

1 Vulnerable Energy Consumers' Coaligition (VECC) INTERROGATORY #3

2
3 Reference: February 14, 2003 Application re: EB-2003-0031, page 2, lines 11-20

- 4
5 a) Please outline Hydro One's views as to the criteria the OEB should use in reviewing
6 and approving requests for service area amendments such as applied for by Hydro
7 One.
8 b) Is the submission that the licence area amendment "promotes efficiency in the ...
9 distribution of electricity" contingent solely upon the fact that the customers have
10 already been connected by Hydro One or, in Hydro One's view, was connection by
11 Hydro One a more cost-effective way of serving the two customers than service by
12 Veridian Connections? If the latter, please provide any evidence or information
13 Hydro One has to support this claim
14

15
16 Response

- 17
18 (a) When the statutory and licensing framework for distributors is read as a whole,
19 Networks believes that there are two sets of key criteria that form a test for the
20 approval of licence amendments for other than MAADs (Mergers, Acquisitions,
21 Amalgamations, and Divestitures) applications. For the application to succeed, the
22 first set of criteria for reviewing and approving the amendment would have to be met
23 as follows:
24

- 25 • Does the applicant distributor's line lie along the property of the customer?
26 • Does the applicant distributor have a lower connection cost for the customer than
27 the incumbent, licensed distributor?
28

29 If the above criteria are met, additional scrutiny of the application is required to
30 assess the licence amendment's impact on the incumbent and applicant distributors
31 and their customers. In order to ensure the public interest is best served by the
32 amendment, the Board should be guided by the following considerations in reviewing
33 and approving the amendment:
34

- 35 • Does the licence amendment disadvantage the existing and future customers of
36 either the incumbent, licensed distributor or the applicant distributor?
37 • Does the licence amendment weaken the ability of, and incentive for, either the
38 incumbent, licensed distributor or the applicant distributor to perform system
39 planning?
40 • Does the licence amendment result in a devaluation or under-utilization of the
41 assets of the incumbent, licensed distributor?

- 1 • Does the licence amendment result in a stranding of assets for the incumbent,
2 licensed distributor?
3 • Does the licence amendment result in by-pass of any obligation to a customer
4 under the Distribution System Code?
5

6 In addition to the above, Networks holds that distribution rates, as distinct from
7 connection costs, are not acceptable criteria for deciding licence amendments
8 because:
9

- 10 • Current rates are transitional in nature and reflect only a “simplified procedure”
11 for unbundling rates, and thus do not reflect the cost of service currently that
12 would result from a full and proper cost allocation study (as is anticipated for the
13 next generation of distribution rates).
14 • Performance-based rate regulation is the appropriate mechanism for protecting the
15 interests of customers with respect to distribution rates, not competition for
16 customer connections based on distribution rates.
17 • Rates-based amendment decisions based on transitional rates can result in
18 uneconomic duplication of assets.
19

20 Networks believes that the above criteria should be used by the OEB in reviewing and
21 approving requests for all service area amendments (other than for MAADs). These
22 flow from section 28 of the *Electricity Act*, subsections 70(6), 70(13) and 74(1) of the
23 *OEB Act* and the “obligation to connect” section of each distributor’s licence. Section
24 28 of the *Electricity Act* speaks to the obligations of licensed distributors to connect.
25 Subsection 70(6) of the *OEB Act* says that service territory is “non-exclusive”.
26 Subsection 70(13) prohibits the Board from requiring a licence holder to dispose of
27 assets, and subsection 74(1) says that the Board can amend licenses when the
28 amendments are in the public interest and meet the objectives of the Board and the
29 purposes of the *Electricity Act*. The “obligation to connect” portion of each
30 distributor’s licence addresses customers that do, and customers that do not, lie along
31 a distributor’s line.
32

33 Networks believes that the creation of overlapping service territories complicates the
34 role of LDCs in circumstances where there is an obligation “to connect” and an
35 obligation “to make an offer to connect”. Although a customer’s wish to connect to
36 an LDC not licensed for the customer’s location may trigger that LDC’s request for a
37 service territory amendment, Networks believes that service territory amendment
38 applications should only be made where individual new customers “lie along” the
39 lines of the applicant distributor. The above-noted sections, when read together,
40 address all circumstances by showing an intention to place all customers into two
41 categories: those that “lie along” the lines of distributors and those that do not. For
42 this reason, Networks does not believe that “proximity” can and should be read into

1 section 28 of the *Electricity Act* for help in determining which distributor should
2 connect the customer.

3 Where the customer “lies along” an existing line, section 28 of the *Electricity Act* is
4 clear in its intent that the distributor along whose lines the customer lies “shall
5 connect” the customer. Where the customer does not “lie along” a distributor’s line,
6 section 28 is not applicable; so the “obligation to connect” portion of the licence of
7 the licensed distributor for the area is triggered, such that the incumbent, licensed
8 distributor “shall make an offer to connect”. The customer’s interest is protected
9 because the licence conditions allow the Board to review the “terms” of any
10 connection and the “fairness or reasonableness of the terms”.

11
12 If the decision to connect was only left to customer choice and/or proximity then the
13 incumbent, licensed LDC could find itself in a position of devaluing, under-utilizing,
14 or standing installed capacity. In a situation where licensed service territories overlap,
15 both LDC’s might claim that they do not have the obligation to serve a new customer.
16 This would put the customer in an untenable situation and would be inconsistent with
17 the intent of Section 28 of the *Act*. And if only one LDC has the obligation to
18 connect, that LDC could end up connecting only in uneconomic situations where it
19 would have the residual obligation.

20
21 In addition to the suggestions around “proximity”, some have offered “customer
22 preference” as a factor in approving licence amendments. However, “customer
23 preference” is nowhere to be found in subsection 74(1) of the *OEB Act*, which refers
24 to the objectives and purposes that are to guide the Board in making licence
25 amendments; nor is “customer preference” one of the objectives or purposes listed in
26 either the *OEB Act* or the *Electricity Act*. Networks believes that the Board should
27 not give any unlisted objectives or purposes, such as “customer preference”, more
28 weight than the listed objectives.

29
30 Reference does exist in these objectives and purposes to providing “consumers with
31 non-discriminatory access to transmission and distribution systems in Ontario,” but
32 this is not applicable to service territory licence amendments. Rather, “non-
33 discriminatory access” is the means of facilitating “competition in the generation and
34 sale of electricity” through common wires infrastructure, not the facilitation of
35 customer choice for connections to common wires infrastructure in otherwise licensed
36 service territories.

37
38 (b) No.