

Submissions of Board Staff on Section 6.3.6 of the Transmission System Code and Associated Cost Responsibility Issues

Combined Proceeding on Connection Procedures under the Transmission System Code

**Hydro One Networks Inc. (EB-2006-0189)
Great Lakes Power Limited (EB-2006-0200)**

1.0 Introduction

The following are the submissions of Board staff made in response to the Board's June 7, 2007 Procedural Order No. 3 in relation to the Customer Connection Procedures ("CCP") filed with the Board by Hydro One Networks Inc. ("Hydro One") under section 6.1.5 of the Transmission System Code (the "Code").

Board staff's submissions are focused on the interpretation and application of section 6.3 of the Code dealing with cost responsibility for new or modified connection facilities, and in particular on Hydro One's interpretation of section 6.3.6. The issue of cost responsibility has arisen in two leave to construct proceedings that are currently before the Board,¹ as well as in Hydro One's transmission rate application (proceeding EB-2006-0501) which is also currently before the Board.

In its written submissions filed on January 26, 2007 in the CCP proceeding, Board staff set out its views regarding the related question of the types of plans that the Code requires be provided to customers. Board staff relies on those submissions, but will not repeat them here.

2.0 Submissions

2.1 Hydro One's Approach

Board staff has reviewed section 3.0 of Hydro One's CCP, the exchange of interrogatories in this proceeding, and Hydro One's letter dated May 11, 2007. On that basis, Board staff understands that Hydro One's position is that a capital contribution is not required for the construction or reinforcement of connection facilities which it characterizes as being for "Local Area Supply" or "LAS", except for advancement costs. An LAS connection facility is defined by Hydro One as a radial line (or line connection facility) that serves more than a single customer.

¹ Application for leave to construct the "Western Brampton Reinforcement" project (proceeding EB-2007-0013) and application for leave to construct the "Woodstock Area Transmission Reinforcement" project (proceeding EB-2007-0027).

Hydro One's view is that this approach is consistent with section 6.3.6 of the Code.

2.2 Transmission Plans and Cost Responsibility

As a starting point, it is noted that under the terms of its electricity transmission licence, Hydro One (like all transmitters) has an obligation to connect transmission customers (section 8), to maintain system integrity (section 9) and to expand or reinforce its transmission system where required by the Board in order to ensure and maintain system integrity or reliable and adequate capacity and supply of electricity (section 12). All of these obligations must be fulfilled in accordance with the Code.

Section 6.3.6 of the Code reads as follows:

A transmitter shall develop and maintain plans to meet load growth and maintain the reliability and integrity of its transmission system. The transmitter shall not require a customer to make a capital contribution for a connection facility that was otherwise planned by the transmitter, except for advancement costs.

Section 6.3.6 of the Code does not elaborate on what might constitute a "plan" for purposes of that section. Board staff notes that the first sentence of this section contemplates two types of plans; plans related to load growth and plans developed to maintain reliability and integrity of the transmission system.

The first type of plans referred to in section 6.3.6 are customer driven plans formulated in response to the load growth of one more customers. Board staff believes that the development of such plans would be triggered by a need (most commonly load growth) identified by the customer(s) in question. Board staff submits that the Code first requires the transmitter to determine whether or not that need can be met from existing connection facilities, as part of the process of managing available capacity (including the conduct of expansion studies in appropriate cases, as referred to in sections 6.2.5, 6.2.11, 6.2.12 and 6.2.14 of the Code). If the need of these customer(s) requires the reinforcement of existing connection facilities or the construction of new connection facilities, the transmitter will develop a plan and must conduct an economic evaluation to determine the amount of the capital contribution to be attributed to each customer in relation to the new or modified connection facilities. The provisions of sections 6.3 (cost responsibility) and 6.5 (economic evaluations) of the Code would apply in the normal course in these circumstances. In other words, there is nothing in the Code that suggests that section 6.3.6 of the Code was intended to be used to over-ride the other cost allocation principles set out in the Code.

Where a customer then wishes to advance the construction of a new or modified facility described in such a plan, that customer must pay advancement costs in accordance with section 6.3.6 of the Code.

The second type of plans referred to in section 6.3.6 are developed in response to: system requirements such as maintenance of adequate voltage regulation; input from industry stakeholders indicating a need to address power quality issues; the need to replace facilities reaching the end of their useful life; the need to upgrade facilities to meet present-day standards; and changes in the electricity sector. Such plans are for the purpose of enabling a transmitter to meet its obligation to maintain system integrity and reliability, and are not driven by the needs of one or more specific customers. These plans can include plans for network facilities, connection facilities or both. Examples could include planning to provide relief from transmission congestion or to meet emerging reliability standards. A capital contribution is not required for connection facilities that are identified in such plans. However, where a customer wishes to advance the construction of a new or modified facility described in such a plan, that customer must pay advancement costs in accordance with section 6.3.6 of the Code.

2.3 Implications of Different Approaches on the “User Pays” Principle

Board staff submits that Hydro One’s interpretation of section 6.3.6 of the Code could seriously erode the “user pay” cost allocation principle that underlies much of the Code.

The general rule under the Code is that the customer that triggers the need for a new or modified connection facility bears responsibility for the costs associated with the work. This is clear from sections 6.3.1, 6.3.2 and 6.3.4 of the Code.

This holds equally true where the work is triggered by more than one customer (sections 6.3.14 to 6.3.16 of the Code) or where the work avails to the benefit of more than one customer (sections 6.2.24, 6.2.25, 6.3.9 and 6.3.17 of the Code). These provisions make it clear that the Code does not contemplate a different cost responsibility outcome when two (or more) customers (the LAS situation described by Hydro One) trigger the need for a new or modified connection facility than would be the case for a single customer.

Hydro One’s approach to section 6.3.6 would have the effect, from a cost responsibility perspective, of shifting the cost burden from the individual customer(s) to ratepayers through an increase in line connection charges.

Under Board staff’s approach to section 6.3.6 of the Code, certain connecting customers may be required to pay a capital contribution when they would not be required to do so under Hydro One’s approach (or pay a greater capital

contribution than would be the case based on Hydro One's approach). However, Board staff submits that this is the natural result of the application of the "user pays" cost allocation principle and is consistent with the underlying premise that new or modified connection facilities are expected to avail to the benefit of the customer(s) that triggered the need for those facilities. By contrast, network reinforcements are expected to avail to the benefit of all customers, and are therefore funded by all ratepayers (except in exceptional circumstances).

2.4 Cost Responsibility Commensurate with Customer Needs

In response to Hydro One's letter of May 11, 2007 and the concern about the magnitude of capital contributions that may be attributed to distributors, Board staff notes that the Code is designed to ensure that the capital contribution payable by a customer that triggers the need for a new or modified connection facility is appropriate in the sense of being commensurate with the customer's needs. This is illustrated by the following Code provisions:

- section 6.3.8 of the Code provides that a customer cannot be required to make a capital contribution for capacity added to a connection facility in anticipation of future load growth not attributable to that customer;
- section 6.3.17 of the Code entitles a connecting customer to a refund if excess capacity paid for by the customer in order to comply with facilities standards or good utility practice is made available to another customer within five years of the in-service date of the connection facility; and
- section 6.7.2 of the Code provides that, where a connection facility is retired, a transmitter shall not recover from a customer a capital contribution to replace the connection facility. This provision can apply in various situations to reduce the transmission connection reinforcement costs that are attributable to a customer. For instance, if a transmission connection reinforcement calls for the dismantling of a 115 kV connection facility and construction of a 230 kV connection line to meet load growth at one or more delivery points, the attributable cost to the customer(s) should reflect this approach. Thus, the cost of the new 230 kV connection line should be reduced by deducting an amount to reflect the replacement cost of a new 115 KV transmission line.