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APR 27 2007

ONTARIO ENERGY BOARD

BY COURIER

April 27, 2007

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

Dear Ms. Walli: *70 3/14*

Re: EB-2006-0064 Setting Payment Amounts for the Prescribed Generation Assets of Ontario Power Generation Inc. Draft Filing Requirements

Hydro One Networks Inc. ("Hydro One") appreciates the opportunity to provide comments on Board's Staff ("Staff") draft filing requirements¹ to assist the Board in this important matter. Hydro One will limit its commentary to a general level that focuses on achieving the goal of a streamlined and efficient regulatory process, and in this respect the intent is to highlight potential areas of concern where the proposed draft filing requirements appear to depart from that goal and lead to increased regulatory burden.

Economic regulation relies, amongst other things, on establishing an appropriate information base such that the Regulator is provided with the necessary scope of knowledge to render a meaningful and efficient decision. There are generally no hard and fast rules that establish what is the acceptable scope and content of filing requirements. Judgement needs to establish a balance as to what constitutes sufficient information that gives the Regulator the assurance that it has the necessary level of information to render a decision on the one hand, and what information needs to be filed by the regulated entity that will demonstrate effectively the decisions and rationale that lead to costs being prudently expended in running its business on the other hand. The filing requirements placed on the regulated entity should be commensurate with the information which it requires in running its business such that this will not unduly burden that entity in having to divert resources to provide a more extensive set of information that may not be necessary for efficient decision making. In addition the burden of proof is on the applicant so that it is motivated to file a complete set of relevant information to support its application.

¹ Staff Discussion Paper – "Filing Requirements for Ontario Power Generation – Setting Payment Amounts for Prescribed Generation Assets", March 30, 2007

With the above in mind Hydro One offers the following comments as these relate to Part 2 of the Staff discussion document which deals with the filing requirements framework:

Section 2.1

The Staff's draft filing requirements make reference to the OPG Report² in which it was indicated that the hydroelectric and nuclear businesses would be reviewed separately. Given that the Board will set payments for both sets of prescribed assets at the same time it would appear to be more efficient to deal with both sets of assets in the same proceeding, particularly since it is the Board's aim to deal with the substantive issues that are not affected by prescriptive rules, namely OM&A and rate of return on equity. For example, on pages 9 and 10 of its discussion paper, Staff notes the need for examination of common corporate costs and the allocation of such costs between the respective businesses.

Dealing with such considerations in separate and sequential proceedings creates unnecessary duplication, fragmentation of process and the potential for confusion, not to mention the potential for prolonging the entire review process with resultant higher regulatory burden and costs. This appears to be inconsistent with the Board's approach to dealing with the setting of payment amounts, for example³:

- The limited cost of service process dealing with specific issues will be extended over several payment orders until all relevant issues have been determined; and
- Once all of the issues have been determined the then base payments may form the basis of an incentive regulation formula

Since the Board's intent is to spread the review of all issues related to payment for OPG's prescribed assets over a number of payment orders (years) then it would be appropriate to limit each review process to the key issues and deal with these in a compact time line. The required and relevant prescribed hydroelectric and nuclear asset related information can be submitted on a separate business basis but within the one submission, much as is normally done in other regulated utility submissions in which rates are determined for a variety of classes of customers. In this particular case the fact that the prescribed assets are hydroelectric or nuclear does not diminish the fact that the relevant cost information that is required to establish respective revenue requirement and the corresponding payments need not be submitted in separate and sequential proceedings.

Hydro One notes that Staff paper recognizes that the setting of payments amounts for the prescribed assets may be affected by the rules contained in Regulation 53/05⁴. Although the rules are not prescriptive in all respects, nevertheless there are certain elements which will require the Board to deal with those elements as determined by the regulation, for example:

² OEB Report - "A Regulatory Methodology for Setting Payment Amounts for the Prescribed Generation Assets of Ontario Power Generation"- (the OPG Report), November 30, 2006

³ Staff Discussion Paper - "Filing Requirements for Ontario Power Generation - Setting Payment Amounts for Prescribed Generation Assets", March 30, 2007, Section 1.1, pages 2 and 3.

⁴ *Ibid*, Details are provided in Section 1.2 "Requirements of Regulation 53/05", pages 3 through 8.

- Require the Board to ensure that certain costs, financial commitments or revenue requirement impacts be recovered by OPG;
- Ensure recovery of the balance of certain variance and deferral accounts established by OPG and subject to certain conditions being met, and
- Setting of certain financial values that must be accepted by the Board when it makes its first order under section 78.1 of the Act.

In this respect the review process may be somewhat simplified for the Board in that the applicable regulations set out the requirements for approval of certain costs and revenues, although in some cases, the Board has the accountability for ensuring that the costs are prudently incurred and revenues and cost are accurately recorded in the accounts. Where applicable the Board must also accept the amounts recorded in the respective deferral accounts as set out in OPG's most recently audited financial settlements that were approved by the Board of Directors.

Section 2.7

At the end of Section 2.7.1 on page 20 of the Staff discussion paper, there are two bullets which indicate a requirement for OPG to submit detailed historic information from its inception in 1998 to the present day. It is not clear to Hydro One why this information is of relevance to the current proceedings given that under these proceedings OPG will be required to provide more recent historical information.

Sincerely,



Susan Frank