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September 26, 2022
Our File: EB20210243

Attn: Nancy Marconi, Registrar

Dear Ms. Marconi:

Re: EB-2021-0243 – UTR Generic Proceeding – ETS Rate – SEC Reply Submissions

We are counsel to the School Energy Coalition (“SEC”). Pursuant to Procedural Order No.3, please find SEC’s reply submissions in the above-noted proceeding.

Yours very truly,
Shepherd Rubenstein P.C.

Mark Rubenstein

cc: Brian McKay, SEC (by email)
Intervenors (by email)

ONTARIO ENERGY BOARD

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

AND IN THE MATTER OF a Generic Hearing on Uniform
Transmission Rates Related Issues and the Export
Transmission Service Rate.

**REPLY SUBMISSIONS OF THE
SCHOOL ENERGY COALITION**

Overview

1. The OEB received a wide range of submissions on the appropriate approach to setting the ETS rate. SEC continues to believe that the OEB needs to take a balanced approach, one that is consistent with directions from past OEB decisions and policies that the rate should be cost-based, while still considering the broader market implications affecting domestic customers.
2. SEC's proposed approach of setting the ETS rate, at the half-way point between the current ETS rate (\$1.85/MWh) and the Elenchus 80% Scenario (\$5.42/MWh), reflects an appropriate balance of approaches. It applies long-standing cost allocation and rate-setting principles of fully allocated costing, which promote fairness, while recognizing the unique nature of the Ontario electricity system, that requires a greater emphasis on economic efficiency in cases such as this.
3. SEC's reply does not attempt to respond to each party and their arguments, but only those that are material and were not addressed in the context of our initial submissions. Silence should not be construed as agreement.

Some Parties Ignore OEB Decisions

4. Parties who advocate for no change, or even a reduction in the ETS rate¹ entirely, ignore previous OEB directives that it should be a cost-based rate, and should include an allocation of

¹ IESO Submissions p.2-3; APPRO Submissions, p.4,15-20; AMPCO Submissions, p.7; Pollution Probe Submissions, p.12

shared network assets.

5. In the two most recent decisions that have addressed the issue, the OEB was clear that it was requiring a cost-based ETS rate. In directing Hydro One in EB-2012-0031 to undertake further cost allocation studies, the OEB did so in order to “establish a cost basis for the ETS rate”.² Again, in EB-2019-0092, the OEB required a further study because it found that there was “insufficient information to conclude what the appropriate allocation of common network costs should be for exporters.”³

6. Hydro One has filed the Elenchus Study, which provides various cost-based scenarios allocating common network costs to exporters. Each of those scenarios involve an increase in the ETS rate, and so maintaining or reducing it, would be contrary to OEB direction and not reflect the need for exporters to pay their share of common network costs that they use.

Lack of Perfect Evidence Is Not An Argument To Maintain Status Quo

7. The Association of Major Power Consumers in Ontario (“AMPCO”) argues that the OEB should maintain the status quo on the basis that the “evidence in this proceeding is insufficient to justify movement in the current ETS rates”.⁴ This is even though, as AMPCO correctly points out, the “current ETS rate of \$1.85/MWh is not the product of an objective, principled, or programmatic study.”⁵

8. There is ample evidence on the record to justify a change in the ETS rate. Even though SEC shares some of AMPCO’s criticism, on some of the evidence, what has been filed is responsive to the OEB’s past direction to Hydro One with respect to what should be filed, and it provides a foundation for a decision on the appropriate methodology. It is not perfect, but it is considerably better than the evidence supporting the current rate, i.e. no evidence at all.

9. If concerns remain, the better approach is to set an ETS rate based on the evidence, and then direct Hydro One and the IESO, in the future, to fill any gaps. If, in a future proceeding better

² [Decision and Order \(EB-2012-0031\), June 6, 2013](#), p.9

³ [Decision and Order \(EB-2019-0082\), April 23, 2020](#), p.180

⁴ AMPCO Submissions, p.7

⁵ AMPCO Submissions, p.7

evidence shows that adjustment, to not just the rate itself but also its methodology is required, the OEB can do so at that time. SEC submits what is not appropriate, when the evidence shows that the current rate of \$1.85/MWh is neither just nor reasonable, is to maintain that rate, and once again defer consideration of a more appropriate rate into the future.

APPrO's Misguided Section 29 Argument

10. The Association of Producers in Ontario (“APPrO”), for the first time in its submissions, argues that the OEB should refrain from setting any rate for exports. The position appears to be that the current situation meets the requirements under section 29(1) of the *Ontario Energy Board Act* (“*OEB Act*”), that there is competition sufficient to protect the public interest.⁶ The OEB should reject the request.

11. ***Procedural Objection.*** As a preliminary matter, the OEB should not even entertain the argument raised for the first time at this stage in the proceeding. To do so would be a breach of procedural fairness. Parties had no notice that the proceeding would involve the possible exercise of the OEB’s forbearance authority under section 29(1). APPrO did not seek to add this issue to the issues list when it was given a chance⁷, nor did it raise it directly or indirectly, through any of its interrogatories or questions at the technical conference. It sought and was granted leave to file evidence, yet that evidence was not related to the issue of sufficiency of competition. Parties have had no opportunity to file their own evidence or engage in any discovery related to this issue. The OEB’s notice set out that the hearing being held was under sections 19, 21, and 78 of the *OEB Act*.⁸ Understandably, none of its evidence in this proceeding, or that APPrO relies on in, directly speaks to the elements of the test used to assess a request for a section 29(1) order.⁹

12. ***APPrO Misunderstands Section 29.*** Regardless of the procedural problem with this submission, SEC submits that APPrO has misunderstood both the application of section 29(1) and the implications if such an order were granted. APPrO’s view is that the ICP mechanism provides

⁶ APPrO Submissions, para. 9, 28-39

⁷ Procedural Order No. 2, p.2

⁸ Notice, issued on October 15, 2022

⁹ This includes identification of the product market, identification of the geographic market, calculation of market share and market concentration measures, an assessment of the conditions for entry for new suppliers, together with any dynamic efficiency considerations. (See [Decision with Reasons \(EB-2005-0551\), Nov 7, 2006](#), p.30-31)

for a sufficiently competitive pricing mechanism to require the OEB to refrain from setting the ETS rate. That view is incorrect, and confuses several disparate issues.

13. ***ICP and ETS Serve Different Purposes.*** APPrO confuses the purpose of the ICP and the ETS. As discussed in detail in SEC’s initial submissions¹⁰, regardless of the original purpose of these mechanisms, they reflect different sets of costs that exporters should be required to pay. ICP represents the value for electricity commodity that exporters are willing to pay, above the HOEP, when there are capacity constraints at a specific intertie. The ETS rate is meant to reflect the costs by exporters for the use of the transmission system at any time. The fact that the former is determined by way of a competitive mechanism, albeit only when there is congestion, is different from the latter, which collects costs for exporter’s actual use of the transmission system. ICP is a unique Ontario mechanism, but most other jurisdictions extract the same value for exporters, it is “just reflected in a different part of the transaction”, through traditional Locational Marginal Pricing (“LMP”).¹¹ In almost all of those other jurisdictions, exporters also pay a cost-based rate for use of the transmission system, and where they do not, it has nothing to do with the existing mechanism to reflect value of electricity when there is transmission congestion.¹²

14. No other party, including the IESO who also do not support an increase in the ETS rate, believes that the ICP is a substitute for the ETS rate or that, by having both, exporters are paying twice for the same service as alleged by APPrO.¹³

15. ***Issue is Sufficiency of Competition of the Service, not Amongst Users of the Service.*** APPrO has also confused what the OEB must assess under section 29(1) (in the context of this proceeding) – the sufficiency of competition in the product or service, and the sufficiency of competition amongst users of the product of service. Section 29(1) provides that “[o]n an application or in a proceeding, the Board shall make a determination to refrain, in whole or part, from exercising any power or performing any duty under this Act if it finds as a question of fact that a licensee, person, product, class of products, service or class of services is or will be subject

¹⁰ SEC Submissions, para. 13-25

¹¹ Technical Conference Transcript, July 28, 2022, p.69-70

¹² Hydro One ETS Rate Submission, Attachment 2, p.4; Interrogatory Response OEB Staff-20; Presentation Day Transcript, p.56

¹³ APPrO Submissions, para. 45

to competition sufficient to protect the public interest”¹⁴ The product, service, or class of services at issue in this proceeding, depending on how broad or narrow the product market is defined, is the use of the transmission system either by all customers, or a subset of users (i.e. exporters through the ETS).

16. The OEB, through the ETS rate, does not regulate exporters. It regulates the rate that transmitters, or more accurately the IESO who is the direct billing interface with customers who connect to the transmission system, must charge those who seek to use the transmission system to export electricity from the IESO-controlled grid (i.e. Ontario).¹⁵ In short, the ETS is at its core a transmission rate.

17. APPrO’s argument, that intertie is a competitive activity, is irrelevant to the question that must be answered under section 29(1). The fact that the *users* of a service engage in competitive activities, even as they relate to accessing the service itself, is not the same thing as the service itself being competitive. It is the transmission system, or at least, its use by export customers, which is what the ETS rate is intended to cover, whose level of competition must be assessed for the OEB to determine if it is sufficient to protect the public interest. Transmission clearly is not a competitive service, nor has APPrO claimed that it is. The use of market mechanisms to price a service is also not the same thing as saying the service itself is competitive.

18. The OEB’s previous decisions regarding section 29(1) are illustrative. In the *Natural Gas Electricity Interface Review* (“NGEIR”) decision¹⁶, the OEB determined that certain natural gas storage services were competitive. It did so by looking at the product and geographic market for those services (i.e. the number of provider of storage services and non-storage substantive)¹⁷ and found that neither Union Gas nor Enbridge had market power. What was not relevant to the inquiry was the competition amongst users of the natural gas storage services.¹⁸

¹⁴ *Ontario Energy Board Act, 1998*, section 29(1)

¹⁵ See Market Rules, section 4.1.2

¹⁶ [Decision with Reasons \(EB-2005-0551\), Nov 7, 2006](#)

¹⁷ [Decision with Reasons \(EB-2005-0551\), Nov 7, 2006](#), p. 33-34

¹⁸ [Decision with Reasons \(EB-2005-0551\), Nov 7, 2006](#), p. 39

19. Similarly, in the *Union Hagar LNG* decision¹⁹, the OEB looked at the product and geographic market for transportation fuelling services for vehicles and determined that it was sufficiently competitive to grant under section 29(1), that the regulation of Union’s LNG liquefaction service (primarily for vehicle fuel) would not be regulated.²⁰ The OEB did not review, nor would it have been relevant, competition among users or buyers of these LNG liquefaction services. Section 29(1) is about competition among the providers of the product or service, not among the users or buyers of it.²¹

20. Even under APPrO’s incorrect view of the purpose of the ICP, the use of a market mechanism to price the value of capacity at a specific intertie where supply outstrips demand, does not mean the market is sufficiently competitive to protect the interest. No ICP is collected from exporters when there is sufficient export capacity available at an intertie. Under APPrO’s proposal, this means when there is no congestion which reflects more than 52% of exporter volumes²², would pay neither an ETS nor ICP. A system that would price the use of the transmission system by exports at \$0, more than half the time, cannot reasonably be seen as protecting the public interest.

21. ***Implications of a Section 29 Order.*** It is important to understand the implications of the OEB exercising its authority under section 29(1). APPrO seems to think that the order would simply result in the OEB not setting an ETS rate and exporters not having to pay for it. This is an incorrect understanding of the effect of OEB forbearance.

22. By forbearing from regulating the ETS rate does not mean exporters would not pay it. The ETS rate does not become zero, it becomes unregulated. This means other parties, either the IESO through amending its market rules, or potentially owners of the transmission system, primarily Hydro One, would have the ability to charge any rate they want, without oversight by the OEB.

23. Just as price (i.e. rates) of the service become unregulated, so do the costs. As the OEB found in the Union LNG Hagar Decision, “[a]lthough the OEB has determined that it will not

¹⁹ [Decision with Reasons \(EB-2014-0012\), April 9, 2015](#)

²⁰ [Decision with Reasons \(EB-2014-0012\), April 9, 2015](#), p.6-7

²¹ That is, can the users or buyers of the product or service buy from a sufficient number of sources that the providers of the service effectively compete to supply it, and thus the market sets the price?

²² Interrogatory Response OEB-Staff-1, Attachment, 1 Table 21

regulate Union’s proposed new liquefaction service, it is still necessary to allocate costs as between Union’s existing regulated service and the new unregulated service, to ensure that there are no cross-subsidies.”²³ Here, the OEB would be required to allocate the costs, both capital and operating, of the now unregulated activity of the use of the transmission system by exporters out of the regulated rates of Hydro One. The OEB would still have to undertake a cost allocation exercise, like that provided by Elenchus, and remove those costs that are included in the approved revenue requirements and rates by domestic customers.

24. Hydro One would then be in a position of charging a rate to recover those costs, or, to the extent the rate did not recover 100% of the allocated costs, losing money on the export service. That decision would be the responsibility of the board of directors of Hydro One, rather than the OEB. In either case, the regulated customers would not bear any of the costs underlying the exporting of electricity. Those costs would be borne either by the exporters, or Hydro One’s shareholders.

Exports Are A Driver of Some Transmission Investments and Should Pay For The Benefit They Receive

25. APPrO argues that since exports are not a “driver of investment decisions” there is no cost causation, and so there is no problem of free ridership if exporters do not pay an ETS rate.²⁴ SEC disagrees with both contentions.

26. First, as discussed in detail by Mr. Pattani, when considering new investments, under the Ontario Resources and Transmission Assessment Criteria, system planners are required to model both domestic demand and exiting intertie capabilities with the aim of maintaining existing intertie capacity to be satisfied by the network transmission system.²⁵ In fact, as noted by Mr. Pattani, two recent bulk system planning reports from the IESO demonstrate how the need to maintain existing export capabilities was a significant influence in supporting new transmission investments.²⁶ Incremental export capacity may not be a driver of new transmission investments, but maintaining

²³ [Decision with Reasons \(EB-2014-0012\), April 9, 2015](#), p.8

²⁴ APPrO Submissions, para. 35

²⁵ Pattani Submissions, p.6, referencing Undertaking JT 1.4

²⁶ Pattani Submissions, p.6, referencing [IESO, Need for Bulk System Reinforcements West of London \(September 2021\)](#), p.10, [IESO, Need for Bulk Transmission Reinforcement in the Windsor-Essex Region \(June 2019\)](#), p.5

existing export capabilities is an extremely important consideration. So, while IESO may be correct when it says that exports are “not a *primary* driver of investment in the system [emphasis added]”, they certainly are a driver.²⁷

27. Second, regardless of the driver of transmission spending, exporters use the network system and so should be required to pay their fair share for the benefit they receive.²⁸ This is a principle followed by FERC, the Régie de l'énergie, and an application of the OEB's long-standing benefits follow costs (or costs follow benefits) principle.²⁹

IESO Provides a System Operator, Not Ratepayer Centric Perspective

28. The IESO's submission repeats much of what it said in its own evidence during the proceeding. Based on the operational and economic benefits of exporters, it favors a lower rate, taking the position that any increase above the current \$1.85/MWh “would be a concern for the IESO”.³⁰ The IESO's perspective is understandable, as it is the system operator. It has experience with what happens when the ETS rate is \$1.85/MWh, and it seeks to avoid any increase in operational risks, which it has an interest in minimizing. A higher ETS rate for the IESO, is “a question of probabilities”.³¹

29. IESO's argument comes down to a question of the system operators' comfort with an ETS rate that it knows, versus setting one to reflect the costs of providing the service. This may be a valid perspective, but is not an appropriate way to set rates. The OEB should consider operational impact, but must balance that against the need for exporters to pay their fair share to ensure rates are just and reasonable. A rate is *prima facie* just and reasonable if it avoids the significant cross-subsidization by domestic customers of exporters, that is present at an ETS rate set at the current level.

²⁷ IESO Submissions, para.35

²⁸ Technical Conference Transcript, July 29, 2022, p.118

²⁹ Hydro One ETS Rate Submission, Attachment 1, p.28-29; [FERC Order 1000 \(Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities\)](#), p.622; Presentation Day Transcript, July 29, 2022, p.37

³⁰ IESO Submissions, para. 29

³¹ IESO Submissions, para. 29

30. What is disappointing is that the IESO filed no quantitative analysis that models either financial or operational energy market impacts of a change in the ETS rate. It was left to APPrO, through their expert Power Advisory, to file evidence on the financial impacts of a change in the ETS rate. However, in that study, the data it would have needed to undertake a more thorough analysis³² was not made available to it by the IESO.³³

31. While the IESO states that it supports the Power Advisory analysis, and that it finds that the assumptions are conservative³⁴, this does not appear to be correct when looked at objectively. As detailed in the confidential appendix to SEC's initial submissions, it appears that if anything the analysis substantially overstates the impact of a change in the ETS rate.³⁵ With respect to the operational impacts, no quantitative evidence was filed by any party. It is impossible to assess "a question of probabilities" when there is not even an attempt to quantify the likelihood and magnitude of any identified risks.

APPrO Alternative Cost-Based Rate Arguments Based On Faulty Premises

32. In response to Issue 2, APPrO provided an alternative argument regarding how the OEB should set the ETS rate, if it were determined that one should exist alongside ICP. The two major areas of disagreement are that the ICP revenue should be considered in the cost allocation process, and there should only be a maximum of 20% of shared costs that should be allocated to exporters. Both of these proposals should be rejected.³⁶

33. ***Cost Allocation Should Not Include ICP Revenue.*** APPrO argues that both ETS and ICP reflect recovery of the same costs and so if the OEB were to set an ETS rate, it should credit through the cost allocation process, the ICP revenues that they pay.³⁷ This is even though the TRCA balance (which includes among other things, ICP revenues) does not flow to Hydro One transmission and is credited to customers through an entirely different mechanism.³⁸

³² Power Advisory Report, *Expert Report For The Market Impacts of Changes To The ETS Rate* (May 2022), p.35

³³ Interrogatory Response, PA-SEC-6

³⁴ IESO Submissions, p.13, ft. 44

³⁵ SEC Submissions, Appendix

³⁶ APPrO Submissions, para. 44-50

³⁷ APPrO Submissions, para. 44-50

³⁸ Undertaking JT 1.3

34. Using ICP revenues as revenue offset in the cost allocation has the same critical flaw that shows up throughout APPrO's submissions – it is premised on ICP and ETS serving the same purpose. They do not. As discussed earlier, regardless of their original intent, the Ontario electricity market has substantially evolved since market design and opening, and ICP does not capture costs of the use of interties or the transmission system broadly.

35. APPrO points to the CRA Report, which describes the NYISO point-to-point transmission service used by exporters, as an example of a rate that includes revenue received from congestion rents as an offset within the rate design.³⁹ The OEB should not draw a parallel between NYISO and APPrO's proposed approach. As noted by Mr. DesLauriers from the CRA when he was asked about NYISO, he comments that it was an exception to all other jurisdictions the CRA reviewed, where congestion rents are normally recovered through LMP.⁴⁰ Its inclusion in the derivation of the transmission rate exporters pay in NYISO, seems to be more an artifact of history, and there is no identifiable rationale.⁴¹

36. More importantly, nothing in the evidence describes how the congestion rents are allocated amongst customers, since the NYISO transmission rate at issue is applicable to loads within (domestic) or exiting New York (export).⁴² Presumably, since there is only one transmission rate, these revenues would flow to the class of the customers based on their share of demand. If applied on a similar basis in Ontario, the results would look much like what Elenchus originally provided in response to the APPrO undertaking request⁴³, not the update responses referenced in APPrO's submission.⁴⁴ Including ICP or TRCA revenue in the cost allocation model, presumably the way NYISO does it, would result in a very small reduction to the proposed rates included in the Elenchus Report.⁴⁵

³⁹ APPrO Submissions, para. 49

⁴⁰ Technical Conference Transcript, July 28, 2020, p.55

⁴¹ See Undertaking JT1.4; Technical Conference Transcript, July 28, 2020, p.58-59

⁴² Interrogatory Response, VECC-35.5

⁴³ Undertakings JT 2.4, JT 2.5 (filed on August 4, 2022)

⁴⁴ Undertakings JT 2.4, JT 2.5 (as amended on August 11, 2022)

⁴⁵ Undertakings JT 2.4, JT 2.5 (filed on August 4, 2022)

37. The fact that in NYISO congestion rents flow through transmission rates says nothing about the purpose, collection, or allocation of the revenue from those rents.⁴⁶ The CRA view is that “these costs are not “factored into” the determination of the rate from a cost allocation or rate making perspective.”⁴⁷

38. In Ontario, congestion rents are more accurately the costs exporters are willing to pay for the commodity when there are constraints on interties. As the Brattle Group noted in a 2019 report regarding the review of the allocation of TRCA benefits, which it includes, congestion costs (i.e. ICP), they “are not costs that are associated with the physical transmission system, but instead are costs of the energy that is sent through the system.”⁴⁸ Additionally, the commodity cost that exporters pay is only a fraction of the actual costs to produce the power they purchase. Exports are not required to pay the Global Adjustment⁴⁹, a unique Ontario feature that was developed post-market opening and represents the bulk of the costs domestic customers pay for electricity.⁵⁰

39. Regardless of how ICP revenue is ultimately flowed through a customer’s bill, through transmission rates by way of the Elenchus cost allocation model, or the Wholesale Market Service Charge⁵¹, only a small portion, if any, should be allocated to exporters, contrary to the position of APPrO.

40. ***20% Allocation Has No Basis In the Evidence.*** APPrO also argues that “a maximum of 20% of shared network costs should be allocated to export customers in the cost allocation model” due to the attributes of the ETS.⁵² It is not entirely clear what APPrO is referring to, since under all possible methodologies included in the Elenchus Report, exports are allocated to less than 20% of shared network costs, as that reflects its share based on a proposed 12 CP allocator.⁵³ SEC presumes APPrO means that only 20% of shared network costs that would otherwise be allocated

⁴⁶ Undertaking JT 1.5

⁴⁷ Interrogatory Response, VECC, 35.6

⁴⁸ Undertaking JT 1.6, Attachment 1, p.19

⁴⁹ Technical Conference Transcript, July 28, 2022, p.162; Power Advisory Report, p.22

⁵⁰ See Average HOEP vs. Global Adjustment (<https://www.ieso.ca/en/Power-Data/Price-Overview/GlobalAdjustment>)

⁵¹ Undertaking JT 1.3

⁵² APPrO Submissions, para. 31

⁵³ See Hydro One Submission on ETS Rate, Attachment 1, p.29, Table 13

to exporters based on demand, would ultimately be allocated to it. In essence, it is proposing a new Elenchus 20% Scenario (reflecting an 80% ‘discount’ or adjustment). This is contrast to SEC, and many other parties (VECC, LPMA, Mr. Pattani, and OEB Staff) who argued that the Elenchus’ 80% Scenario is more appropriate.⁵⁴

41. As SEC noted in its initial submission, there should be some ‘discount’ on the allocation of shared network assets to exporters on the basis that the ETS is curtailable, but that amount should be on the low-end, since the evidence demonstrates they rarely are, and not at a level that would justify APPrO’s recommended approach. Over the last 5 years, in the top 5 peak hours in each of those years’, only 10% of scheduled exports were actually curtailed.⁵⁵ In terms of scheduled exports over all hours, the amounts that were curtailed would thus be entirely *de minimis*. If anything, the 80% Scenario, which reflects a 20% ‘discount’ on the amount of shared network assets that would otherwise be fully allocated to exports, is too generous to exporters. Tellingly, in the range of options provided by Elenchus, discounting the allocation shared network costs to exporters, none were higher than 50%.⁵⁶

OEB Staff’s 12-Year Phase-in Proposal Unnecessary and Would Exacerbate Current Problems

42. OEB Staff believes the appropriate rate-setting approach is one that is cost-based, and recommends the adopting of the Elenchus 80% Scenario.⁵⁷ Yet, while arguing that a cost-based approach is most appropriate, it proposed a stunning 12-year phase-in period.⁵⁸ That is by 2035, the ETS rate finally will reflect 2023 costs.⁵⁹ Additionally, under its proposed approach, the actual rate would not be updated to reflect evidentiary updates filed in the Hydro One JRAP proceeding, and presumably it would take the same position regarding any final decision (be the application of methodology on the approved revenue requirement be higher or lower).⁶⁰ OEB Staff’s propose phase-in approach is premised on two different issues: the relatively large increase in the rate (\$1.85/MWh to \$5.42/MWh), which it believes requires a bill mitigation measure citing the

⁵⁴SEC Submission, para. 36; LPMA Submission, para. 5; VECC Submission, p.19-20; Mr. Pattani Submission, p.22; OEB Staff Submission, p.5

⁵⁵ Hydro One Submission on ETS Rate, Attachment 1, p.23; Technical Conference Transcript, July 29, 2022, p.117

⁵⁶ Hydro One Submission on ETS Rate, Attachment 1, p.23

⁵⁷ OEB Staff Submissions, p.5

⁵⁸ OEB Staff Submissions, p.20

⁵⁹ OEB Staff Submissions, p.22

⁶⁰ OEB Staff Submissions, p.22

Handbook on Utility Rates, and the uncertainty related around the potential electricity market and operational implications of an increase in the ETS rate.⁶¹

43. SEC submits the OEB should reject the proposed 12-year phase-in period proposal.

44. First, the *Handbook on Utility Rate Application* requires, that bill mitigation be considered when the total bill impact is at or above 10% for any given class.⁶² A change in the ETS rate, even a relatively significant one, is only one component of what an exporter will pay the IESO in a month, which also includes HOEP, ICP, and uplift.⁶³ To put the ETS rate in context, between 2017 and 2020, the ETS rate reflected only 8.4% of the total amount collected from exporters.⁶⁴ A change in the ETS rate is unlikely to require any mitigation, let alone one that requires a 12-year phase-in period. No party, including APPrO, raised the issue of rate mitigation in this proceeding.⁶⁵

45. Second, OEB's Staff proposed that the 2035 rate be set at allocated 2023 costs, this ensures that the ETS rate will never actually be cost-based. Transmission costs are planning to increase each year, and by 2035, will look nothing like that in 2023. To put this in perspective, the difference between the UTR - Network Charge in place today (2022)⁶⁶ is 83.8% higher than in place 12 years ago (2010).⁶⁷ Setting the 2035 rate based on 2023 costs would be ensuring continued cross-subsidization from domestic to export customers. With significant transmission development planned over the next few years, the increase in UTR may be even higher.⁶⁸ In contrast, SEC submits that with a potentially very limited exception related to the Transmission Rights market⁶⁹, not only should there be no phase-in period, but the ETS rate must be adjusted annually to reflect

⁶¹ OEB Staff Submissions, p.20

⁶² [Handbook on Utility Rate Applications, October 13, 2016](#), p.vi

⁶³ Hydro One ETS Rate Submissions, Attachment 3, p.8-10

⁶⁴ Hydro One ETS Rate Submissions, Attachment 3, p.8, Table 3

⁶⁵ APPrO has argued for a delay in the timing of any rate change until January 2024, assuming the OEB issues a decision before the end of 2022, to reflect TRs that have already been sold to the end of December 31, 2022 (See APPrO Submissions, para. 44). SEC raised a similar issue in our initial submissions, but we consider this more an issue of effective date rather than rate mitigation.

⁶⁶ \$5.46/kW (See [2022 Uniform Transmission Rates Update \(EB-2022-0084\), April 7, 2022](#), Schedule A

⁶⁷ \$2.97/kW (See [Revenue Requirement and Charge Determinant Order Arising From the EB-2008-0272 Decision with Reasons of December 16, 2009 \(EB-2008-0282, January 21, 2020\)](#), Appendix C

⁶⁸ See for example the recent [Order-in-Council](#) and [Directive](#) to the OEB regarding Hydro One's development and construction of 4 new transmission lines.

⁶⁹ SEC Submissions, para. 59

the increases in transmission costs. There is no reason why domestic customer rates increase annually to reflect approved costs, but export customers do not. SEC's initial submissions include two options for mechanistic annual adjustments that ensure the ETS rate keeps up with costs.⁷⁰

46. Lastly, SEC does agree that there is some uncertainty regarding the market implications of a change in the ETS rate. The better way to address these uncertainties is through both monitoring and regular review. SEC, as well as most parties, propose that the ETS rate be reviewed again for 2028 rates, to coincide with Hydro One's next major transmission application.⁷¹ This is in fact earlier than the OEB Staff's proposed review in 2029.⁷² If, as OEB Staff expects, that the market implications of a change in the ETS rate may have negative impacts for domestic customers, then as proposed by both SEC⁷³ and VECC⁷⁴, that should be reflected in the ETS methodology itself.

Summary

47. The OEB should continue to set an ETS rate (Issue #1) that reflects a proper allocation of costs to exporters based on their use of the transmission system. In setting the ETS rate, the OEB should also consider the impacts a change may have to domestic customers on other parts of their bill (Issue #2). An appropriate balance of these two competing approaches is half-way between the current \$1.85/MWh rate and the Elenchus fully allocated cost-based methodology (80% scenario).

Respectfully, submitted on behalf of the School Energy Coalition this September 26, 2022.

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⁷⁰ SEC Submissions, para. 62-64

⁷¹ IESO Submissions, para. 43

⁷² OEB Staff Submissions, p.20

⁷³ SEC Submissions, para. 52-61

⁷⁴ VECC Submissions, p.45-49