



**EB-2010-0228**

**IN THE MATTER OF** the *Ontario Energy Board Act*,  
1998, S.O. 1998, c. 15, (Schedule B);

**AND IN THE MATTER OF** an application by Hydro  
One Networks Inc. for an order approving just and  
reasonable rates and other charges for electricity  
distribution to be effective January 1, 2010.

**BEFORE:** Cynthia Chaplin  
Chair and Presiding Member

Cathy Spoel  
Board Member

**DECISION AND ORDER**

December 17, 2010

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## THE APPLICATION

- [1] Hydro One Networks Inc. (“Hydro One”) filed an application with the Ontario Energy Board, received on June 30, 2010, under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, (the “Act”) c.15 (Schedule B), requesting approval of new Joint Use charges related to generation projects, to be effective January 1, 2010, and new and revised Connection Impact Assessment (“CIA”) charges. Hydro One requested that the proposed CIA charges be declared interim until the final decision in this proceeding.
  - [2] As part of its application, Hydro One suggested that Joint Use charges for generators need not be regulated by the Board and requested a determination by the Board on this issue.
  - [3] The Board issued Procedural Order No. 1 on August 18, 2010 approving intervenors and setting filing dates for interrogatories, interrogatory responses, and any additional evidence.
  - [4] The following parties were intervenors in the proceeding:
    - The Association of Power Producers of Ontario (“APPRO”),
    - The Canadian Manufacturers and Exporters (“CME”),
    - Enbridge Ontario Wind Power (“Enbridge Wind”),
    - Energy Probe Research (“EP”),
    - The Ontario Power Authority (“OPA”),
    - The Society of Energy Professionals (“The Society”), and
    - The Vulnerable Energy Consumers Coalition (“VECC”).
- APPRO, CME, Energy Probe and VECC were each found to be eligible for an award of costs. The Ontario Sustainable Energy Association (“OSEA”) requested and was granted late intervenor status.
- [5] The Board Issued Procedural Order No. 2 on September 22, 2010 setting dates for a technical conference, pre-filed questions for the conference, and submissions, and reply argument. Board staff, APPRO, VECC, Energy Probe, CME and OSEA filed submissions. Hydro One filed reply argument.

## THE PRINCIPLES

- [6] Board staff and intervenors suggested various principles that should guide the Board. The principles included:
- There should be a similar treatment of all parties requesting joint use of Hydro One's distribution poles;
  - All generators should be treated fairly and equally;
  - No undue cross subsidization should exist between generators and electricity distribution service customers;
  - Charges should be substantiated by appropriate costs;
  - Charges should be cost based; and
  - Common costs should be shared equally.
- [7] VECC noted that the application of the principles can yield different results depending on the starting point.
- [8] The Board generally supports the principles which the parties have identified. The Board's decision in this proceeding has been guided in particular by the following:
- There should be no undue discrimination amongst third parties requesting joint use of Hydro One's distribution poles
  - Joint use charges should be cost based
  - Common costs should be shared equitably

## THE ISSUES

### Should Joint Use Charges be Regulated by the Board?

- [9] Hydro One requested that the Board decide whether joint use charges require the Board's approval. Hydro One took the position that the service offered to generators is a competitive service and therefore does not require regulation by the Board. Hydro One pointed out that each generator has the option to install its own pole or the option to enter into a commercial agreement with Hydro One for joint use.
- [10] Board staff and intervenors took the position the charges should be regulated. The parties pointed to the Board's decision regarding joint use by telecommunications providers (the "CCTA Decision"), in which the Board stated:

The Board agrees that power poles are essential facilities. It is a well established principle of regulatory law that where one party controls essential facilities, it is important that non-discriminatory access be granted to other parties.<sup>1</sup>

[11] Board staff also suggested that regulating the joint charge applicable to generators would be more efficient from a regulatory standpoint than potentially requiring the Board to respond to cases of alleged market abuse.

[12] APPrO and VECC pointed out that the range of competitive options is not robust and concluded that most economical choice a generator would make is joint use. CME argued that the choice available to generators is inadequate to support a conclusion that there is sufficient competition to protect the public interest. It went on to say that until the requirements of Section 29 of the Act are satisfied, the joint use charges should be regulated. VECC pointed out that joint use charges for telecommunication companies and other LDCs are regulated, and to some extent these entities have the same choice as to whether to construct their own facilities or to enter into joint use arrangements.

[13] Hydro One replied that if the Board should decide to regulate generator joint use charges, a decision is needed that would allow for an appropriate allowance for inflation, and a true-up every five years to ensure appropriate cost recovery with no cross-subsidization.

### ***Board's Findings***

[14] The Board will regulate joint use charges for generators. This is consistent with the CCTA Decision and the Board's approval of the distribution joint use charge. Hydro One provided no compelling evidence to support a different approach and expressed no strong opposition to the regulated approach.

## **The Generator Joint Use Charge**

[15] Currently, generators are being charged the Board approved distribution joint use amount of \$28.61.<sup>2</sup> Revenues from joint use charges are forecast in cost of

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<sup>1</sup> RP-2003-0249 In the Matter of an Application under section 74 of the Ontario Energy Board Act, 1998 by the Canadian Cable Television Association for an Order or Orders to amend the licenses of electricity distributors, issued March 7, 2005 ("CCTA Decision")

<sup>2</sup> Exhibit B Tab 1 Schedule 1 Page 1 line 17

service applications and are reported as external revenues and used as revenue offsets in determining Hydro One's distribution rates.

[16] In examining the proposed method to set a schedule that would vary, taking into account the different needs of generators, several issues arose:

- What is the appropriate generator power space factor,
- What are the appropriate charges, and
- Is there a need for a sliding scale based on pole length?

[17] Hydro One also stated that generators desire to enter into 20 year contracts with Hydro One. To reflect the fact that costs will change in the future, Hydro One proposed that the charges set in contracts be reset every five years, and in the intervening years that the charges be adjusted by the difference in the CPI. This proposal raised two additional issues;

- What is the appropriate charge adjustor, and
- What is an appropriate rebasing period?

### **The Appropriate Generator Power Space Factor**

[18] The space factor allocates costs to the power space on a pole. Based on the evidence, it appears that Hydro One determined the power space factor for generators by starting with the 21.9% telecommunications space factor for a 40 foot pole from the CCTA Decision. It then extrapolated the 40 foot pole factor to a 50 foot pole on a linear basis to determine the space factor on a 50 foot pole. This results in a power space factor of 28.1%, or 10 feet of generator power space on a 50 foot pole.<sup>3</sup>

[19] A number of alternative approaches were proposed by Board staff and various intervenors.

[20] Board staff submitted that the space factor should be 29.4% based on the fact that only 34 feet of a 40 foot pole can be used. The factor is the ratio of 10 feet of power space to 34 feet of available space on a pole. Energy Probe was in substantial agreement with Board staff's submission. APPrO disagreed with Board staff's approach of using 34 feet as usable space and stated that the space factors should be based on a 40 foot pole. APPrO pointed out that if the Board adopted

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<sup>3</sup> Board staff Interrogatory 4 a.

Board staff's submission, then the power space factor on a 50 foot pole would be 23.3%. APPrO submitted that 40 feet is the appropriate length.

[21] VECC proposed that the CCTA methodology be applied directly to a 50 foot pole. On this basis, VECC derived a space factor of 15.2% for each telecom user and a 31% allocation factor for each of the two power users. CME supported VECC's approach.

[22] Hydro One acknowledged that there may be some minor shortcomings with the CCTA methodology, but submitted that it should be approved.

### ***Board's Findings***

[23] The Board will not adopt the methodology proposed by Board staff. The part of the pole which is below ground is part of the overall structure and in the Board's view it is not necessarily appropriate to exclude it from the calculations. In any event, this proposal did not receive sufficient review to form the basis of developing a new methodology at this time.

[24] The Board also will not adopt the approach proposed by VECC. Under VECC's approach, the factor for telecommunications connections is reduced from that which underpins those charges currently, while the factor for distribution connections is increased from that which underpins those current approved charges. Neither the telecommunications charges nor the distributor charges are before the Board in this proceeding. The Board finds that VECC's approach would result in misalignment amongst the various factors and the associated charges and is therefore not appropriate at this time.

[25] The Board will accept the approach proposed by Hydro One for purposes of setting the charge at the current time. The Board is satisfied that this approach is generally consistent with the CCTA Decision while at the same time ensuring that the treatment of generators is consistent with the treatment of distributors.

[26] The Board finds that the issue of space allocation, and therefore the resulting specific charges, should be revisited in Hydro One's next rebasing application. At that time the methodology in the CCTA Decision can be revisited in light of then current pole height, cost and attachment data to ensure that a consistent set of charges is developed.

## The Appropriate Level of Charges

- [27] Hydro One proposed that the base charge for generator joint use be the current Board approved \$28.61 for 10 feet of power space based on the negotiated distributor joint use fees. That fee was developed in 2005.<sup>4</sup> Hydro One presented new costs in Exhibit KT 2 that would result in the rate being \$28.40, but it is not proposing to set the base charge at the newer level.<sup>5</sup>
- [28] APPrO submitted that Hydro One should charge \$28.40 for 10 feet of space on a 50 foot pole.
- [29] Under VECC's proposal the space factor for telecommunications space was determined to be 15.2% and the generator factor was determined to be 31%. VECC submitted that since Hydro One charges \$22.35 for telecommunications users for the 15.2% space factor, then generators should be charged \$45.58 for the 31% space factor.<sup>6</sup>
- [30] VECC pointed out that there are different assumptions regarding telecommunications attachers between the CCTA methodology for a 40 foot pole and Hydro One's proposal for a 50 foot pole. The CCTA methodology assumes 2.5 telecommunications attachers, while Hydro One assumes 2. VECC further deducted that if this logic is applied to current costs, the joint use fee with 2.5 attachers would be \$31.09. If only 2 attachers are assumed, then the charge would be \$32.37. VECC submitted that \$31.09 is the appropriate charge because its determination is consistent with the CCTA Decision.
- [31] CME urged the Board to adopt VECC's submission. It also submitted that the base distribution joint use charge and the telecommunications joint use charge be reset at the same time as the generator joint use charge is reset.
- [32] Hydro One replied that the Board should approve the proposed rate due to the volume of requests and the urgency for the rate.

### ***Board's Findings***

- [33] The Board finds that it is appropriate to set the generator joint use charge at \$28.40 which is the current level of the charge for distribution joint use, updated to reflect current costs. The Board finds that this approach achieves the best balance

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<sup>4</sup> Board staff Interrogatory 5 b.

<sup>5</sup> Transcript Page 15 lines 6 - 16

<sup>6</sup>  $(\$22.35 \div 15.2\%) \times 31\% = \$45.58$

between the principles of cost based charges and non-discriminatory treatment amongst pole users. The Board finds that this approach maintains a reasonable alignment amongst the methodologies underpinning the telecommunications and distribution joint use charges while reflecting current costs into the charges being set in this proceeding.

- [34] The Board will not adopt VECC's proposed charge of \$31.09. As indicated above, this approach results in a misalignment amongst the various charges and the underlying space factors. As indicated above, this issue will be revisited in Hydro One's next rebasing application

### **The Sliding Scale Based on Pole Length**

- [35] Hydro One's proposal establishes the same joint use charge for power space negotiated with the EDA as the joint use charge for generators and proposes to apply that charge to 40 and 50 foot poles. However, some generators require poles taller than 50 feet. Therefore, Hydro One proposed a method in which the generator power space factor increases at a decreasing rate as the height of the pole increases.<sup>7</sup> Applying these factors to the base generator joint use charge gives rise to charges for poles taller than 50 feet that increase at a declining rate.<sup>8</sup> The proposal is to reflect that operating expenses do not increase linearly. Hydro One stated that there is less maintenance required as the pole height increases.<sup>9</sup>
- [36] Board staff pointed out that the sliding scale is not a charge for pole height, but for space on the pole. Board staff submitted that the proposal to use the charge for 10 feet of space on a 50 foot pole and increasing it for OM&A is reasonable. Board staff also pointed out that Hydro One would request a capital contribution where incremental costs would be incurred. This would eliminate cross subsidization. Board staff concluded that the proposal was fair. Energy Probe substantially agreed with Board staff's submission.
- [37] VECC questioned the appropriateness of the sliding scale noting that the majority of the pole costs are related to capital and not OM&A. VECC pointed out that by increasing the pole height from 50 feet to 60 feet, a 20% increase, the cost for the pole goes from \$617.47 to \$1,522.26, a 146% increase and concluded that using the sliding scale would require greater capital contributions so as not to have cross-

<sup>7</sup> Exhibit B Tab 1 Schedule 1 Table 2

<sup>8</sup> Exhibit B Tab 2 Schedule 1 Table 1

<sup>9</sup> Transcript Page 33 lines 5 - 9

subsidization from other users. VECC submitted that this issue needs to be revisited when the charges are reset. It also pointed out that this serves to accentuate reviewing joint use charges before 2015. CME urged the Board to adopt VECC's submission.

[38] Hydro One replied that the sliding scale should be approved, and noted that no generators objected.

[39] With respect to the determination of the capital contribution, APPrO submitted that all revenues, including revenues from distribution, and the cost of a new pole less the remaining life of existing poles should be used to determine the contribution. It submitted that this method is similar to existing system expansion project evaluations. Hydro One responded that APPrO's recommendation was unclear and stated that the discounted cash flow methodology accounts for the incremental costs associated with replacing poles earlier than otherwise planned and holds ratepayers harmless with respect to those advancement costs. Hydro One also pointed out that economic evaluation that it uses is beyond the scope of this application.

### ***Board's Findings***

[40] The Board will accept Hydro One's proposed sliding scale of charges based on pole height. The Board is satisfied that the approach reasonably reflects the associated costs and that the issue of higher capital costs for taller poles is appropriately dealt with through the capital contribution. However the sliding scale should be based on \$28.40 as found above..

[41] While the methodology underpinning the capital contribution is not before the Board in the current proceeding, the Board notes that Hydro One's approach appears to address the concern raised by APPrO.

### **The Appropriate Charge Adjustor and Rebasing Period**

[42] Hydro One stated that many generators have entered into 20-year power purchase contracts and therefore desire to enter into 20-year joint use agreements with Hydro One. Accordingly, Hydro One proposed that the new joint use charge for generators include a CPI rider, which would provide for an annual increase in the joint use charge, based on changes to the CPI.

- [43] APPrO pointed out that an index is not used for telecommunications charges and street light attachments charges. APPrO therefore submitted that the Board should reject the index and require rebasing every five years. APPrO submitted that Hydro One should track costs and report back on whether an index is needed or not. At that time any over/under could be prospectively built into the charge.
- [44] VECC submitted that Hydro One's proposals to reset every five years and to escalate the approved base charge by inflation appear reasonable. VECC submitted however, that given the problems with the proposed joint use base charge in terms of its link to costs, its link with other joint use charges and its link to the CCTA methodology, Hydro One should be directed to rebase and seek approval for its joint use charge for generators at the same time as it rebases and seeks approval for its LDC joint use charge. This would ensure that charges are established using the same cost base and with a consistent methodology.
- [45] Board staff submitted that the contracts should be tied to the tariff sheet and therefore an index is not needed in the contracts. Tying the contracts to the approved tariff sheet would ensure that only one rate is in place for all generators, for as the fees change in the tariff with each of Hydro One's rate applications so would the fees under the contract. Board staff submitted, however, that if there is any indexing, the Gross Domestic Product Implicit Price Index Final Domestic Demand ("GDP-IPI (FDD)") should be used, and not the CPI. Energy Probe and VECC agreed that the GDP-IPI (FDD) is more appropriate.
- [46] Hydro One responded that it needed approval of its proposed charge at this time due the volume of requests and the urgency for the charge. Hydro One stated that it would set a fixed schedule for rebasing, providing as an example that it could rebase in 2010, 2015, 2020, etc. Hydro One would apply the GDP-IPI (FDD) as an adjustor in the intervening years. It pointed out that in doing so all generators would pay the same charge. Hydro One also noted that its proposed joint use contracts with generators provide for the charges to be amended when the Board sets new charges.

### ***Board's Findings***

- [47] The Board finds that it would be inappropriate to incorporate indexing into the rate at this time because the result would be substantially different treatment for generators than for telecommunications and distributor joint users. As indicated above all joint use charges should be revisited at the next Hydro One rebasing

application, at which time the issue of indexing can be considered in the context of all joint users.

## Connection Impact Assessment Charges

[48] In accordance with Section 6.2.14 of the Distribution System Code (“DSC”), Hydro One assesses the technical impact of renewable generation connections to its distribution system through a CIA. The CIA is a detailed assessment of a project’s impact culminating in a technical report outlining project feasibility, technical specifications needed for the project and the impacts the project would have on the distribution grid and any of its customers.<sup>10</sup>

[49] Hydro One has CIAs listed in its Tariff of Rates and Charges and so are considered as revenue offsets.<sup>11</sup>

[50] Hydro One requested approval to introduce a new schedule of charges to recover the costs associated with the CIA and definitions of CIA classifications:

- **Transitional Charges:** Temporary charges for small, mid-size, and large projects to help in the transition to the higher charges approved in EB-2009-0096;
- **Net Metering and Capacity Allocation Exempt CIA Charges:** New CIA classifications arising from new types of applications not considered in the original CIA charges; and
- **Rescinded and Revised CIA Charges:** New CIA classifications for generators who are re-applying for capacity or revising an existing application.

## Transitional CIA Charges

[51] Hydro One obtained approval in EB-2009-0096 for CIA charges for small and mid-sized projects of \$10,335, and for large projects of \$10,405. Hydro One recognized that these charges represent a large change in costs for generation connections. To manage the transition to the new cost structure, Hydro One proposed a phased implementation with lower fees of \$3,000, \$5,000, and \$6,000 for small, mid-sized, and large projects, respectively.

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<sup>10</sup> Exhibit C Tab 1 Schedule 1 Page 1 lines 11 - 16

<sup>11</sup> Hydro One Tariff of Rates and Charges, EB-2010-0096, Effective May 1, 2010, Rate Codes 26 a. and 26 b.

- [52] In Procedural Order No. 1 dated August 18, 2010, the Board ordered: “The Connection Impact Assessment (CIA) Charges – Small & Medium of \$10,335 and the Connection Impact Assessment (CIA) Charges – Large of \$10,405 are declared interim effective immediately.”
- [53] In its Argument-in-Chief Hydro One stated that as ordered by the Board, it implemented the approved charges of \$10,335 and \$10,405 and it no longer requires the transitional charges.
- [54] Board staff submitted that the EB-2009-0096 CIA charges were declared interim until the issue of the phase-in charges was decided in this proceeding. It further submitted that by declaring the original charges interim, the issue still remains. However, since Hydro One has commenced billing, and no generator has objected, Board staff submitted that the transitional charges are no longer required. VECC agreed with Board staff.
- [55] APPrO submitted that Hydro One committed to applying the lower charges and the affected generators would have relied on those commitments when planning and financing their projects. The lower charges were proposed in recognition of the fact that Hydro One had quoted the lower charges to generators applying for connection prior to the higher charges being approved. However, APPrO had no objection to proceeding without phase-in provided Hydro One is prepared to meet its previous commitments to generators that the CIA charges would be at the lower amounts. APPrO recommended that the Board approve the lower charges, including those where the CIAs were completed by Hydro One after August 31, 2010. APPrO supported transitional charges to avoid rate shock and to recognize the lower quoted charges if Hydro One could not meet these commitments.
- [56] Hydro One replied that it believed that the Board’s Order directed it to implement its approved charges on an interim basis until the issue of the transitional charges could be addressed, following a proper review. Hydro One then developed its communications and implemented the approved charges on August 27, 2010. Hydro One intended to charge the transitional charges until August 31. Hydro One submits that all of the generators who had been relying on the lower charges had their CIA applications accepted by August 27.
- [57] Hydro One pointed out in its Reply that it had been applying the reduced charges previously and, in pre-consultations during the Fall of 2009, had made commitments to generators to assess their applications at those lower charges.

The CIA Application Dates were effectively determined by the OPA and that Hydro One did not receive the majority of these applications until on or after May 1, 2010 which is the effective date for the Applicant's higher CIA charges. The purpose of the present Application, therefore, was to enable Hydro One to keep its commitment to these generators and help them manage the transition to the new higher charge structure because Hydro One had been utilizing the lower charges and wanted to continue to use them until August 31, 2010, at which time, it believed that all proponents whose applications Hydro One had committed to assess at the lower charges would have been completed and the higher charges could then be implemented.

[58] Hydro One pointed out that because the "discounted" charges do not fully recover the costs of the work, it is unwilling to extend the offer past that date without an assurance that the costs can be recovered, and with clarification of the recovery mechanism. Therefore, there is no need to retroactively apply the transitional charges, particularly to generators whose CIAs were completed after August 31, 2010.

### **Board Findings**

[59] The Board will approve the use of the lower transitional charges for the period between August 18, 2010 (when the charges were made interim) and August 31, 2010, the final date for which Hydro One sought approval to apply the lower transitional charges. The Board accepts that the lower transitional charges are reasonable in the circumstances and concludes that applying the lower charges during the identified period is consistent with Hydro One's communications with proponents. The previously approved (higher) charges will be effective September 1, 2010 on a final basis.

### **Net Metering, Capacity Allocation Exempt, Rescinded, and Revised CIA Charges**

[60] Capacity allocation exempt ("CAE") projects are generation projects having a capacity greater than 10 kW but less than or equal to 250 kW (for a facility connected to a line less than 15 kV) or less than or equal to 500 kW (for a facility connected to a line equal to or greater than 15 kV). For CAE projects, Hydro One proposed to set the CIA charge at \$3,000. Hydro One maintained that these projects require much less work than a typical CIA, with less analysis required and less strenuous connection requirements.

- [61] Net metering is the measurement of the quantity of electricity a generator uses against the quantity of electricity it generates. This results in a "net" total bill. Net metering projects include those which have a capacity greater than 10 kW but less than or equal to 500 kW. Hydro One stated that these projects required the same level of work as CAE projects, and there proposed to set the CIA charge at the same level as for CAE projects, \$3,000.
- [62] Rescinded and revised CIAs are related to projects that have been through a CIA already, but a new CIA is required as a result of changes to the project. Hydro One stated that revised CIAs take approximately half the effort compared to doing a new study, and that therefore revisions to CIAs typically take half the time. Further, when a project application is rescinded and the proponent then reapplies for exactly the same project, it is effectively a revision to an existing CIA. Hydro One proposed that the charge for revised CIAs be set at 50% of the otherwise applicable charge.
- [63] Board staff submitted that while there is no cost justification for the proposed \$3,000 charges, the qualitative reasons provided, namely that less effort is required, seem reasonable
- [64] Board staff pointed out that for rescinded and revised applications Hydro One's witness stated that the justification for 50% is based on management's decision underpinned by Hydro One staff's opinion that such applications take half the effort of doing full CIAs. Board staff submitted that while no detailed study was undertaken, the proposed 50% reduction is qualitatively justified.
- [65] APPrO supports the immediate implementation of these charges as proposed by Hydro One.
- [66] VECC submitted that Hydro One has adequately supported the cost basis for each of its proposed new charges and they should be approved by the Board.

**Board Findings**

- [67] The Board finds that the charges proposed by Hydro One are reasonable and have been adequately supported.

## Variance Accounts

[68] Distribution joint use revenues and CIA revenues are specific service charges and are used as a revenue offset when setting distribution rates.<sup>12</sup> Hydro One proposed to track joint use revenues in a variance account and use them to offset future rates for its distribution customers. Hydro One has not made a proposal for tracking costs and revenues from the new CIAs.

### Joint Use Revenue Variance Account

[69] Hydro One stated that its external revenue from miscellaneous charges may increase by up to \$286,340 as a result of generator joint use charges. It stated that it would track these revenue for future distribution rate setting.<sup>13</sup>

[70] Board staff, CME, and Energy Probe supported tracking the charges in the proposed variance account.

### *Board's Findings*

[71] The Board approves the establishment of this variance account for purposes of applying the revenues toward Hydro One's revenue requirement at its next rebasing. As the Board has directed Hydro One to address the methodology and level for all its joint use charges at the next rebasing application, the Board does not expect that this account would be needed beyond that time.

## CIA Variance Accounts

[72] Hydro One is not proposing a variance account for the CIA charges. It stated that there is no need to track revenues from CIAs as revenues will be offset by equal and unforeseen costs.

[73] Board staff was unclear as to whether this work is performed by contractors, or Hydro One employees and therefore whether the incremental revenues would be offset with incremental costs. Board staff submitted that it would be appropriate to track the costs and revenues associated with the proposed new CIA charges in a deferral account in order to equip the Board to make that determination in a future proceeding once empirical information becomes available.

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<sup>12</sup> Hydro One Tariff of Rates and Charges, EB-2010-0096, Effective May 1, 2010, Rate Codes 26 a. and 26 b.

<sup>13</sup> Exhibit B Tab 1 Schedule 1 Page 10 lines 19 - 19

[74] CME did not understand what was meant by “unforeseen costs” and agreed with Board staff that a variance account should be used.

[75] Hydro One responded stating that it is concerned that, given the large volume of applications requiring assessments, the effort involved in tracking and true-up of CIA costs and revenues will be much greater than the benefits of determining these charges with certainty.

### ***Board’s Findings***

[76] The Board will establish a variance account for CIA revenues, to ensure that Hydro One’s distribution customers receive the full benefit of these revenues. Hydro One will be required to substantiate any claimed incremental costs which it proposes to include in the account. Hydro One questions the value of tracking revenues and costs for this large volume of assessments. The Board expects that Hydro One should be able to achieve an acceptable level of accuracy without tracking every assessment, perhaps through some sort of sampling. The Board notes that this information may be relevant to any further examination of CIA charges.

## **Aboriginal and Community Participation Projects**

[77] OESA submitted that a credit should be applied to joint use charges and CIA charges based on the aboriginal and/or community participation levels. Specifically, OSEA proposed the following:

1. The proposed pole use charges and CIA charges should not apply to projects where the Aboriginal Participation Level or Community Participation Level, either separately or in combination, under the Ontario Power Authority’s Feed in Tariff (“FIT”) program, is over 51%; and
2. Where the Aboriginal Participation Level and/or Community Participation Level, either separately or in combination is less than 51%, then the project should obtain a credit against the proposed joint use charge and CIA charge based on the proportion of Aboriginal Participation Level and/or Community Participation Level in relation to the project:

[78] In OSEA’s view, this approach would be consistent with the Green Energy Act and the FIT program. The OSEA submits that Government Funding and additional incentives to support the development of Aboriginal and community power projects should not be clawed back as charges for use of electric distribution companies.

[79] Hydro One responded that these proposals are outside the scope of this proceeding as well as being outside the Board's jurisdiction.

### ***Board's Findings***

[80] OSEA's proposal was advanced for the first time in its final submission. OSEA did not elicit (through interrogatories) any evidence regarding this proposal; nor did it tender any evidence directly in support of this proposal. As such the record is insufficient to draw any conclusions regarding the appropriateness of the proposal. The Board has no information regarding the potential level of cross-subsidy involved; nor was there any evidence regarding the policy implications of this approach. OSEA may wish to explore this proposal at Hydro One's next rebasing application, at which time these charges will be examined and the merits of the proposal, including any issues regarding the Board's jurisdiction, can be considered.

## **Implementation**

[81] Hydro One requested January 1, 2010 as the effective date for the proposed joint use charges. Hydro One had also requested that the already approved CIA charges be phased-in prior to September 1, 2010. In argument-in-chief, Hydro One stated that this phase-in was no longer required because Procedural Order No. 1 made the charges interim.

[82] APPrO stated that generators were made aware of Hydro One's joint use charge plans, but were not aware of the details. APPrO views changing the \$28.61 to \$28.40 as retroactive. However, since this is a reduction, the charge should be implemented on the following basis:

- \$28.40 on January 1, 2010, and
- the sliding scale on January 1, 2011.

[83] APPrO suspects that some of the projects predate the Green Energy and Green Economy Act ("GEGEA") mentioned by Board staff. It submits that for applicants that have signed with the OPA after October 21, 2009, the proposed joint use sliding scale should take effect January 1, 2010.

[84] Board staff pointed out that the proposed new charges were a result of the GEGEA. In regards to the when these new charges should be implemented and the related issue of retroactive rate making, Board staff pointed out that in the Brant

County Motion, the Board found that the establishment of a new class differentiated the act of setting an effective date prior to any order from retroactive rate making.<sup>14</sup>

### **Board's Findings**

[85] The Board is now setting charges for generator joint use (base charge and sliding scale for poles over 50 feet). These charges are not currently approved on an interim level. The Board has determined that the new charges should be implemented on a prospective basis. The Board finds that the effective date will be January 1, 2011.

[86] The Transitional CIA charges will be Implemented on August 18, 2010 and effective for the period of August 18, 2010 to August 31, 2010, after which the previously approved higher CIA charges will be implemented on a final basis.

[87] The new CIA charges will be implemented on August 18, 2010. The already approved CIA charges have been addressed already in this decision.

## **COST AWARDS**

[88] The Board may grant cost awards to eligible stakeholders pursuant to its power under section 30 of the Ontario Energy Board Act, 1998. When determining the amount of the cost awards, the Board will apply the principles set out in section 5 of the Board's *Practice Direction on Cost Awards*. The maximum hourly rates set out in the Board's Cost Awards Tariff will also be applied.

[89] All filings with the Board must quote the file number EB-2010-0228, and be made through the Board's web portal at [www.errr.oeb.gov.on.ca](http://www.errr.oeb.gov.on.ca), and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must be received by the Board by 4:45 p.m. on the stated date. Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca). If the web portal is not available you may e-mail your documents to the attention of the Board Secretary at [BoardSec@oeb.gov.on.ca](mailto:BoardSec@oeb.gov.on.ca). All other filings not filed via the Board's web portal should be filed in accordance with the Board's Practice Directions on Cost Awards.

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<sup>14</sup> Decision and Order; *Motion to Review and Vary the implementation of the Board's Interim Order Dated April 21, 2008 in this proceeding; and the Board's Decision dated July 18th, 2008, EB-2009-0063, August 10, 2010*

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**THE BOARD THEREFORE ORDERS THAT:**

1. Hydro One will recalculate the Generator Joint Use Charge using \$28.40 for space on a 50 foot pole using the allocation factors found in Exhibit B Tab 1 Schedule 1 Table 2.
2. The Base Generator Joint Use Charge of \$28.40 and the Sliding Scale Generator Joint Use Charge will have an Effective Date of January 1, 2011.
3. The lower Transitional CIA Charges are to be in effect for the time period of August 18, 2010 to August 31, 2010 inclusive.
4. The current CIA Charges declared interim in Procedural Order No. 1 will become final on September 1, 2010.
5. All remaining charges will have an Effective Date of August 18, 2010.
6. Hydro One will maintain a Joint Use Revenue Variance Account and a CIA Variance Account as described in these findings for review by the Board in its next Cost of Service Rates Application.
7. Hydro One is to submit to the Board a schedule of the new charges, with supporting documentation, and their effective dates five days after the date of this Decision.
8. Intervenors shall file with the Board and forward to Hydro One Networks Inc. their respective cost claims within 30 days from the date of this Decision.
9. Hydro One Networks Inc. shall file with the Board and forward to intervenors any objections to the claimed costs within 44 days from the date of this Decision.
10. Intervenors shall file with the Board and forward to Hydro One Networks Inc. any responses to any objections for cost claims within 51 days of the date of this Decision.

**DATED** at Toronto, December 17, 2010

**ONTARIO ENERGY BOARD**

*Original Signed By*

Kirsten Wali  
Board Secretary