

**INTERROGATORIES OF HAMILTON HYDRO INC., HYDRO OTTAWA LIMITED,
BRANTFORD POWER INC., MARKHAM HYDRO DISTRIBUTION INC.,
HYDRO VAUGHAN DISTRIBUTION INC. TO ENWIN POWERLINES LTD,
ERIE THAMES POWERLINES CORP. AND ESSEX POWER CORPORATION
(HEREINAFTER REFERRED TO AS THE "SW APPLICANTS")
PURSUANT TO PROCEDURAL ORDER #4**

Interrogatory #1:

Reference: Supplemental Pre-Filed Evidence of the SW Applicants dated May 29, 2003, Page 7, Lines 10 - 18

Preamble:

The SW Applicants have submitted that "there ought not to be any difference in the treatment of amendment applications relating to either new or existing customers. To treat new and existing customers differently would be discriminatory and would ignore the measures the Board has already put in place with respect to embedded distributors. These measures, which include rate unbundling and the imposition of a regulated low-voltage charge for the use of Hydro One's facilities by embedded distributors, are the appropriate way to allow for competition while compensating the incumbent distributor where required."

I9.15.1 Interrogatory:

Where an applicant distributor proposes to assume existing customers, and if the Ontario Energy Board determines that it has the jurisdiction to require the transfer of existing customers, how will the incumbent distributor recover any difference between the SW Applicants' contemplated charge for the use of the incumbent distributor's facilities and the revenues that would otherwise be recovered by the incumbent distributor through distribution rates imposed on the existing customers in accordance with its OEB issued distribution rate order?

South West Applicants' answer to this question

The incumbent distributor could be faced with a loss of distribution revenue from existing customers who wish to switch distributors, just as other firms facing competition are at risk of revenue loss. This situation would tend to have the effect of promoting lower prices, a lower cost structure and better service in order to attract and retain customers, which would be a benefit to Hydro One's customers.

The South West Applicant's supplemental evidence provides a mechanism by which Hydro One would be compensated for stranded assets (see pages 12 and 13 of Supplemental Pre-Filed Evidence of EnWin Powerlines Ltd., Erie Thames Powerlines Corporation and Essex Powerlines Corporation).

It would be the incumbent utility's role to develop or apply for a facilities use charge that meets its needs.

Interrogatory #2:

Reference: Supplemental Pre-Filed Evidence of the SW Applicants dated May 29, 2003, Page 13, Line 12

Preamble:

The SW Applicants propose a limited definition of "stranded assets", which would not include investment in assets indirectly employed in servicing the customer (such as the billing system, servicing vehicles, or headquarters buildings), or operations, maintenance or administration costs.

I9.15.2 Interrogatory:

In limiting their definition of stranded assets, would the SW Applicants distinguish between (a) new customers that would select the applicant distributor over the incumbent distributor, and (b) existing customers that may choose to switch distributors, in respect of whom the incumbent distributor is already incurring some or all of the costs proposed to be excluded by the SW Applicants? If so, how, and if not, why not?

South West Applicants' answer to this question

The SW Applicants would make no such distinction.

To claim stranded assets, the incumbent distributor would need to show that it has incurred costs to directly serve the customers in question who are making a choice of distributors. It ought not to be able to automatically claim that a portion of its fixed overhead costs are stranded assets eligible for recovery from customers where no independent judgement about the prudence of those overhead costs has been made. This principle would apply to situations involving new and/or existing customers.

As the electricity white paper Direction for Change noted at page 13: "History has shown that competitive businesses invest more carefully than monopoly businesses. They manage costs and risks more carefully. They choose their priorities rationally and thoughtfully to yield the highest return. They exit from their mistakes more quickly. This is the kind of investment behaviour that should predominate in the future electricity industry in Ontario. They serve customers better and maintain competitive prices because of the threat of competition."

A relatively narrow definition of stranded assets is appropriate to encourage competitive activity and the kind of firm behaviour intended.

Interrogatory #3:

Reference: Supplemental Pre-Filed Evidence of the SW Applicants dated May 29, 2003, Page 16, Line 28; OEB Transcript of Proceedings in RP-2003-0044, Vol. 5, May 20, 2003, Paragraph 291

Preamble:

At page 16, Line 28 of the SW Applicants' Supplemental Pre-Filed Evidence, the SW Applicants submit that "Since one of the objectives of the Board is to "facilitate competition in ...the sale of electricity," the Board ought to advance market discipline, rather than central planning, as the driving force behind service area amendments."

At Paragraph 291 of Volume 5 of the Transcript of this proceeding, counsel for the SW Applicants stated, "If I could deal just for a moment with the legislative intent. My understanding is that Hydro One has argued that because distribution, the word "distribution" is excluded from section 1(1) of the OEB Act, which talks about facilitating competition, that therefore distribution is, in fact, excluded from that, that the distribution sector is excluded from competition. However, that section specifically delineates generation and sale of electricity. It's our submission that that sale must include something other than the price of the commodity itself. So, in effect, the sale is the act of getting the electricity from the customer -- from the generator to the end-user which necessarily incorporates, or would include distribution and connection charges."

I9.15.3 Interrogatory:

On what basis do the SW Applicants equate the "sale of electricity" referred to in Section 1 of the *Ontario Energy Board Act, 1998* with the distribution of electricity?

South West Applicants' answer to this question

As indicated in the excerpt from the transcript, the position of the SW Applicants is that the sale of electricity includes services to connect customers to the electricity system. The Applicants point out that "electricity" is not defined in the Act, as either including only electrical energy or as excluding any other element in the delivery of electricity to customers.

As the Board itself noted at paragraph 36 in its Decision regarding the limits of the Board's jurisdiction with respect to existing customers in service area amendment applications:

"if the legislature had intended to inhibit competition for distribution customers and prevent their migration to other providers, it could have done so explicitly. In fact, in providing for the presumption of non-exclusivity of service areas in subsection 70(6), it is clear to the Board that the legislature intended that the Board exercise a very broad jurisdiction with respect to licencing in general and service areas in particular, provided that the public's interest is protected."