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BARRISTERS

March 6, 2015

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VIA RESS FILING AND COURIER

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: Elimination of Load Transfer Arrangements – Proposed Amendments
to the Distribution System Code (EB-2015-0006)**

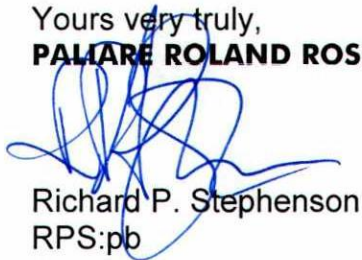
The Power Workers' Union ("PWU") represents a large portion of the employees working in Ontario's electricity industry. Attached please find a list of PWU employers.

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 with regard to the Board's proposed amendments to the Distribution System Code: Elimination of Load Transfers (EB-2015-0006).

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

Yours very truly,

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP



Richard P. Stephenson

RPS:pb

Encl.

c: John Sprackett
Kim McKenzie

Attachment

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List of PWU Employers

Algoma Power
 AMEC Nuclear Safety Solutions
 Atlantic Power Corporation - Calstock Power Plant
 Atlantic Power Corporation - Kapuskasing Power Plant
 Atlantic Power Corporation - Nipigon Power Plant
 Atlantic Power Corporation - Tunis Power Plant
 Atomic Energy of Canada Limited (Chalk River Laboratories)
 BPC District Energy Investments Limited Partnership
 Brant County Power Incorporated
 Brighton Beach Power Limited
 Brookfield Power Wind Operations
 Brookfield Renewable Power - Mississagi Power Trust
 Bruce Power Inc.
 Compass Group Corporation of the County of Brant
 Covanta Durham York Renewable Energy Ltd.
 Entegrus
 Erie Thames Powerlines
 Erth Corporation
 ES Fox
 Great Lakes Power
 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.
 Kinectrics Inc.
 Kitchener-Wilmot Hydro Inc.
 Lake Superior Power Inc. (A Brookfield Company)
 London Hydro Corporation
 Milton Hydro Distribution Inc.
 New Horizon System Solutions
 Newmarket Hydro Ltd.
 Norfolk Power Distribution Inc.
 Nuclear Waste Management Organization
 Nuvia Canada
 Ontario Power Generation Inc.
 Orangeville Hydro Limited
 Portlands Energy Centre
 PowerStream
 PUC Services
 Rogers Communications (Kincardine Cable TV Ltd.)
 Sioux Lookout Hydro Inc.
 SouthWestern Energy
 The Electrical Safety Authority
 TransAlta Generation Partnership O.H.S.C.
 Vertex Customer Management (Canada) Limited
 Whitby Hydro Energy Services Corporation

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Elimination of Load Transfer Arrangements: Proposed Amendments to the Distribution System Code

Comments of the Power Workers' Union

I. INTRODUCTION

1. On February 20, 2015 the Ontario Energy Board ("OEB" or the "Board") issued a Notice of Proposal to amend the Distribution System Code (DSC)¹ to establish criteria to facilitate the elimination of the remaining load transfer arrangements between electricity distributors and invited all interested parties to provide comments on the proposed DSC amendments.

a. Background

2. The Board's notice indicates that in the Board's view there are a number of undesirable outcomes associated with load transfer arrangements that the Board has previously identified (e.g., cross-subsidization) and that it has sought to eliminate load transfer arrangements since the DSC was first issued. However, the Board states, circumstances have resulted in the extension of the date for their elimination including the following:²

- **Government initiatives were introduced that were aimed at facilitating the voluntary consolidation of the electricity distribution sector (i.e., transfer tax exemption) and therefore requiring distributors to continue with their plans to eliminate load transfers at that time had the potential to result in the inefficient use of both distributor and Board resources;**
- **The introduction of the Green Energy Act, 2009 as a distributor's approach to its load transfer arrangements had the potential to evolve**

¹ Ontario Energy Board:EB-2015-0006: Proposed Amendments to the Distribution System Code, February 20, 2015

² Ibid., page 2

over time when the distributor engaged in accommodating renewable energy projects. For example, doing so may have required the geographic distributor to expand its system to an area where the load transfer customers reside; and

- To accommodate a policy review of service area amendments and load transfer arrangements that may have impacted the provisions of the DSC in relation to load transfers arrangements.

3. The Board states that the approach taken by the Board to date to eliminate load transfer arrangements, which has relied on negotiations between the geographic distributor and the physical distributor, has shown progress over the years, that progress has fallen short of the Board's expectations as can be seen from annual status reports which indicate that approximately 3,500 customers continue to be served under a load transfer arrangement, despite the Board's expectation that they would all now be eliminated. Hence, the proposed amendments.

II. PROPOSED AMENDMENTS TO THE DSC

4. As noted above, the Board is proposing to amend the DSC to set out the criteria under which all load transfer arrangements would be eliminated. The principles underlying those criteria are minimizing rate impacts for the load transfer customers and avoiding unnecessary costs being imposed on consumers due to an uneconomic distribution system expansion by a geographic distributor for the sole purpose of connecting load transfer customers.

5. The Board is proposing to delete sections 6.5.3, 6.5.4, 6.5.4.1, 6.5.4.2, and 6.5.5 from the DSC and replace them with new sections 6.5.3, 6.5.4, 6.5.5, and 6.5.6.

6. Where the elimination of a load transfer arrangement would result in the load transfer customer receiving a reduction in distribution charges by transferring the load transfer customer to the physical distributor, the load transfer customer (i.e., the property associated with the load transfer customer) would need to be transferred to the existing physical distributor within six months

of these amendments coming into force through a service area amendment licence application (proposed new section 6.5.3).

7. Where the transfer of a load transfer customer to the physical distributor would result in an increase in distribution charges, the load transfer customer would remain a customer of the geographic distributor until there is a change in ownership of the account (e.g., the current customer closes the account and a new customer opens a new account). Upon such a change in account, the property associated with the account would need to be transferred to the physical distributor; i.e., there would need to be a service area amendment to transfer the property and the new customer to the physical distributor (proposed new section 6.5.4).

8. The Board sates that once the proposed DSC amendments are finalized, streamlined filing guidelines will be issued separately for service area amendment applications involving the elimination of load transfer arrangements.

III. POWER WORKERS' UNION'S COMMENTS

a. General Comments

9. At a very high level, the PWU's position with respect to the elimination of load transfer arrangements is consistent with the PWU's position with respect to approaches to service area amendment ("SAAs") and consolidation as a means to achieve the Board's desired objective of improving efficiency in the distribution sector.

10. With regard to policies towards SAAs, the PWU has consistently submitted that the system that is currently in place is working very well and distributors should be left to manage their service areas in an economical and cost efficient manner that is in the public interest. The PWU remains of the view that applications for SAAs must be agreed on by the distributors concerned and that the status quo provides for SAAs that are based on deliberations on best

outcomes, including efficiencies, and in the case of a contested SAA, provides for OEB oversight on the reasonableness and public interest of the SAA.

11. Similarly, it has been the PWU's position that consolidation, which has implications to service area arrangements, should be voluntary and that the current approach of "willing buyer, willing seller" should be maintained.

12. With respect to load transfer arrangements, the PWU's position is that the approach taken by the Board to date to eliminate load transfer arrangements which has relied on negotiations between the geographic distributor and the physical distributor, is the right approach that should be maintained at least until the outcomes of policy reviews currently underway and discussed below are known. As the Board acknowledges, progress has been made under the current approach and policy reviews underway could speed up the progress and render the Board's current proposal unnecessary.

b. Specific Comments

i. The Proposed Amendments are Untimely

13. As the Board notes, one of the reasons why it extended the requirement of distributors to eliminate long term load transfer arrangements was that government initiatives were being introduced that were aimed at facilitating the voluntary consolidation of the electricity distribution sector. The PWU submits that the Board was right in recognizing the potential for the inefficient use of both distributor and Board resources that would have resulted otherwise.

14. It is interesting, however, that the Board considers now to be the appropriate time to expedite the elimination of load transfer arrangements in the face of government policy reviews underway and at a time when the industry is expecting the government to announce the results of the reviews. Of particular importance are the recently published recommendations of the Advisory Council on Government Assets that was charged by the Premier to review government enterprises including Hydro One and Ontario Power Generation³. The Advisory

³ <https://dr6j45jk9xcmk.cloudfront.net/documents/3804/2014-11-11-draft-report-premiers-advisory.pdf>

Council has recommended changes to the organizational structure of Hydro One as a whole and the ownership of Hydro One Distribution, which has significant load transfer arrangements with other smaller utilities, as a means to 'spur' consolidation in the distribution sector. Moreover, the Advisory Council has indicated in its report that it would review the current barriers and incentives, such as taxes, which impede consolidation in its Phase II review.⁴ It is expected that the government will soon make public its decisions on the recommendations.

15. The fact of the matter is that the government's decisions could significantly change the distribution sector's landscape including service area configurations and load transfer arrangements. Given that the Board's proposed amendments will take significant time, planning and resources to implement, the sensible thing to do is to wait until the government's decision, which could potentially render the current exercise inefficient and wasteful, is known. Allowing distributors to continue load transfer arrangements pending a possibly increased level of voluntary consolidation would be appropriate.

ii. The Board's Proposed approach to transfer customers on the basis of only the resulting impact on the customer's distribution rate disregards the interest of distributors

16. As noted earlier, the Board's proposal is that the geographic distributor should transfer a customer to the physical distributor within six months if the resulting distribution rates are lower; otherwise the customer will stay with the geographic distributor until the customer's account is closed and a new account is opened. It appears that the Board is solely concerned with ensuring that load transfer customers will either pay lower distribution charges or the same distribution charges, i.e., load transfer customers will not experience an increase in their electricity bills due to the elimination of a load transfer arrangement.⁵ In contrast, there is little discussion, for example, of the impacts of the proposed amendments on the cost and revenue of the concerned distributors and the

⁴ Ibid., page 16

⁵ Ontario Energy Board:EB-2015-0006: Proposed Amendments to the Distribution System Code, February 20, 2015, page 4

demand the implementation of the proposed amendments in such a short time would put on management.

17. In this respect, the PWU finds the proposal to eliminate load transfer arrangements within six months of these amendments coming into force, in cases where the elimination would result in the load transfer customer receiving a reduction in distribution charges, too aggressive, particularly for those distributors that account for the lion's share of load transfer arrangements. Significant time is required to plan, conduct field work, assess impacts and inform customers. If the Board believes that the time is right to amend the DSC, the Board should not only give distributors longer time to complete the transfer of customers but also allow distributors to stagger the elimination of load transfer arrangements based on such considerations as the number of load transfer arrangements the distributor has and the number of the load transfer customers affected.

18. Similarly, the PWU submits that the Board's proposal to keep a customer with the geographic distributor where the transfer of the customer to the physical distributor would increase the customer's rates, until the 'account is closed and a new account is opened', would put significant administration burden on distributors. The closure of the old account and its replacement with a new one, i.e., the sale of a property, can take years, even decades, especially if the customer is a corporation. What is interesting to note is that the Board's objective of eliminating the current load transfer arrangements will be met only partially due to this very proposal, but at the expense of significant administration cost. As noted above, the PWU's preference is to delay the amendments or extend the effective date of their implementation. Should the Board decide to go ahead with the proposals, however, the better option would be to transfer the load transfer customer to the physical distributor even if the rates increase.

All of which is respectfully submitted.