC (David Suzuki Foundation, Eneract, Greenpeace Canada, Sierra Club of Canada, WWF-Canada) offer submissions on one matter, the need for a broad LRAM.

LRAM:

A Lost Revenue Adjustment Mechanism (LRAM) is a means to remove the disincentive to CDM success that occurs as a result of prospective rate-making. It compensates a utility for lost sales revenues when its CDM results exceed the CDM impact forecast used in rate setting and it also returns to customers any unearned revenues if a utility performs below the CDM forecast used to set rates. Accordingly, it acts to remove the disincentive to CDM success and remove the positive incentive in prospective rate-making to fail at CDM. As originally conceived in the Ontario LDC context it was designed to address only the revenue impacts of a utility's own CDM activity. The risk to utility revenues due to CDM activity of others' actions (such as that due to OPA province-wide campaigns delivered by OPA itself) was left with the LDCs.

In its April 12th, 2006 Decision the Board accepted Hydro One's argument submitted over two years ago that it could not yet separate the likely impact of its CDM activity from the impact of OPA's and therefore could not implement an LRAM at that time. The Board called upon Hydro One to produce a bottom up forecast of CDM impacts and to propose an LRAM in its next rates case. Hydro One has not been able to produce such a forecast for 2008 as OPA and others have not provided the needed information nor has Hydro One concluded its negotiations with OPA for a contract covering Hydro One's delivery of OPA programs in 2008.

At Vol. 4 Page 10 Mr. But noted:

> If Hydro One was to propose a LRAM in addition to EMV results for OPA-initiated programs, we could -- we would also need EMV results pertaining to non-OPA initiated programs such as federal and provincial government CDM programs, as well as conservation efforts under taken by our distribution customer that are not captured in any OPA, or non-OPA programs, and that are incremental to natural conservations.
>
> To date, the OPA has not made any commitments to provide EMV results for the non-OPA CDM programs.

Mr. But also cited the recent Toronto Hydro case where a similar concern arose, the inability of the utility to distinguish between CDM impacts from programs it has initiated and those of others, primarily OPA.

It is apparent that the Board's previous approval of LRAM mechanisms for LDCs is no longer capable of implementation in the form originally conceived. Even if OPA numbers for OPA-specific programs were available, Hydro One's witness indicates that other numbers for other players would still be needed. The Board which is charged with promoting energy conservation and efficiency in the first section of the Act is now faced with the fact that the primary mechanism it has created to eliminate the disincentive to CDM in prospective ratemaking has been frustrated by the fact of Ontario's multi-channel CDM delivery infrastructure.

In the present case Hydro One has proposed rates that include an assumption for CDM impact derived by taking OPA's provincial CDM forecast (however delivered) and pro-rating it to Hydro One's service territory. Thus, Hydro One has sufficient confidence in the OPA forecast and in their ability to pro-rate it to the franchise area to ask the Board to approve rates set on that basis.

In these circumstances it would be appropriate, in our submission, to calibrate and eventually clear an LRAM on the same basis. Indeed, if Hydro One's load forecast, set on that basis, is accepted by the Board, the Board will already be approving rates determined in part by the OPA values and the pro-rating procedure (i.e. such a calibration is already occurring). An LRAM cleared on the same basis would be consistent with the rate proposal. OPA has indicated that it will continue to provide annual reports of province-wide CDM results (with increasing accuracy as EM&V activity escalates).

The broader LRAM mechanism we propose would be cleared based on OPA's assessment of 2008 CDM impacts for the province pro-rated in the same way Hydro One has done for its load forecast. This broad LRAM would shield the LDC from the uncertainty in OPA's CDM forecast while maintaining the originally intended effect of eliminating the utility's disincentive to CDM success (and positive incentive to CDM failure).

Without such an LRAM Hydro One will over-recover if forecast CDM does not materialize, regardless of who was supposed to deliver the CDM.

The alternative is the status quo which in our submission is unacceptable as it provides an incentive to a utility to fail at CDM and/or the prospect of unearned recovery. While Hydro One has apparently been delivering CDM despite this disincentive, we cannot know what level of performance would have resulted if the disincentive were removed. We cannot know how much more CDM Hydro One would seek in OPA contracts if it was free of any concern about losing revenue.

At K4.8 we prepared a comparison of the incentive/disincentive power of lost revenues to the 5% SSM mechanism that the Board has previously approved. The numbers are discussed at page 114 *et seq.* of Volume 10 and were accepted by Mr. But. The calculation shows that without an LRAM the revenue gain or loss from CDM failure or success is roughly equal to the SSM incentive that would attach to the change. Thus ***the incentive or disincentive of gained or lost revenues is of the same order as the amount the Board has previously found sufficient to influence LDC CDM*** when it approved the third tranche SSM proposal. We respectfully submit that the Board should not allow this situation to persist.

Accordingly, GEC submits that the Board should approve a broad LRAM to be cleared based upon OPA's report of 2008 province-wide CDM results pro-rated to the Hydro One service territory in the same manner that Hydro One has pro-rated it for load forecasting purposes.

Costs:

We trust that our intervention has assisted the Board in addressing the LRAM issue. GEC has worked with others parties to avoid duplication of effort and we have sought to conduct an efficient targeted intervention addressing the LRAM issue that arises from the Board's previous Decision. Accordingly, we respectfully seek our costs of intervention.

All of which is respectfully submitted this 22nd day of July, 2008.

David Poch

Counsel to GEC-Pembina-OSEA