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BY EMAIL and RESS

August 15, 2012
Our File No. 20120136

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
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Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2012-0136 – Hydro One 2013 Distribution Rates – Issues List

We are counsel for the School Energy Coalition. Pursuant to Procedural Order #1, this letter constitutes SEC's submissions with respect to the Draft Issues List in this proceeding. SEC also provides its comments, below, on the issues raised in the Applicant's letter of August 14, 2012.

Scheduling

The Applicant expresses concern about the conjunction of Tx and Dx interrogatories within a one week span. This appears to us to be a reasonable concern, and the proposed new dates, while still within a busy period on the Board's schedule, appear to us to be a suitable solution.

Similarly, while deferring the oral hearing for 4-6 weeks to reflect the availability of the Applicant's counsel is not ideal, and will impact on the schedules of other parties as well, on balance it would appear to us that the request is reasonable. While clearly the result is that the February 7th target decision date would not be achievable, there does not appear to be an alternative that allows the Applicant to use their regular counsel.



Density Study

The Applicant has expressed concern that deferring implementation of the Density Study would have negative ramifications, and has asked that the Board reconsider its statement in PO #1 that this implementation is out of scope in this proceeding. We agreed with Hydro One's rationale for considering the issue in this proceeding, and wish to add the following comments.

Schools are heavily affected by the density issue. In the EB-2007-0681 case, SEC actively opposed a rate harmonization plan proposed by Hydro One on the basis that it did not properly reflect differences in the cost to serve urban and rural customers. The harmonization, the last step of which is being implemented in 2013, was between legacy customers and those in franchise areas acquired by Hydro One. The acquired areas were largely urban, and had much lower rates than the legacy areas. On harmonization, properly reflecting the urban/rural difference in cost to serve was critical. Because most of the schools are in the urban areas, a rate class structure and cost allocation that doesn't properly reflect this differential causes a substantial increase in costs to schools. Hydro One has more than 1100 schools in its service territory.

While the Board allowed the Applicant to proceed with its rate harmonization plan, it recognized that further information on density was necessary. To that end, the Board said [at page 30 of the Decision]:

*“Accordingly, the Board directs Hydro One to provide a more detailed analysis on the relationship between density and cost allocation to the Board. This should consider whether the number of Residential and General Service customer classes in the new class structure is adequate, and whether the customer class demarcations approved in this Decision offer the best reflection of cost causation. The study should include consideration of alternative density weightings, with descriptions and criteria for comparing alternatives. Comparisons with the costs of distributors similar in size and location to Acquired Distributors would also be useful. **The Board requires that Hydro One submit this information in its next cost of service application.**” [emphasis added]*

EB-2007-0681 set rates for the year commencing May 1, 2008. For rates commencing May 1, 2009, Hydro One filed on an IRM basis in EB-2008-0187. Hydro One's next cost of service application was therefore EB-2009-0096, for rates commencing May 1, 2010 (under a revision to the approvals requested) and January 1, 2011.

In EB-2009-0096, Hydro One did not file the density study that the Board had ordered. Hydro One had some difficulties with the scope and details of the study, and hired a consultant to look into it. That consultant's report was presented to the board in EB-2009-0096 instead of a full density study. At the same time, SEC filed expert evidence dealing with the relationship between density and cost allocation.

The Board agreed with the parties, and with Hydro One's own frank admission, that it had not fully complied with the Board's previous direction. It allowed the harmonization



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process to continue, but insisted that the study be carried out, saying as follows [at page 66 of the Decision]:

“The Board will direct Hydro One to comply with the Board’s prior direction regarding this issue. Hydro One has not requested to be released from the prior direction and the rationale for the work still exists. There has been no change, nor any evidence, to suggest that the study is no longer relevant or necessary.”

Because the application was a two year proposal, most parties believed that Hydro One would next seek rates on a cost of service basis effective January 1, 2012. This was well understood, and in fact was confirmed by Hydro One in a letter to the Board dated April 29, 2011, in which they advised that they would file a two year cost of service application for the years 2012 and 2013. This would then presumably have included the implementation of the density study.

Hydro One did not apply for rates on a cost of service basis for 2012, and has not for 2013. They have now advised in their letter of August 14th that they may not file on a cost of service basis for 2014 either. That has not yet been determined.

The annual cost of distribution to schools in the Hydro One franchise area is about \$1 million higher under the current rate structure as it would be following the implementation of the Density Study. Since May 1, 2008, schools have to the end of this year paid almost \$5 million more than may have been appropriate if density had been reflected more suitably in the cost allocation. To continue to allow this problem to exist for a sixth and perhaps even seventh year following the point at which it was first brought to the Board’s attention is not, in our view, just and reasonable. That additional \$1 million or \$2 million bill for schools resulting from a deferral will mean that a student who was in kindergarten at a school in, say, Brockville in 2008 will be in Grade 6 before the matter is resolved. That child will have been without the programs that school board had to cut – to pay the extra distribution costs – for virtually his or her entire time in elementary school. This is, in our submission, unconscionable.

SEC is on record as strongly supporting the Board’s desire to keep IRM applications as simple and uncomplicated as possible. We continue to believe that is the most appropriate policy, and exceptions should be rare. However, in this case we believe that an exception should be made, for two reasons:

- The rate harmonization that caused this problem in the first place is still being implemented, so this Board panel is in fact already seized with the central issue underlying the density problem.
- The Board originally ordered this Density Study to be filed on a schedule that would have implemented it two years later, in 2010. When the Board reiterated the order, it reasonably expected that it would be implemented for 2012 or at the latest for 2013. At no time did the Board anticipate that implementation of any necessary corrections would be delayed until 2015, and it is reasonable to expect that had the Board known that, it would have taken different action to ensure that it was dealt with earlier.



For all of these reasons, and those provided by Hydro One, it is submitted that the Board should allow the Density Study to remain in scope, to be implemented if the Board thinks appropriate, in 2013 rates.

Issues List

SEC has the following comments on the Draft Issues List:

1. Under section 2, SEC proposes that the following issues be added after Issue 2.1:

“2.2. Is Hydro One’s proposal with respect to the capital contribution allocated to Hydro One Transmission appropriate?”

This may be subsumed within Issue 2.1, but given that it does not relate to a “project”, in the normal sense, but to a payment in lieu of direct capital spending, and given that it is actually not a real payment, but an internal allocation to the transmission business, in our view it would be clearer if this were spelled out as an issue.

“2.3. Is Hydro One’s proposal with respect to the treatment of the CIS project for 2013 and 2014 appropriate?”

The Applicant proposes a non-standard approach to calculating the revenue requirement for the CIS, in order to smooth the rate impacts for 2013 and 2014, but in doing so it also increases rates for the Test Year. This does not appear to be captured in the current wording of either 2.1 or the old 2.2.

“2.4. Is Hydro One’s proposal to calculate revenue requirement for all of the proposed ICM projects, except CIS, based on full year depreciation, appropriate? In the event that Hydro One files on a cost of service basis for 2014, is an adjustment required, and if so should a deferral account be set up at this time to capture any such adjustment?”

Hydro One proposes to use full year depreciation, but also proposes to keep its options open with respect to whether its next cost of service is for 2014 or 2015. In the former case, Board policy would require that the half year rule be used for the calculation of the 2013 ICM. This leaves uncertainty with respect to the calculation of the ICM revenue requirement, and with respect to future adjustments if the ICM rate adder turns out to be overstated because Hydro One files a cost of service application for 2014.

2. After the current Issue 2.2 is renumbered as Issue 2.5, SEC proposes that the following issue be added after Issue 2.5:

“2.6. Is the proposed calculation of the ICM rate rider, including the cost of capital parameters used in the calculation, appropriate?”

SEC understands that this may be included within the ambit of the old Issue 2.2 (new Issue 2.5), but adds this suggestion in order to provide clarity.



3. SEC agrees with the addition, proposed by Hydro One, of new Issue 5.1, for the reasons outlined under the heading “Density Study” above.
4. It appears clear that, under all scenarios, it is unlikely that a rate order will be in place in time to implement new rates on January 1, 2013. In those circumstances, it would appear to us that a new heading and issues should be added as follows:

“6. Implementation Issues

6.1. What is the appropriate effective date for new rates under this Application? If the effective date is prior to the date of actual implementation, what methods should be used to ensure that the amounts collected are consistent with the approved effective date?

6.2. If new rates cannot be implemented by January 1, 2013, should the Hydro One’s rates be declared interim, and if so from and after what date?

6.3. What are the terms, if any, of any true-up between the amounts collected under the ICM rate rider and the actual revenue requirement associated with approved ICM projects, and how should any difference between the proposed effective date of January 1, 2013 and the actual effective date approved by the Board be reflected in that true-up calculation?”

The first of these new issues is a standard issue when rates will not be in place at the beginning of the Test Year, as is likely the case here. Similarly, if Hydro One pursues a request to make its rates interim, that is a natural issue related to timing.

The proposed new Issue 6.3 is unique to the ICM. In certain circumstances, the Board may true up amounts collected to the revenue requirement of approved ICM projects on an as-built basis. If the effective date is later than the beginning of the Test Year, that true-up could negate the effective date differential unless revenues are imputed or another adjustment is made. This issue, if submitted, arises as a natural consequence if there is true-up in conjunction with an effective date differential.

5. We note that none of the issues actually refers to the rates being proposed by the Applicant, although of course those rates are implied by many of the other issues. We propose that the following two issues, taken verbatim from the Board’s draft issues list in EB-2012-0064, be added to the issues list in this proceeding:

“7. Rate Design

7.1 Are the proposed retail transmission service rates appropriate?

7.2 Is the proposed Tariff of Rates and Charges for 2013 appropriate?”



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Conclusion

For the reasons set forth above, SEC submits that the above changes to the Draft Issues List are appropriate, and that implementation of the Density Study should be considered in scope in this proceeding to ensure that 2013 rates are just and reasonable.

All of which is respectfully submitted.

Yours very truly,

JAY SHEPHERD P. C.

Jay Shepherd

cc: Wayne McNally, SEC (email)
Harold Thiessen, OEB (email)
Interested Parties