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Our File No. 57695

VIA MAIL AND EMAIL (BoardSec@ontarioenergyboard.ca)

Ontario Energy Board
2300 Yonge Street, Suite 2700
Toronto ON
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Attention: Kirsten Walli, Board Secretary

Dear Madame:

**Re: Renewed Regulatory Framework
Board File No.: EB-2010-0377; EB-2010-0378; EB-2011-0043
and EB-2011-0004
Stakeholder Conference – March 28-30, 2013**

INTRODUCTION

The presentation today is on behalf of:

- The City of Thunder Bay;
- Common Voice Northwest (CVNW);
- Northwestern Ontario Associated Chambers of Commerce (NOACC); and
- Northwestern Ontario Municipal Association (NOMA) in collaboration with other Stakeholders.



Outline

This NOACC - NOMA presentation will focus on the challenges facing consumers in the Northwest Region and the expectations those consumers have for a renewed regulatory framework. The presentation will have five sections:

1. EB – 2011 – 0043 Staff Discussion Paper;
2. The need for regional needs assessment;
3. Social imperatives unique to the Northwest Region;
4. Enabler transmission connection cost responsibility as an example of needs based cost allocation, and
5. (When available) the results of a survey conducted by NOACC of its regional members;

1. EB – 2011 – 0043 Staff Discussion Paper

NOACC and NOMA appreciate the openness to change expressed in the Board Staff Discussion Paper on “Regulatory Framework for Regional Planning for Electricity Infrastructure” and wish to respond to several of the “Issues for Comment”.

Issues 5, 6, 7, and 8 are of particular interest. NOACC and NOMA would welcome the designation of the Northwest as a region on the following bases:

- The Northwest Region has economic, topographical and demographic features that tend to distinguish it from other areas of Ontario:
 - i. The Northwestern Region constitutes in the order of 60% of Ontario’s land mass but in the order of less than 3% of Ontario’s population.
 - ii. The electrical load characteristics historically have been the inverse of those of southern Ontario. In southern Ontario the residential load constitutes 70% and the industrial load 30%. In the Northwest Region the relative percentages of industrial load and residential load have historically been 70% and 30% respectively. The restructuring of the forest industry and the



robust growth in mining will shift the percentages. The point, however, is that electrical infrastructure needs in an intensely resource based economy with a small population are materially different from those of a much diversified economy in a comparatively huge population.

- iii. The Northwest is rich in natural resources: vast forests, extensive mineral deposits and two of the largest fresh watersheds in the world. The potential alone for significant additional hydraulic generation is unlike any in the rest of the province.
- iv. The Northwest is a development intensive region. Mineral resource extraction and processing opportunities are virtually limitless. The forest industry will develop value-added components as part of its restructuring – all of which gives rise to energy planning and regulatory requirements distinct from other regions of the province.
- v. Electrical infrastructure:
 - a. in southern Ontario, must serve the needs of a relatively huge and growing population with a very diversified economy;
 - b. in the Northwest Region, must be facilitate existing and anticipated resource and industrial development side by side with the replacement, as soon as possible, of diesel generation.
- vi. The Northwest has throughout the existence of electrical power in the region been entirely self-sufficient, producing all of its own consumption, even when southern Ontario experienced brownouts as in the summer of 2003.
- vii. With a structural change in the forest industry underway the Northwest Region has a surplus in its own generating capacity of 700 to 800 MW.
- viii. The Northwest is comprised of at least three distinct geographic zones for purposes of development of electricity infrastructure.
 - 1. The lower zone is a ribbon 100 to 150 KM wide running along the border with the United States. The grid is



relatively dense with hydraulic and thermal generation. Three municipalities have local distribution companies. While 115kV radial circuit lines function are the transmission lines in the lower zone there is also a 230kV flow-through line carrying power between the Manitoba boarder and southern Ontario.

2. In the middle zone the grid is much more sparse consisting of hydraulic generation, two 115kV radial circuits with a combined length in the order of 1500 KM and in the order of 2000 KM of distribution lines. The power supply in this middle zone is unstable because of deficiencies in transmission. Outages and shut down of business, industrial, institutional and residential service are a regular occurrence.
 3. In the upper zone, comprising in the order of 40% of the provincial landmass, the electrical infrastructure consists almost entirely of diesel generators with minimal distribution. The growth of the majority of the communities is restricted by the limitations in the current generating capacity thereby limiting the opportunity for the residents to improve their own economic conditions.
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- ix. The electricity infrastructure in the City of Thunder Bay in the southern zone is capable of supplying single, very large load, industrial plants (200 to 300 MW) requiring a consistently high level of dynamic harmony. (A paper mill or a chromium processor requires in the order of 20 to 30 times the MVA of an automotive assembly plant.)
 - x. The vast majority of the grid power generation throughout the Northwest Region is hydraulic, meaning a generation cost in the range of 2 cents per kWh. No other region, except possibly the Northeast, has a comparable level of economic renewable generation.
 - xi. Hydro One Networks Inc. Hydro One Remote Communities Inc. service virtually all of the Northwest Region.

All of these features support the Board staff's preferred hybrid approach. The Northwest is a natural "region".



2. The Need For Regional Needs Assessment

NOACC and NOMA urge the Board to consider revision of the regulatory framework to emphasize a “needs assessment” approach as a fundamental tool in regional planning.

- a) The Premiss: A Regulatory Framework that will
 - protect the interests of consumers, and
 - facilitate System Reliability in all Regions

The first branch of the premiss that NOACC and NOMA asks the Board to rely upon arises in one, in particular, of the objectives set out in the statutory mandate of the Board. The opening section of the Ontario Energy Board Act states:

“1. (1) The Board, in carrying out its responsibilities under this or any other Act in relation to electricity, shall be guided by the following objectives:

“1. To protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service.
....”

The second branch of the premiss that NOACC and NOMA asks the Board to rely upon in these Board consultations arises from the “Issues List” for the Board’s review of the Integrated Power System Plan in 2009. The Issues List set out a number issues to be taken as touchstones by which relevance and admissibility of submissions would be measured.

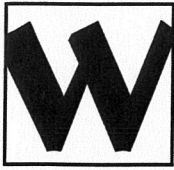
In particular NOACC and NOMA rely on Issue 34:

“34. Does the IPSP meet its obligation to provide adequate electricity system reliability in all regions of Ontario.”

To paraphrase, NOACC and NOMA ask the Board to revise the TSC and the DSC to ensure they facilitate “adequate electricity system reliability in all regions of Ontario”.

b) Regional Needs Analysis

NOACC and NOMA ask that transparent, comprehensive and ongoing needs assessment be required as an integral part, start to finish, in the regulatory framework for Regional Planning.



A needs analysis is part of a design philosophy that is user-centered. Regional planning for a regulatory framework for electricity will not achieve either the goal of an improved regulatory framework or the goal of, “adequate electricity system reliability” for a region unless and until that planning starts and ends with the electricity consumers. Only an accurate, transparent and comprehensive gathering of data as to what the present and future consumers themselves indicate they reasonably require, and an ongoing assessment of the resulting planning initiatives against the needs assessments, will achieve the desired goals. The needs assessment planning requires listening to rather than talking at the consumer.

“In broad terms, user-centered design (UCD) is a design philosophy and a process in which the needs, wants, and limitations of end users of a product are given extensive attention at each stage of the design process. User-centered design can be characterized as a multi-stage problem solving process that not only requires designers to analyze and foresee how users are likely to use a product, but also to test the validity of their assumptions with regards to user behaviour in real world tests with actual user.... The chief difference from other product design philosophies is that user-centered design tries to optimize the product around how users can, want, or need to use the product, rather than forcing the users to change their behaviour to accommodate the product.”¹

“The first step in any user centered design process is to understand the user’s needs. Put simply; whereas Requirements analysis focuses on the elements needed to be represented in the system, needs analysis focuses on the requirements related to the goals, aspirations and needs of the users and/or the user community and feeds them into the system requirement analysis process. The main purpose of needs analysis is the user's satisfaction”.²

Moreover, unless the regulatory framework applicable in the region is based on an analysis of, and measured against, the needs of the actual and potential electricity consumers in a region there will be no way of assessing whether or not the consumer needs are actually being met.

c) That’s Not What’s Happening

¹ Wikipedia, The Free Encyclopaedia: http://en.wikipedia.org/wiki/User-centered_design “User-Centered Design” retrieved March 21, 2012

² Wikipedia, The Free Encyclopaedia: http://en.wikipedia.org/wiki/User-centered_design “Needs Analysis” retrieved March 21, 2012



A survey of the context in which the term “consumer” is used in the Transmission System Code (“TSC”) and the Distribution System Code (“DSC”), including the Conditions of Service, demonstrates that the concept behind the use of the term is a requirement analysis: what the transmitter or distributor must provide for the consumer, or what process the consumer must do to enter a complaint. In the case of the Conditions of Service, for example, one requirement is to set out the, “rights of consumers and retailers”. The “rights” are apparently predetermined by the available electricity infrastructure system. There is no suggestion in the Conditions of Service that the distributor has any obligation to inquire as to the expectations, needs and uses the consumer has for supply of electricity. Correspondingly there is no suggestion that the determination of the rights of the consumer should be based on such an inquiry.

There is no provision in the regulatory framework for transparent, comprehensive information gathering as to what the consumers present and future need. There is only an offering of what the electrical system, as it exists at present can accommodate.

The closest the existing system gets to a needs assessment is the stakeholder conference, such as the one today. But that is, at best, at the middle of the planning process and is a process that invites complaints or observations from those interested in, and given the funding limitations, prepared to finance the making them. It is not a transparent and comprehensive investigation into the needs of the consumer.

The absence of any consumer based needs analysis even pervades the Board’s own administration of its mandate. Take, for example, the invitation to enter into this very consultation. It was set out in the Board’s letter of April 1, 2011:

**“To: All Licensed Electricity Transmitters All Licensed Electricity
Distributors
The Ontario Power Authority
All Other Interested Parties
Re: Regional Planning for Electricity Infrastructure
Board File Number: EB-2011-0043**

“The Board is initiating a consultation aimed at promoting the cost-effective development of electricity infrastructure through coordinated planning on a regional basis *between licensed distributors and transmitters*. The consultation will be “conducted in stages, with a view to developing a policy framework for regional planning that will likely be implemented through appropriate amendments to the TSC and the DSC. There will be links to the consultations on the renewed regulatory framework and smart grid implementation.



“This letter provides an overview of this consultation and of how to participate in it.

“Background

“Ontario’s electricity sector has long recognized the value of regional planning – where transmission and distribution facilities are planned jointly by the transmitter and one or more distributors.

“The Transmission System Code governs transmitters in relation to, among other things, planning and cost responsibility for new assets. The framework as set out in the TSC:

- Treats a distributor as a transmission “customer” who, in the normal course, would pay for connection-related upgrades to a transmission system that are triggered by the distributor (including as a result of the connection of renewable energy generation facilities to the distributor’s distribution system);
- Requires a transmission capacity evaluation process to be undertaken when the available capacity on a connection facility falls below a certain pre-set percentage of total normal supply capacity; and
- Does not require transmission customers to pay for connection-related upgrades that at the relevant time were ‘otherwise planned’ by the transmitter, except for any advancement costs.

“A revised TSC was issued following two successive consultation processes (RP-2002-0120 and RP-2004 0220) in July, 2005. Shortly before that time, the Ontario Power Authority (“OPA”) was created with the objective of, among other things, conducting independent planning for transmission in Ontario. The OPA is expected to have a role in regional planning initiatives, including through the development of the Integrated Power System Plan....”

It needs to be asked, where is the part about the transmitters, distributors, and other interested parties, as part of a required and transparent process, even in a consultation such as this, having to demonstrate that a needs assessment of the electricity consumers has been an integral part of the development of the presentations? How else will the Board ascertain whether what is said today meets the needs of the nine million consumers in the province?



The point is that if there is to be regional planning, and NOACC and NOMA fully support that initiative, along with the designation of the Northwest as a distinct region, the planning needs to take place from the bottom up, not the top down.

3. Social Imperatives Unique to the Northwest Region

Former Board Chair Emeritus Howard I. Wetston, Q.C. pointed out in a speech to participants in a professional development program sponsored by Osgoode Law School, April 7, 2010 that the energy sector is no longer confined to issues internal to the sector but is addressing the “tough discussions” of “social imperatives” that are “important to the public”:

“For many years, it has become clear that energy is increasingly a means to address other needs. Then as today, the tough discussions are not internal to the sector, such as market design. The issues that are important to the public and that are affected by energy regulators are largely not just about energy, but also about the environment and other social imperatives.”

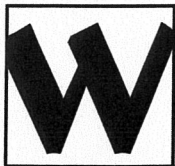
Energy infrastructure in northwestern Ontario must be seen as both a basic right and an economic driver. These are the two social imperatives for the region.

NOACC and NOMA would expect a needs base analysis for planning purposes in to disclose two priority issues.

- Replacement of diesel generation in the upper zone of the Northwest Region has been an urgent need for some considerable time,
- Adequacy, reliability and quality of electricity service is seen as a basic utility, crucial to encouragement of economic development throughout the Northwest Region

4. Enabler transmission connection cost responsibility as an example of needs based cost allocation

The enabler-line cost allocation amendments could open up similar flexibility in other cost allocations. The enabler-line cost allocations set aside the strict interpretation of the “cost causality” principle in allocation of transmission line costs. The point that NOACC and NOMA would want to rely upon is that, in the transmission and green generation side of the business, where capacity of the new transmission line exceeds the collective needs of the green generators creating the need for the new asset the carrying cost of the unused



capacity no longer rests with the customers causing the asset to be built but instead rests with the transmitter, to be passed on, presumably, to a broader spectrum of rate payers. In other words, without relying on the “otherwise planned” provision of section 6.3.6 of the TSC, the enabler-line cost allocation creates something akin the postage stamp concept. The user pays for the proportion of the cost attributable to the users’ own requirements. As a planning concept there is no inherent inconsistency in applying it to distribution assets. As former Board Chair Emeritus Howard I. Wetston, Q.C. stated on March 29, 2010:

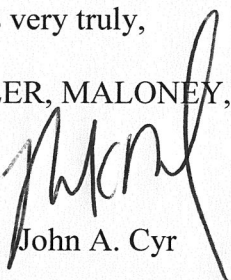
We have already established the ground rules to transition the distribution system into a low voltage transmission system that can accommodate green energy. We also need to integrate functional components like smart grid, reliability, changes in load, non-renewable generation, and conservation and demand management into the planning process to drive efficient outcomes. What would regional planning to accommodate these other imperatives look like? If we were to transition to a regional planning approach, would a regional, postage stamp distribution rate naturally evolve from it?

NOACC and NOMA look forward to both regional planning and a DSC and a TSC that require consumer needs base assessment and consumer centered planning.

Yours very truly,

WEILER, MALONEY, NELSON

Per:



John A. Cyr

JAC/