

**Hydro One Networks Inc.**

8<sup>th</sup> Floor, South Tower  
483 Bay Street  
Toronto, Ontario M5G 2P5  
www.HydroOne.com

Tel: (416) 345-5700  
Fax: (416) 345-5870  
Cell: (416) 258-9383  
Susan.Frank@HydroOne.com



**Susan Frank**

Vice President and Chief Regulatory Officer  
Regulatory Affairs

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BY COURIER

Ms. Kirsten Walli  
Secretary  
Ontario Energy Board  
2300 Yonge Street  
Suite 2700, P.O. Box 2319  
Toronto, ON.  
M4P 1E4

Dear Ms. Walli:

**EB-2009-0411 – OEB Proposed Amendments to the Distribution System Code and The Affiliate Relationships Code for Electricity Distributors and Transmitters (to Facilitate Utility Ownership and Operation of Qualifying Generation Facilities) – Hydro One Comments**

In response to the Ontario Energy Board's ("Board's") December 10<sup>th</sup>, 2009 request for comments on this issue, Hydro One Networks Inc. ("Hydro One") is generally in agreement with the changes proposed, but believes a few areas could be clarified as follows:

- *Attachment A, Proposed Amendments to the Affiliate Relationships Code, page 2* – Section 2.3.1.2 now proposes to extend the maximum allowable term of an affiliate contract for services related to qualifying facilities beyond the five-year term currently mandated, to 20 years, to align with the period for OPA FIT contracts. Hydro One agrees that this extension is appropriate.

Hydro One notes that it does not consider a connection agreement between a utility and its affiliate to be a form of affiliate contract (as contemplated in section 2.3.1) and therefore, connection agreements are not affected by these proposed amendments.

The Company also suggests that the words "products, resources or use of asset" should be added after "service," to align with the wording elsewhere in the Code.

- *Attachment B, Proposed Amendments to the Distribution System Code, pages 2 and 5* – Sections 6.2.A4(a) and 6.2.A.4(i)ii both refer to a proposed period of 150 days that governs certain activities to be undertaken with affiliated qualifying facilities, as opposed to other timelines for the same activities for facilities which are owned or operated by third parties. However, Hydro One finds the wording in this area difficult to understand and the logic behind the differentiation is not apparent. To ensure that these amendments, if enacted, are not open to various interpretations, Hydro One recommends that the Board consider simplifying the wording in these sections and, perhaps in an

appendix to the Code, also including a simple timeline diagram that illustrates each of these rules. Provision of additional explanations, with the reasons for these differences, in the Board's accompanying Notice of Decision would also be helpful.

- *Attachment B, Proposed Amendments to the Distribution System Code, page 1* – Section 6.2A.2 suggests that section 6.2 in its entirety will not apply where a distributor owns or operates a qualifying facility. This may be a typographical error, as parts of this section are referenced throughout, but again, clarification would be helpful here.

Overall, given the added number of applications for qualifying facility connections anticipated as a result of this change, Hydro One requests the addition of the italicized words to section 6.2.14A of the Distribution System Code, as follows:

“The distributor shall, within 10 days of initiating a connection impact assessment study *for either an affiliated or third party qualifying facility*, advise in writing any transmitter or distributor whose transmission or distribution system is directly connected to the specific feeder or substation to which the proposed embedded generation facility is proposing to connect.....”

Section 6.2.17 should also be amended with the addition of the words “*affiliated or third party*” prior to each mention of “embedded generation facility,” for the same reason.

Hydro One appreciates the opportunity to comment on these proposed changes.

Sincerely,

ORIGINAL SIGNED BY ANDY PORAY FOR SUSAN FRANK

Susan Frank