

IN THE MATTER OF section 6.1.5 of the Ontario Energy Board's Transmission System Code;

AND IN THE MATTER OF an application by Hydro One Networks Inc. for the review and approval of connection procedures;

AND IN THE MATTER OF an application by Great Lakes Power Limited for the review and approval of connection procedures.

SUBMISSIONS OF FIVE NATIONS ENERGY INC.

These are the submissions of Five Nations Energy Inc. ("FNEI") made in response to Procedural Order No. 3 issued by the Ontario Energy Board (the "Board") in the above-noted matter on June 7, 2007. Pursuant to that Procedural Order No. 3, the Board has requested submissions on the interpretation of section 6.3 of the Transmission System Code ("TSC") and on associated cost responsibility issues, including issues raised in other proceedings specifically regarding section 6.3.6 of the TSC.

What follows is FNEI's interpretation of the issues that have arisen, and FNEI's position as to the appropriate interpretation of the TSC provisions in question.

Issues Before the Board

The specific TSC provision in question is section 6.3.6, which states that:

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.

There are two aspects to this provision:

- The first sentence requires licensed transmitters to undertake transmission planning in order to meet load growth, and maintain the reliability and integrity of the transmitter's system.
- The second sentence removes any connection facilities identified in these plans from the cost responsibility rules applicable to new or modified connections.

Each of these aspects is discussed in more detail in the two sections that follow. However, from the materials issued with Procedural Order No. 3, FNEI interprets the Board's concerns that have arisen in respect of section 6.3.6 of the TSC to be as follows:

- (a) Cost-Shifting to Line Connection Pool: Will Hydro One's interpretation of section 6.3.6 of the TSC lead to "a large number of situations ... where Hydro One would finance the construction and reinforcement of line connection facilities through the Line Connection Pool, without obtaining a capital contribution from the connecting parties"? The implication in this quote is that Hydro One's interpretation of section 6.3.6 would mean inappropriate cost-shifting from individual customers to the Line Connection Pool for the construction of what would otherwise be considered customer-specific connection facilities.

FNEI's Position: FNEI does not believe that there is a dispute as to what connection facility costs should be borne by customers and which should be borne by the Line Connection Pool as a whole. Customer-driven connection facilities (e.g., a new connection or load growth requiring a modified connection) will be subject to a capital contribution calculation, while new or modified connection facilities aimed at improving system integrity and reliability are properly paid for by the Line Connection Pool. It is these latter types of new or modified connection facilities (for reliability and integrity purposes) that would normally form part of a transmitter's transmission plan. In order to guard against any connection costs being inappropriately allocated to the Line Connection Pool (as opposed to an individual customer), the Board has approval powers (under the leave-to-construct and rate-making provisions of the Ontario Energy Board Act, 1998) to scrutinize the appropriate cost allocation of a transmitter's capital projects.

- (b) Scope of Transmission Plans: Should the "transmission plans" that transmitters are obligated to provide customers requesting new (or modified) connection facilities include only non-customer-specific connection facilities? Or instead, should such plans include planned network facilities, as well as customer-specific connection facilities?

FNEI's Position: FNEI's transmission system is very small in comparison to Hydro One's, and includes no assets in the network pool. FNEI will include in its transmission plans submitted to potential customers any planned connection facilities (for system integrity and reliability reasons), as well as any customer-specific connection facilities that are under consideration (to the extent known, and subject to the confidentiality provisions of FNEI's licence and the TSC). The provision of customer-specific connection facility information is not an undue burden on FNEI, and may result in opportunities for transmission

efficiencies or better planning (and therefore be of benefit to customers seeking new or modified connections). Unless the provision of such information is too administratively cumbersome for other transmitters, FNEI's position is that such information (subject to the confidentiality requirements in FNEI's licence and the TSC) should be provided to customers seeking new or modified connections.

Transmission Planning Generally

Transmission planning is a necessary component of a properly functioning electricity sector. Transmitters have obligations under the TSC, the Market Rules, and their Licences to maintain reliability and ensure system integrity. These plans are not made on the basis of specific customer needs that trigger new or modified connection facilities.

These transmission plans are not themselves subject to Board approval. However, individual projects forming part of a transmitter's plan will require leave-to-construct approval from the Board. In these proceedings, the Board will make a determination as to whether the projects in question were in the "public interest". In addition, inclusion of the capital expenditures in a transmitter's rate base will also be subject to scrutiny for prudence by the Board prior to inclusion of the assets in the transmitter's rate base.

Thus, the first part of section 6.3.6 of the TSC requires the preparation of transmission plans by the transmitter. While the plans themselves are not subject to Board approval, implementation of the plans is subject to significant Board oversight.

Cost Responsibility under the TSC

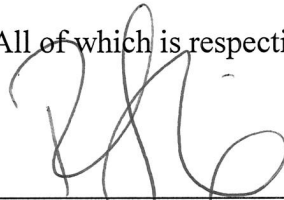
The second part of section 6.3.6 specifically states that a transmitter is prohibited from requiring a customer to make a capital contribution for a connection facility that was otherwise planned by the transmitter. This TSC provision is an exception to the general cost responsibility rule (set out in sections 6.3.1 and section 6.3.2 of the TSC), which requires load customers to provide a capital contribution for any new or modified connection¹ facilities required to serve the customer. Thus, any customer request for a new or modified connection that requires the transmitter to construct new (or modify existing) connection facilities may attract a capital contribution unless the new (or modified) connection facilities were otherwise planned by the transmitter.

Presumably, the rationale behind section 6.3.6 of the TSC is that these new or upgraded connection facilities are not being constructed solely to benefit a single customer, but will provide benefits to a number of customers. As a result, the costs for such new or modified

¹ Note that a capital contribution is only required in respect of connection facilities. Any new or modified network facilities required to connect a customer are specifically excluded from capital contribution considerations by virtue of section 6.3.5. The network facility exception is not of concern to FNEI, since FNEI's system at present is comprised entirely of connection and transformation pool assets.

connection facilities should be borne by the Line Connection Pool as a whole and not a single customer.

All of which is respectively submitted by:

A handwritten signature in black ink, appearing to be 'RJK', written over a horizontal line.

Ogilvy Renault LLP, Solicitors for FNEI
Per: Richard J. King