

Richard P. Stephenson

T 416.646.4325 Asst 416.646.7417

F 416.646.4335

E richard.stephenson@paliareroland.com

www.paliareroland.com

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VIA EMAIL AND RESS FILING

Chris G. Paliare
Ian J. Roland
Ken Rosenberg
Linda R. Rothstein
Richard P. Stephenson
Nick Coleman
Margaret L. Waddell
Donald K. Eady
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Andrew Lokan
John Monger
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Massimo Starnino
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Tina H. Lie
Jean-Claude Killey
Jodi Martin
Michael Fenrick

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

Dear Ms. Walli:

Re: Transmission Connection Cost Responsibility Review (EB-2008-0003)

The Power Workers' Union ("PWU") represents a large portion of the employees working in Ontario's electricity industry. Attached please find a list of PWU employers.

The PWU is committed to participating in regulatory consultations and proceedings to contribute to the development of regulatory direction and policy that ensures ongoing service quality, reliability and safety at a reasonable price for Ontario customers. To this end, please find the PWU's comments on the *Further Revised Proposed Amendments to the Transmission System Code (EB-2008-0003)*.

We hope you will find the PWU's comments useful.

Yours very truly,

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP

Richard P. Stephenson
RPS:jr
encl.

cc: John Sprackett
Judy Kwik

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HONORARY COUNSEL
Ian G. Scott, Q.C., O.C.
(1934 - 2006)

List of PWU Employers

AMEC Nuclear Safety Solutions
Atomic Energy of Canada Limited (Chalk River Laboratories)
BPC District Energy Investments Limited Partnership
Brant County Power Incorporated
Brighton Beach Power Limited
Brookfield Power – Lake Superior Power
Brookfield Power – Mississagi Power Trust
Bruce Power Inc.
Capital Power Corporation Calstock Power Plant
Capital Power Corporation Kapuskasing Power Plant
Capital Power Corporation Nipigon Power Plant
Capital Power Corporation Tunis Power Plant
Coor Nuclear Services
Corporation of the City of Dryden – Dryden Municipal Telephone
Corporation of the County of Brant, The
Coulter Water Meter Service Inc.
CRU Solutions Inc.
Ecaliber (Canada)
Electrical Safety Authority
Erie Thames Services and Powerlines
ES Fox
Great Lakes Power Limited
Grimsby Power Incorporated
Halton Hills Hydro Inc.
Hydro One Inc.
Independent Electricity System Operator
Inergi LP
Innisfil Hydro Distribution Systems Limited
Kenora Hydro Electric Corporation Ltd.
Kincardine Cable TV Ltd.
Kinectrics Inc.
Kitchener-Wilmot Hydro Inc.
London Hydro Corporation
Middlesex Power Distribution Corporation
Milton Hydro Distribution Inc.
New Horizon System Solutions
Newmarket Hydro Ltd.
Norfolk Power Distribution Inc.
Nuclear Waste Management Organization
Ontario Power Generation Inc.
Orangeville Hydro Limited
Portlands Energy Centre
PowerStream
PUC Services
Sioux Lookout Hydro Inc.
Sodexho Canada Ltd.
TransAlta Energy Corporation - O.H.S.C. Ottawa
Vertex Customer Management (Canada) Limited
Whitby Hydro Energy Services Corporation

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EB-2008-0003

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

AND IN THE MATTER OF a consultation process to examine Ontario Energy Board policies regarding cost responsibility for generation and load connections to transmission systems.

Comments of the Power Workers' Union

I. BACKGROUND

1. On October 29, 2008 the Ontario Energy Board (“OEB” or the “Board”) issued a Notice of Proposal to Amend a Code (“October Notice”) in which it proposed a number of amendments to the Code (“October Proposed Amendments”) designed to:

.. promote the implementation of the government’s policy objectives by facilitating the timely and economically efficient connection of renewable generation facilities in a manner that does not create undue risk for ratepayers. More specifically, the October Proposed Amendments contemplated the implementation of a “hybrid” approach to cost responsibility in relation to “enabler” facilities, being transmission facilities intended to connect multi-proponent clusters of renewable generation resources. Under the proposed hybrid approach:

- enabler facilities would be developed, built, operated and owned by a transmitter;
- the costs associated with an enabler facility would be pooled temporarily;
- each generator would make a pro-rata capital contribution towards the cost of the enabler facility as and when it became ready to connect, calculated as a share of the cost of the enabler facility equal to the generation facility’s capacity; and
- outstanding costs for any “unsubscribed” portions of an enabler facility would be included in the transmitter’s rate base and be recovered from transmission ratepayers.

2. Subsequently, on April 15, 2009 the Board issued a Notice of Revised Proposal to Amend a Code (“April Notice”). The revised proposed amendments (“April Revised Proposed Amendments”) relate to issues on cost responsibility for

generation facilities outside of a renewable resource cluster including: security deposits; the connection of load facilities to an enabler facility; the determination of capital contributions; and, cost allocation. In addition the April Revised Proposed Amendments address some definition issues.

3. On September 11, 2009 the Board gave notice (“September Notice”) under section 70.2 of the *Ontario Energy Board Act, 1998* (the “Act”) of further revised proposed amendments (“September Revised Proposed Amendments”) to the Transmission System Code (the “Code”).

4. The September Notice states that since the issue of the April Notice the *Green Energy and Green Economy Act, 2009* (“GEGEA”) has received Royal Assent and all of the amendments to the *Electricity Act, 1998* and the Act that are relevant to this consultation were proclaimed into force on September 9, 2009. The GEGEA amends the *Electricity Act, 1998* to make provision for the implementation of a “Feed-in Tariff” (“FIT”) program by the Ontario Power Authority (“OPA”). The FIT program is designed to procure energy from renewable energy sources using standard program rules, standard contracts and standard pricing.

5. The September Notice notes that with regard to this consultation further detail is now available on the implementation of the FIT program. As a result, the Board believes further proposed amendments are warranted.

II. PWU COMMENTS ON THE SEPTEMBER REVISED PROPOSED AMENDMENTS

A. Basis for Identification of Enabler Facilities

6. The Board proposed that a connection facility be treated as an enabler facility in either of the following two circumstances:

- i. **where the connection facility is identified as an “enabler facility” and the associated renewable resource cluster is**

- identified as such in an integrated power system plan (“IPSP”) that has been approved by the Board under Part II.2 of the *Electricity Act, 1998*; or**
- ii. **where the associated renewable resource cluster is the subject of a direction issued by the Minister of Energy and Infrastructure (the “Minister”) to the OPA under section 25.32 of the *Electricity Act, 1998*.**

7. The Board’s stated view in the September Notice is that “renewable resource clusters should be established in a planning context where the best or most promising renewable resources are first in line for development.” It identified two additional circumstances under which this objective could be met:

- a. The first circumstance is where a connection facility is intended to connect a renewable resource cluster identified by the OPA based on information and assessments made through the implementation of the FIT program, where the project satisfies certain “screening criteria”.
- b. In the second circumstance, given that the GEGEA confirms a central role for the Board on the approval of system expansion or reinforcement plans developed by transmitters to accommodate renewable generation, a connection facility would “qualify as an enabler facility where it is identified as such, and where the associated renewable resource cluster is identified as such, in a Board-approved transmission system plan filed by a transmitter under the deemed condition of the transmitter’s licence referred to in subsection 70(2.1) of the Act. The Board is proposing to amend sections 2.0.28A and 2.0.57A of the Code to give effect to the above proposals.”

8. The Power Workers’ Union (“PWU”) concurs with the Board’s two additional circumstances that qualify connection facilities as enabler facilities. Further, the PWU submits that regardless of the criteria used to qualify a connection facility as an enabler facility the Board and the OPA must ensure an open, timely and fair process as well as coordination between OPA generation

contracting and enabler proposals to ensure that the goals of these proposed system modifications can be achieved on a timely and cost effective basis.

B. Enabler Screening Criteria for OPA-identified Clusters

9. The September Notice states that the Board expects that, under the FIT program, renewable generators will have a greater role in driving the quantity and location of renewable generation facilities and that the Board therefore believes that it is desirable to make provision for screening criteria that can promote the development of the more economic renewable resource clusters.

10. The Board therefore proposes that a hybrid approach to cost responsibility for enabler facilities should only apply where the enabler facility proposal satisfies certain screening criteria (sections 2.0.28A and 3A of the Code).

11. The enabler screening criteria would apply only where the proposed enabler facility is associated with a renewable resource cluster that has been identified by the OPA i.e. not where the enabler facility is identified as such in an approved IPSP or in a Board-approved transmission plan, or where the associated renewable resource cluster is the subject of a direction issued by the Minister. With regard to an approved IPSP and Board-approved transmission plan the Board indicates that it believes it is appropriate for the Board panel to retain the discretion to determine that a connection facility should qualify as an enabler facility even if the screening criteria would not be met.

12. The Board proposes the following two screening criteria in the September Notice:

- **the capacity of the associated renewable resource cluster must be at least 100 MW; and**
- **subject to the exception noted below, if the proposed enabler facility is a line connection facility it must be at least 10 km long.**

13. The Board also proposes that a “line connection that is less than 10 km be treated as an enabler facility where the OPA demonstrates that the enabler facility approach is a superior option, for technical or cost effectiveness reasons, to that of individual proponent connections (or to connections that are coordinated by proponents).” Further the Board proposes that transformation facilities be subject only to the minimum capacity criterion.

14. The Board notes in the September Notice that “satisfying the enabler screening criteria means that a connection facility is eligible to be treated as an enabler facility initially as the basis on which development of the facility can proceed. If, at the leave to construct stage, the enabler screening criteria continue to be met, the enabler facility designation would remain in place for construction, ownership and future operation purposes. If, however, at the leave to construct stage it appears that the project would, based on then-current information, fail to satisfy either criterion (or, in the case of a transformation connection facility, the minimum capacity criterion only) , the Board may determine that enabler treatment is not warranted for those going-forward purposes. However, the Board would retain the flexibility to maintain enabler treatment in such cases where the deviation or discrepancy is not material in the circumstances.” Whether the enabler facility proceeds to construction, as well as the determination of the optimal size and configuration of the, enabler facility, will be confirmed in the leave to construct decision.

15. Where no leave to construct proceeding is required, the Board proposes to obtain confirmation from the transmitter on the continued eligibility of the connection facility as an enabler facility prior to the commencement of construction, and address any concerns about continued eligibility through an appropriate process at that time.

16. The PWU supports the OEB’s objectives and approach to screening criteria.

17. The PWU would also point out that there can be circumstances where new generators who are outside the boundaries of the original enabler facility may wish to connect to the enabler facility once it has been constructed. Therefore, the PWU identifies the need for the Board to develop fair and reasonable mechanisms and cost allocation that address new generators' requests for connection to existing enabler facilities to ensure that doing so does not disadvantage other generators in the province.

18. Further, the PWU submits that given the potential magnitude of cost of the enabler facility expansions that were contained in the OPA's IPSP submission the Board must ensure that the full cost consequences of the construction of under-utilized enabler facilities have been adequately assessed prior to issuing leave to construct. Provisions in the OPA contracts for renewable generation should clearly state that the contracts are contingent on Board approved enabler facilities.

C. Use of Line Length as a Cost Allocator

19. The September Notice notes that in the April Revised Proposed Amendments the Board proposed to use relative line length as a component of the calculation of each generator's pro-rata share of the cost of an enabler facility.

20. In the September Notice the Board acknowledges that using line length to allocate costs amongst generators in a cluster "may result in fewer connections being made, or not being made as quickly as might otherwise be the case. As such, the approach may be less supportive of the Board's new objective of promoting the connection of renewable resources as set out in the GEGEA amendment to the Act. The Board therefore does not believe that this approach should be retained, and is proposing to amend section 6.3.14A of the Code to remove the line length concept."

21. The PWU concurs with the Board's proposal to remove the line length concept as a component of the calculation of each generator's pro-rata share of the cost of an enabler facility.

22. The PWU also submits that in order to mitigate the risk of gaming, generators wishing to connect to the enabler facility should be required under their OPA contract to demonstrate that they have the capacity to construct their connection facilities and generation facilities on a timely basis, prior to the Board issuing the leave to construct for the enabler facilities.

D. Line Losses

23. The September Notice notes that in the April Notice, the Board indicated that line losses for enabler facilities would be settled through existing IESO mechanisms through uplift charges. Further it notes that the Board confirmed that, for enabler facilities there will be a delivery point at each point at which a facility is connected to the enabler facility. The Board has proposed, for clarity, to amend section 2.0.14 of the Code to that effect.

24. The PWU supports the method proposed by the Board for settling line losses through uplift charges and requests that the Board provide clarification as to how losses attributable to loads that are connected to enabler facilities will be treated.

All of which is submitted respectfully.

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