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November 27, 2008

Kirsten Walli,
Board Secretary
Ontario Energy Board
Suite 2701
2300 Yonge St.
Toronto, ON, M4P 1E4

Subject: **EB -2008-0003, Notice of Proposal**
Proposed Amendments to the Transmission System Code

Dear Ms Walli,

BFI Canada Inc ("BFI") through its subsidiary Ridge (Chatham) LP, has, at its Ridge Landfill in the Municipality of Chatham-Kent, commenced the installation of landfill gas collection systems to harvest the renewable energy generated at this facility. It has also obtained approval under Ontario environmental legislation to construct a 10MW power generating facility. BFI has also applied to Hydro One under the Renewable Energy Standard Offer Program ("RESOP") and it is "in the queue" for connection through the nearest transformer station, that being Hydro One's Kent Transformer Station ("Kent TS") in Chatham, Ontario. We are ready to proceed with development of this generating capacity in 2009. However, we have been advised that our project cannot be connected because of significant capacity shortfall at this transformer station. Despite the fact that BFI is prepared to develop the generating capacity as early as 2009, we understand that, because of our position in the "queue" below the "red-line" (the cut-off capacity for connection at the Kent TS), we are unable to proceed. This condition occurs, in large part, we believe, due to the current queue position policy of "first-in-line" for projects- whether they are ready to proceed or not - as opposed to a policy of "first-ready" projects get first connection.

In the context of our desire and readiness to produce renewable energy NOW and our inability to obtain transmission "space" at the Kent TS, we are submitting comments on the subject proposed amendments to the Transmission System Code ("TSC"). Our interest is in assisting the Ontario Energy Board ("the Board") in understanding the difficulties we are experiencing in proceeding with our plans to develop renewable power plants from collected landfill gas in Ontario. Within this context, we respectfully submit comments and constructive observations on the proposed amendments which we believe, if implemented, will result in an improved renewable energy supply for all Ontarians.

Background

The Province of Ontario has set lofty goals for the development of renewable energy. In 2004, it set the following goals and began the procurement process to achieve them:

- 1350 MW by 2007 (about 5 % of the system peak demand of 27,000 MW)

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- 2700 MW by 2010 (about 10% of the system peak demand)

Two main approaches used by the Ontario Power Authority ("OPA") to develop this renewable energy supply are:

- A competitive procurement process using Request For Proposals ("RFPs") for large projects, and
- A standard offer program (known as RESOP) for small projects (10 MW or less) connected to the distribution system :

Based on reports from the OPA, the performance in meeting these targets has been a major challenge for the many parties that are involved in the development of renewable energy. As of September 2008, for the larger competitive projects, OPA contracts for renewable energy total about 1375 MW. However, only about 488 MW was placed into service, with the balance scheduled to come into service between September and 2010. Similarly, under the RESOP program, contracts are in place for about 1,393 MW, but only 69 MW is actually built and operating.

Overall, the renewable energy program appears to be well behind schedule.

Barriers to Development of Renewable Energy Generating Capacity.

While there may be many reasons why development of new renewable projects has been slow, the principle reason is the inability of developers to get connected to the provincial electrical grid because of the limitations of the existing grid. The new Minister of Energy and Infrastructure has very quickly – and rightly - identified this limitation. We also believe that the review of the current Transmission Connection Cost Responsibility Review ("TCCRR") is too narrowly scoped.

Grid Connection

Connection limitations are evident at both the transmission and the distribution level and occur in many parts of the province. Hydro One has, to date, received more than 2000 applications to connect to the distribution system from potential project developers and, we believe, that most of these applications apply to the RESOP program where individual projects range in capacity up to 10 MW.

In our particular case, while transmission line capacity does not appear to be an issue related to our Ridge Landfill project, our project is stalled because it is blocked from connection to the grid by the limited capacity of the Kent TS. In particular, the Kent TS is significantly oversubscribed in terms of the demand for connection of new renewable power far exceeding the available capacity of the station. There are about 10 projects with a total of about 90 MW that have been given permission by Hydro One to proceed with the connection process. However, this consumes all the remaining capacity at this station and there are a further 29 projects, with applications to connect totalling over 260 MW, that are below the "red line" and will not be permitted to connect because of under capacity at the Kent TS. BFI's "ready to go" landfill gas to electricity project is one of these projects that are "below the line".

Scope of TCCRR

We had hoped that the TCCRR would address the connection limitation issues in a global manner but it has narrowed the scope of the proposed amendments to only apply to "Enabler Lines". The current Integrated Power System Plan ("IPSP") identifies only three enabler lines (Goderich, Bruce and Manitoulin areas). This leaves hanging a very large amount of renewable projects that will not be eligible to connect to one of the future enabler lines, but, are sitting very close to the existing grid and wanting to connect. We are particularly concerned that the very large number of transformer stations that lack capacity to connect planned and "ready to go" renewable projects are not addressed in the proposed amendments.

We believe that an accelerated, needs-based program of expansion and upgrading to these transformer station assets is required and this, we believe, is in the interest of all Ontarians.

Context of the Notice of Proposed Amendments

Given the lack of progress in bringing new renewable energy projects on line, the Board indicated that it wished to determine whether the existing transmission cost responsibility policies facilitate the rational and optimal development of transmission infrastructure. In particular, the Board noted that there were plans for rapid expansion of generation facilities that would require many new connections to the transmission system, especially facilities related to renewable sources. The Board's examination of this issue has been marked by the following milestones:

- On January 4, 2008, the OEB launched the TCCRR to examine the issue of cost responsibility associated with connection of generation and load facilities to the transmission system
- On July 8, 2008 the Board issued a Discussion Paper focused solely on generation connections. It further proposed to narrow the scope to the "enabler" facilities that would be designated in an approved IPSP to connect clusters of renewable energy projects to the transmission system.
- On October 29, 2008, the OEB issued the subject Notice of Proposal to Amend the TSC.

We understand that there is also a planned future Distribution Cost Connection Review ("DCCR") of the distribution system code ("DSC") in relation to connection cost responsibility.

Overall Purpose of Proposed Amendments

The current Notice indicates that the purpose of the amendments to the TSC is to facilitate changes to or new government policy related to increasing the energy supply from renewable sources. The current policy is clarified by Ministry of Energy directives issued on June 13, 2006, August 27, 2007, and September 17, 2008. The September 2008 directive is very specific in that it requires OPA to review the IPSP with the view to increasing transmission capacity where this is limiting the development of new renewable energy supply.

Proposed Amendments

The proposed amendments are specific only to the enabler facilities as identified in the IPSP or as may be associated with a renewable energy cluster identified in a Ministerial Directive. The current Notice also discusses four (4) cost allocation options for application to generation connection transmission facilities and concludes that the "Hybrid Option" is preferred. This may be simply defined as an allocation of transmission system connection costs to the connected generators based on their generating capacity, with the balance of costs relating to the surplus line capacity staying in a pool to be recovered from all load customers via the transmission rate structure.

The proposed amendments take the form of specific word changes to the TSC to accommodate the hybrid option in three categories:

- Identification of enabler facilities
- Contemplation of the transmitter being required to build the enabler facility
- Establish cost responsibility between transmitters and generators.

Comments on the Proposed Amendments:

Scope Narrowing to "Enabler Lines" Only

As noted above, the scope of the TCCRR was limited to the transmission system only. However, it was further limited by the Discussion Paper prepared by Board staff to apply to only the three Enabler Lines identified in the current version of the IPSP. The purpose of these new lines would be to provide for connection of large clusters of renewable energy projects that were identified to the OPA in the process of developing the IPSP.

There are some serious implications of this narrowing of scope on the impact that these amendments can have on the policy goal of increasing and accelerating the development of renewable energy.

- The amount of proposed renewable energy associated with the enabler lines identified in the IPSP is only about 1200 MW
- There are larger amounts of renewable energy projects, outside these three clusters, that are not addressed
- There are significant amounts of renewable projects that are very close to the existing grid, but, are not permitted to connect due to grid capacity limits.

Wind Bias

Although not explicit, we believe that there is an apparent bias towards one form of renewable energy in these proposed amendments, that being wind. We conclude this as a result of a review of the identification of the project clusters that trigger the enabler lines. The projects in these clusters are overwhelming wind projects that are located on good sites with regard to the wind resource, but, are a long way from the grid. Hence, the requirement for the building of long dedicated radial transmission lines.

The proposed amendments do not, it appears, consider connection of renewable energy that may have a much higher capacity factor than wind and is dispatchable, thus bringing greater value to the generation dispatcher. We believe this is a serious flaw in the rationale for this amendment.

No Provision for Transmission Line or Transformer Station Upgrades

The lack of a process for transmitters or distributors to advance the upgrades of existing grid facilities, in order to encourage the connection of generators, is not addressed by the proposed amendments. There are many locations in the province where modest upgrades would permit significant amounts of identified renewable projects to gain connection ability.

Proposal for Change

We respectfully offer the following suggestions to the Board to improve the Transmission System Code through this amendment process.

Broaden the Definition of Enabler Facilities

The current definition, based on an approved IPSP or a Ministerial Directive designating a renewable energy cluster, is administratively simple in terms of the level of modification to the TSC and the process of allocating cost responsibility. However, it does not encompass the significant amount of identified

renewable projects that have applied to connect to the transmission and distribution systems and are blocked by capacity restrictions.

We therefore propose that the definition of enabler facility be expanded to include a third category that we would refer to as "Multiple Applicant Facilities" This would refer to transmission and transformation facilities where there are multiple renewable projects with formal applications to connect, and where there is a demonstrated capability and commitment to build the projects in the near term. These project applications may relate to both transmission connected or distribution connected projects, but, this proposal would only address the upgrading of the associated transmission system facilities due to the limited scope of the TCCRR.

We would propose that the upgrading or extension of distribution facilities be addressed within the upcoming DCCR.

Cost Responsibility Principals for the Newly-Defined Enabler Facilities

Given the current market dynamics in Ontario, it is assumed that, in most cases, renewable projects will not get financed without a long term power purchase contract from the OPA. We support the Hybrid Option, and suggest that for larger size projects (e.g. greater than 10 MW) these principles should apply. We offer an alternative approach for projects under the RESOP program.

If the Hybrid Option principles are built into current OPA competitive procurement processes for renewable power, it would enable much faster uptake of large scale economic renewable energy projects. The OPA would evaluate the bids generally in accordance with their current competitive procurement processes and select the most economic projects. Where there are multiple generators selected for connection to the same transmission facilities, the OPA would request that OEB identify this as an enabler facility. The Hybrid Option process would then proceed as already prescribed in the currently proposed detail amendments.

For the RESOP size projects (less than 10 MW) perhaps the Pooled Option is more appropriate as they are very widely distributed and there can be large amounts of projects on any given transformer station. Many of these projects could move ahead if the associated transformer station was upgraded. In many cases the work on the distribution assets is minimal and, in any case, should continue to be picked up by the generator.

We therefore propose that where there are generator projects with "real" demonstrated capability and commitment to build, that the associated transformer station be designated as an enabler facility so the current facility owner may proceed with the required upgrade and be assured that cost allocation will follow either the pooled or hybrid option as determined by the OEB.

Summary

BFI Canada Inc will be collecting landfill gas at its Ridge Landfill in the Municipality of Chatham-Kent, Ontario in 2009. The Company is ready and has the necessary environmental approvals to construct a 10MW electrical generating facility fuelled by this gas. This construction cannot proceed because of a lack of capacity at the Kent Transformer Station to receive this power. This we understand is due in large part to the current queue position policy of "first in line" versus "first ready". We would respectfully submit that while those "first-in-line" have their queue position protected, that priority consideration be given to advancing those "first ready".

This submission respectfully presents our observations about the current TSC amendments and process and offers suggestions for improvements. We hope that the Board will be sympathetic to these suggestions and will incorporate them in its deliberations on the TSC changes. We wish to thank the Board in advance for considering our comments as it finalizes the amendments to the TSC.

For clarification or discussion of this submission, please feel free to contact Howard Goldby at (416) 401-7727

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