



EB-2011-0118

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

AND IN THE MATTER OF an application pursuant
to section 74 of the *Ontario Energy Board Act*, 1998
by Hydro One Networks Inc. for an Order or Orders
including an exemption from section 6.2.6 and
section 6.2.7 of the *Distribution System Code*
relating to the connection of micro-embedded
generation facilities to its distribution system.

BEFORE: Cynthia Chaplin
Vice Chair and Presiding Member

Marika Hare
Member

(Issued October 11, 2011 and as corrected October 12, 2011)

DECISION AND ORDER

BACKGROUND

Hydro One Networks Inc. ("Hydro One") filed an application dated April 19, 2011 for a six month exemption from certain sections of the *Distribution System Code* ("DSC" or "Code") relating to the required timelines for the assessment and connection of micro-embedded generation facilities to Hydro One's distribution system. The Board assigned file number EB-2011-0118 to this application. Hydro One subsequently amended its application to request that the six month exemption be effective from the date of the decision.

The Board issued a Notice of Application and Written Hearing on June 22, 2011. The Board received intervention requests and granted intervenor status to the following parties: Power Workers' Union ("PWU"), Ontario Sustainable Energy Association ("OSEA"), Sustainable Energy Technologies Limited ("SETL"),¹ Canadian Solar Industries Association ("CanSIA"), Canadian Manufacturers & Exporters ("CME"), Ontario Power Authority ("OPA"), Wayne L. McLellan, Stephen and Roger Quenneville, Eva Ligeti, RaSolar, Azgard Solar, Lloyd Kerr, Siliken Canada, Heliene Inc., OSM Solar Corp., Alternate Power International Ltd., Eclipsall Energy Corp, and Unconquered Sun Solar Technologies Inc.

The following parties requested and were granted observer status: Conor Frederick Cleary, Fritz Construction Services Inc., Cornelius and Gudula Bauer, Kurt Repole, Community Living Essex County, Tracey A. Poyton, David Shackleton, and Lexanne Hatch.

The Board also received 11 letters of comment. All of the letters form part of the public record. The Board has considered these letters in reaching its decision on Hydro One's application.

Intervenor evidence was filed by CanSIA, SETL, OSEA, Wayne McLellan, Steve Quenneville, and Roger Quenneville. The Board subsequently decided to hold an oral Hearing, which occurred on August 11 and August 12, 2011.² Arguments were delivered orally at the conclusion of the hearing, as was Hydro One's reply argument.³

The full record of the proceeding is available at the Board's offices and on the Board's website. The Board has summarized the record in this proceeding only to the extent necessary to provide context to its findings.

INTRODUCTION

Hydro One seeks a six month exemption from the requirements of section 6.2.6 and section 6.2.7 of the DSC. Section 6.2.6 addresses the timelines for processing applications for micro-embedded generation facilities.⁴ Section 6.2.7 addresses the

¹ The following parties filed a joint submission under SETL cover: Siliken Canada, Heliene Inc., OSM Solar Corp., Alternate Power International Ltd., Eclipsall Energy Corp, and Unconquered Sun Solar Technologies Inc. For the purpose of brevity, throughout this decision the Board will make reference to these submissions as SETL's submissions.

² The following parties participated in the oral hearing: PWU, CanSIA, OSEA, SETL, PWU, CME, Roger Quenneville, Wayne McLellan, and Board staff.

³ The following parties delivered oral argument: PWU, CanSIA, SETL, OSEA, and Board Staff.

⁴ Generation facilities with a nameplate capacity less than or equal to 10kW.

timelines for connecting micro-embedded generation facilities which receive an offer to connect. The sections read as follows:

6.2.6 Where the proposed micro-embedded generation facility is located at an existing customer connection, the distributor shall, within 15 days of receiving the application, make an offer to connect or provide reasons for refusing to connect the proposed generation facility. Where the proposed micro-embedded generation facility will be located other than at an existing customer connection, the distributor shall, within 60 days of receiving the application, make an offer to connect or provide reasons for refusing to connect the proposed generation facility. In either case, the distributor shall give the applicant at least 30 days to accept the offer to connect and the distributor shall not revoke the offer to connect until this time period has expired. The distributor shall not charge for the preparation of the offer to connect.

6.2.7 The distributor shall connect the applicant's micro-embedded generation facility to its distribution system within 5 days of the applicant informing the distributor that it has received all necessary approvals, providing the distributor with a copy of the authorization to connect from the ESA, entering into a Connection Agreement in the form set out in Appendix E and paying the distributor for the connection costs, including costs for any necessary new or modified metering.

Hydro One proposes that, for the exemption period, the timelines contained in 6.2.6 be replaced by an obligation to employ "reasonable commercial efforts" and that the timelines in section 6.2.7 be replaced with the timelines in sections 7.2.1 and 7.2.3, which relate to the connection of new load customers. The timelines and conditions set out in sections 7.2.1 and 7.2.3 are less stringent than the timelines set out in sections 6.2.6 and 6.2.7, and stipulate 90% compliance, rather than the 100% compliance implicit in section 6.2.7.

Sections 7.2.1 and 7.2.3 read as follows:

7.2.1 A connection for a new service request for a low voltage (<750 volts) service must be completed within 5 business days from the day on which all applicable service conditions are satisfied, or at such later date as agreed to by the customer and distributor.

7.2.3 This service quality requirement must be met at least 90 percent of the time on a yearly basis.

Hydro One maintains that the revised timelines are necessary because the response to the OPA's microFIT program has been "remarkable". Hydro One has received 15,630 applications for micro-embedded generation connection of the over 31,000 applications received by the OPA throughout the province. Hydro One had expected to receive approximately 25,000 applications, but it expected these applications to be spread out over a 5 year period. However, since the release of conditional offers by the OPA in September 2010, Hydro One has received between about 400 and 600 applications per week, and in late summer 2011, the company received 668 applications in the week leading up to the oral hearing.

Under section 6.2.6, Hydro One must provide a response that is either an "offer to connect" or "reasons for refusal". The latter response is provided where Hydro One determines that connection is not possible at the present time. Hydro One maintained that given the volume of applications, and steps required to process each application, it is not possible to achieve 100% compliance with the timelines in section 6.2.6.

As of July 29, 2011, Hydro One has issued offers to connect to 10, 443 of the 15,630 applicants; 4,169 have received refusals, and 1,018 are still being processed.

In its efforts to address the backlog of applications, Hydro One has employed a screening tool, first as a manual excel based tool, and later as an automated process, to screen and retrieve information. This tool is also available online for customers. Hydro One explained that the screening tool is applied consistently and identifies any technical limitations and/or reliability and safety concerns with the proposed connection. Hydro One observed that the screening tool and its criteria have been the source of much frustration for proponents of solar projects. According to the OPA website, 99% of all microFIT projects are solar projects.

It is important to note that this proceeding concerns an application for exemptions to provisions in the DSC, and by virtue of such exemption requests, exemptions to the conditions of Hydro One's distribution licence. This is not a compliance or enforcement hearing.

PRELIMINARY ISSUE

As of July 29, 2011, Hydro One had provided an offer to connect to 10,443 projects out of 15,630 applications. The remaining projects received a refusal or remain in process.

Of the approximately 4,000 refusals issued to date, it is Hydro One's evidence that there was no way to predict that the applications would be concentrated in portions of the province with limited capacity. Hydro One indicated that a lack of control over where the

applications are made results in applications to areas of the province where connections are problematic because of system constraints.

Where refusals have been issued, Hydro One stated that it has revisited these projects when material changes in circumstances or upgrades to the system have occurred. Such “rescreening” has resulted in subsequent offers to connect to approximately 10% of rescreened applications.

It was Hydro One’s position that technical screening and rescreening is required to ensure that micro-embedded generation facilities can be connected without jeopardizing the reliability of the existing system or negatively affecting existing customers. Hydro One maintained that it relied on IEEE standard 1547.2, the Federal Energy Regulatory Commission Standardization of Small Generation Interconnection Agreements and Procedures, and the requirements of the company’s distribution licence in arriving at the criteria for technical screening. The result is that Hydro One is limiting the amount of distributed generation on its F-class feeders to 7% of peak feeder load.

A number of parties sought to include an examination of the screening tool within the scope of the proceeding. The Board heard submissions on this question and rendered its decision orally on August 11, 2011. The Board decided an enquiry into the screening tool was beyond the scope of the proceeding, stating:

The Panel has decided that for purposes of today's proceeding, we will accept the scope as it's been described by Hydro One, in the sense that we will allow and expect an exploration of indeed whether or not the technical cap does affect the timing and to the extent it affects the timing, but the actual -- the basis and appropriateness of the particular technical standard they are using will not be within scope for purposes of today's proceeding.

If subsequently, at the conclusion of this hearing, it becomes apparent or the Panel concludes that the nature of that technical standard has some bearing on the issues, then we will make provision to deal with that in due course.

THE EXEMPTION REQUESTS

Section 6.2.6 – Timelines for Responding to Applications

There is little doubt that Hydro One has had significant difficulty meeting the requirements of section 6.2.6 as a result of the volume of applications received. These volumes have contributed to a backlog of applications, which has put Hydro One into non-compliance with sections 6.2.6 and 6.2.7 of the Code. Hydro One has provided

evidence that it has added staff and resources and changed its processes in response to the volumes. Hydro One maintained, however, that even with the added resources, it remains difficult to achieve compliance because of the sequence of events necessary before an offer to connect or reasons for refusal can be given.

Hydro One provided the information in the following table with respect to the number of days required on average to process applications.

Table 2 – Days improvement in processing time for DSC section 6.2.6⁵

Project and connection type	Code requirement to issue offer to connect or reasons for refusal	Actual Results Dec '10 – Mar '11 (average)	Actual Results Apr '11 – Jul '11 (average)
Indirect ⁶ , no site assessment required ("Group A")	15	12	4
Indirect, site assessment required ("Group B")	15	34	32
Direct ⁷ ("Group C")	60	46	41

Hydro One's evidence indicated that these timelines are the result of the various steps that must be performed prior to an offer to connect, and that these steps are largely sequenced and dependent on the step before. The data shows that this factor has contributed to the non-compliance, especially for those micro-embedded generation connections which require a site assessment, which for purposes of this decision the Board will term "Group B". Hydro One indicated that it has increased staffing and resources, and submitted that, "simply throwing more people at the problem doesn't do anything, because one event happens after the other."⁸

⁵ Tr. Vol. 1, p60/ln2 to p60/ln8

⁶ Indirect connection refers to a project where a new connection is not required. This type of connection is also referred to as "parallel" connection, since the connection utilizes the existing connection point.

⁷ Direct connection refers to a project where a new connection is required. This type of connection is also referred to as "standalone" connection.

⁸ Tr. Vol. 2, p95/ln16 to p95/ln18

The evidence also shows that applications which are incomplete are still accepted and considered by Hydro One and therefore contribute to Hydro One's poor performance statistics. Incomplete applications add additional steps and time into the process that Hydro One already has difficulty completing within the required timelines.

As of July 29, 2011, there were 502 projects which were out of compliance with the timelines in 6.2.6, 355 in Group B and 147 in Group C.

Section 6.2.7 – Timelines to Complete Connections

With respect to section 6.2.7 and the timelines for physical connection, Hydro One has pointed to the prerequisite service conditions for both the utility and the customer as drivers of non-compliance. Hydro One has attempted to re-prioritize microFIT connections above other work such as pole replacement and system maintenance.

Hydro One indicated that its proposed alternative to the timelines in section 6.2.7 would allow it to better balance its activities with respect to micro-embedded generation connections, load connections, and power restoration activities. For example, Hydro One requested that it be permitted to mutually agree to defer connection, where the generator applicant consents, rather than be bound by the 5 day requirement of section 6.2.7. Hydro One indicated that the ability to mutually agree to a later connection date would allow Hydro One to meet customer needs and provide the company with the flexibility to schedule the work more efficiently.

Hydro One also explained that the 100% compliance target in 6.2.7 is too onerous because it presents an "all hands on deck" situation⁹, and ultimately the connection of microFIT projects competes with unexpected events such as storms, which are unpredictable in terms of severity and frequency.

In July 2011, 327 projects were connected within the 5 day timeline, 53 projects were delayed beyond that at the request of the customer, and 66 projects still had service conditions which needed to be met (which could be either an obligation on Hydro One or an obligation on the customer). These levels are similar to those for May and June 2011.

Submissions of the Parties

PWU submitted that the Hydro One exemption application should be granted as filed. Board staff submitted that the exemption should be granted, but on a more limited basis than requested. CanSIA, SETL, OSEA, Mr. McLellan, and the Quennevilles each submitted that Hydro One's application should be denied.

⁹ Tr. Vol. 1, p84/ln1 to p84/ln16

Parties addressed a number of specific issues in their submissions. These are summarized below.

Volumes of Applications

A number of intervenors took the position that Hydro One should have been able to better predict that there would be significant volumes for the microFIT program, and that based on experience in other jurisdictions, Hydro One should have expected a high degree of uptake in rural areas of the province.

Board staff submitted that Hydro One's lack of control of the application process and difficulties in projecting spikes in applications and the associated work has contributed to the backlog, and is a central source of non-compliance.

Hydro One submitted that the volume of applications was unpredictable and highly variable, and that it made reasonable efforts in responding to volumes to attempt to mitigate its non-compliance.

Performance to Date

PWU submitted that Hydro One has demonstrated that it has made serious, bona fide, reasonable efforts to comply with timelines in the Code, and that its lack of compliance is not due to the want of good-faith effort or delinquency in their efforts.

CanSIA noted that Hydro One first notified the Board of its non-compliance with section 6.2.6 of the Code in late November 2010, but submitted that Hydro One first became non-compliant at or just after the launch of the microFIT program in late 2009. In CanSIA's view, if the exemptions are granted, the total period of non-compliance will be greater than two years, with little confidence that compliance will be achieved thereafter.

OSEA submitted that mitigation steps to address compliance with section 6.2.6 are clear, but that it is unclear how mitigation steps will address compliance with section 6.2.7.

Board staff submitted that, based on evidence of average processing times, there is serious doubt as to whether 100% compliance with section 6.2.6 is ultimately achievable by Hydro One.

Hydro One submitted that allegations that it showed a lack of concern and disregard for generation proponents and for renewable generation are unfair. Hydro One submitted that its efforts made in the face of thousands of microFIT applications in limited areas of the province have been unprecedented, as have Hydro One's accomplishments to date

in connecting thousands of microFIT applicants. Hydro One submitted that it has employed a variety of strategies during this period to manage the requested connections, and that it has employed its best efforts at all times.

Sequencing and Resourcing

CanSIA submitted that there is no indication that Hydro One plans to use the time of the exemptions in order to acquire or deploy any additional resources that may assist it in achieving compliance.

Board staff submitted that the steps involved in considering a connection application are sequential, involving different staff, and that therefore the timelines cannot be met simply by allocating more resources. The evidence showed, in Board's staff view, that the need for site assessment work is a significant contributor to Hydro One's non-compliance with section 6.2.6. Board staff pointed out that approximately 70% of applications that are or were historically out of compliance required site assessments.

Board staff submitted that some sequencing issues are customer-driven, including incomplete applications and requests from applicants to be present when Hydro One conducts a site assessment. These customer-driven issues can impact the ability of Hydro One to meet the timelines set out in the DSC.

Compliance with Timelines

PWU submitted that Hydro One has already shown improvement in processing times as it has rolled out new initiatives and added resources, and that the evidence suggested the time to process is now shorter on average. PWU pointed out that Hydro One is now in compliance with certain categories in a very high percentage of occasions.

SETL submitted that approving Hydro One's application as filed does not solve the problems in the market, nor does denying the application. SETL submitted that there is a rigidity built into the approval process, and that Hydro One needs more flexibility in handling applications to connect.

Board staff submitted that Hydro One has difficulty with 6.2.6 compliance in respect of only one class of project, namely a standard connection at an existing customer connection where a site assessment is required (which the Board has termed Group B). For this type of project, Hydro One has recently been taking 32 days on average to provide an offer to connect or reason for refusal, which is more than double the permitted timeline. Board staff submitted that the necessity for an exemption for this more limited class of projects is plausible, and Board staff suggested a compliance target of 30 days, 80% of the time, for projects in this sub-class, during the limited exemption period. Board staff submitted that no exemption appears necessary for

projects that require no site assessment, or those that are standalone projects at a new connection point.

Board staff submitted that by providing limited relief Hydro One may be better able to meet timelines and manage its backlog. By narrowing the exemption to the projects causing the greatest incidence of non-compliance, it may or may not become apparent that an eventual code amendment process is needed.

With respect to section 6.2.7, Board staff submitted that Hydro One's request to apply section 7.2.1 and 7.2.3 during the limited exemption period is appropriate, including the provision allowing for the customer to defer connection if it chooses.

With respect to 6.2.6, Hydro One submitted that it would be inappropriate to apply additional or different fixed, rigid timelines at this time. Hydro One was also of the view that code amendments might be an appropriate approach in the event that the timelines in 6.2.6 and 6.2.7 remain unachievable.

Public Interest

CanSIA indicated that the Board must deny Hydro One's application because it is not in the public interest. In CanSIA's view Hydro One may cause further delays in the connection of micro-embedded generation facilities and negatively affect the solar industry in Ontario and associated jobs. CanSIA further submitted that the exemption would run counter to the Board's statutory objective of promoting the use and generation of electricity from renewable energy sources in a manner consistent with the policies of the Government of Ontario. CanSIA submitted that a component of the policy of the Government of Ontario is specifically to encourage the development of micro-generation by homeowners, farmers and small businesses.

CanSIA submitted that the only purpose that may be served by the exemption would appear to be that of forestalling or mitigating the severity of any compliance or enforcement measures that could be taken by the Board with respect to Hydro One's lengthy period of non-compliance. CanSIA submitted that the exemptions will not enable Hydro One to do anything that it could not do, or could not have done, since it first became non-compliant. OSEA supported the submissions of CanSIA.

Hydro One submitted that there would be no benefit to the public interest or microFIT program to find Hydro One out of compliance with the requirements of its licence. On the contrary, a six month exemption would provide Hydro One with a period to work toward compliance and bring itself into compliance, which is in the public interest. Hydro One added that the application is in the public interest as it would protect the interests of consumers with respect to reliability and quality of service, and that the exemption would

assist, and not deter Hydro One from accommodating the connection of micro-embedded generation facilities.

Compliance Plan

OSEA, CanSIA, SETL and Board staff all proposed that there should be conditions on Hydro One during any exemption period, including a compliance plan. Parties suggested that such a plan would include, *inter alia*, how Hydro One intends to improve and monitor its processes, set goals, and measure progress towards 100% compliance by the end of the exemption period. Board staff further submitted that a multi-pronged compliance plan would be appropriate, and made submissions that the plan should address customer communications, resources, mitigation of site assessment delays, technical limits and the rescreening process, a backlog management plan, and a contingency plan.

The Board has attached a summary of the submissions of the parties and Board staff with respect to the proposed content of the compliance plan at Appendix A.

Hydro One indicated that it is willing to file a compliance plan, but did not address or respond to the elements that it would be required to file as part of a compliance plan, as raised in the submissions of parties and Board staff.

Compliance Reporting

Most parties proposed some form of compliance reporting.

PWU submitted that compliance reporting would be an appropriate means of providing assurance to the Board and the market that Hydro One continues to take its obligations seriously. In PWU's view, the terms of compliance reporting should be used to ensure that Hydro One's "feet are held to the fire", and should demonstrate that Hydro One is making measurable progress towards compliance with the Code during the period of the exemption.

CanSIA submitted that monthly compliance reporting should include a breakdown along the lines of Exhibit K1.1, Undertaking J1.7, and certain other exhibits and undertakings. CanSIA further submitted that compliance reporting should continue for a period of at least six months after full compliance is achieved.

Board staff submitted a table, Exhibit K2.1, which included Board's staff's proposal for compliance reporting. Board staff also submitted that the information contained in Undertaking J1.12, related to the degree of lateness of non-compliant applications, should be included as a reporting requirement.

The Board has attached a summary of the submissions of the parties and Board staff with respect to the proposed inclusions for monthly compliance reporting as Appendix B.

Board staff submitted that some or all of the compliance reporting with respect to Hydro One's progress during the exemption period should be posted on the Hydro One, Ontario Energy Board, and OPA websites, among others. Board staff submitted that Hydro One should be required to return to the Board after the limited exemption period for a discussion of appropriate next steps, unless compliance has been achieved.

Hydro One submitted that it would be willing to file regular compliance reports to ensure that the Board can be aware at all times of Hydro One's situation and progress. Hydro One's submissions did not specifically address, or respond to, the reporting requirements identified in the submissions of the parties and Board staff.

Board Findings

Hydro One has applied for six month exemptions from sections 6.2.6 and 6.2.7. The timelines included in 6.2.6 would be replaced by a "reasonable commercial efforts" standard and the timelines and conditions of 6.2.7 would be replaced with the conditions governing the attachment of load connections. The Board has determined that the relief sought by Hydro One is too broad ranging and is not suitably focussed on ensuring Hydro One comes into compliance with the applicable provisions within the time of the requested exemption. The application as filed is therefore denied.

However, the Board will make provision for a limited exemption, with conditions, which is designed to provide some specific relief as well ongoing monitoring to ensure that Hydro One takes the necessary steps to come into compliance, including the development of a compliance plan and associated reporting.

Section 6.2.6 – Processing Applications

Hydro One has requested that the timelines to assess applications be replaced with a "reasonable commercial efforts" standard. The Board has determined that this standard is too general in nature and is not sufficiently precise to incent Hydro One to come into compliance with the provisions of 6.2.6. Nor does it provide sufficient certainty to market participants for purposes of their planning. The Board's view is that a "reasonable commercial efforts" approach is not suitably supportive of the province's microFIT program as it is currently designed. Hydro One has made much of the volume of applications it has received, and the Board does have some sympathy with the workload imposed by the strong and swift uptake in the microFIT program.

There are three general categories of micro-embedded generation applications: those at an existing connection which do not require a site assessment (Group A); those at an

existing connection which do require a site assessment (Group B); and those which are not at an existing connection (Group C). The evidence shows that, on average, Hydro One is meeting the timelines in 6.2.6 for Groups A and C. Hydro One has demonstrated marked improvement in processing both of these types of applications. For projects in Group A, Hydro One is currently responding with either an offer to connect or reasons for refusal within 4 days (the Code requirement is 15 days). And for projects in Group C, the Code requirement is 60 days, and Hydro One is currently responding, on average, in 41 days. Given this performance, the Board can find no reason to grant any exemption in respect of these types of projects.

The projects that are problematic are those that seek to connect at an existing connection where a site assessment is required, Group B. Under the Code Hydro One is required to respond to these applications within 15 days. The evidence is that Hydro One is currently responding to these requests, on average, in 32 days. This 32-day average response time has only improved slightly from the 34-day average response time over the period December 2010 to March 2011.

The Board accepts that given the process as it is currently conducted, including the necessary sequencing and the potential for customer-driven delays, it is not possible for Hydro One to meet the 15-day timeline set out in the Code for projects in Group B. The evidence shows that the timelines are also longer for applications which are incomplete. While the Board supports Hydro One's efforts to work with customers to complete and process all applications, the Board concludes that complete applications should be given priority over incomplete applications in terms of processing. In addition, for purposes of measuring Hydro One's performance against the Code standard, applications should only be included once they are complete. As a result, the Board concludes that Hydro One will be required to respond to Group B applications within 30 days. This timeline reflects the importance of providing applicants with a timely response while recognizing the additional work that is required for this type of application.

In recognition that in some instances the delays are due to circumstances beyond Hydro One's control, for example competing priorities arising from storm damage, the standard of 30 days will need to be met 90% of the time. In those instances where a customer requests a delay, the length of the requested delay may be added to the 30 days. For example, if the customer requests to be present at the site assessment and that adds 5 days to the schedule, then the maximum time to respond to that application would be 35 days.

Section 6.2.7. – Physical Connection

With respect to the requested exemption to section 6.2.7, the Board accepts Hydro One's proposal to substitute, for the exemption period, the requirements in section 7.2.1 for load connections.

The evidence shows that there may be significant customer-driven delays encountered after the offer to connect is issued. In addition, there are additional requirements which are not specifically identified in 6.2.7 but which are necessary before the physical connection can be made. Some of these are within the control of Hydro One and some are within the control of the customer. The provisions of 7.2.1 recognize that all service conditions must be met before the connection can be made. The Board is satisfied that this is an appropriate approach for micro-embedded generation projects during the exemption period. Section 7.2.1 also allows for a mutually agreed connection date after the 5 day limit. There was no opposition to this option as long as customers were also aware that they have the right to a 5-day connection timeline. The Board agrees with this approach.

The Board also accepts Hydro One's proposal to apply section 7.2.3 of the Code, or a requirement for 90% compliance, on a yearly basis.

The exemptions set out above shall be in effect from the date of this decision until April 11, 2012. After this date Hydro One will be required to meet the conditions of sections 6.2.6 and 6.2.7.

Compliance Plan and Compliance Reporting

The Board agrees with Board staff and intervenors that a compliance plan and monthly compliance reporting by Hydro One are appropriate. Hydro One has indicated a willingness to provide both. The Board will order Hydro One to prepare and file a compliance plan and to provide monthly compliance reporting.

The Board will not prescribe the specifics of the compliance plan. At a minimum, the Board expects that the compliance plan will address the proposals made by intervenors and Board staff, and that it will do so in some detail. The compliance plan must be filed by November 15, 2011.

Hydro One will be required to file the form of its proposed monthly compliance report by November 15, 2011. The Board will provide parties with the opportunity to make written submissions on the proposed report after which the Board will issue an order setting out the specifics of the compliance report. The first compliance report will be filed by January 1, 2012. Hydro One will be required to continue filing this report until such time

as the company has met the Code requirements of sections 6.2.6 and 6.2.7 for 3 consecutive months.

Hydro One shall publish its compliance plan and monthly compliance reporting on its website, and provide materials for publication on websites of other parties, as detailed in the Order which follows.

Technical Screening

Although the technical specifications of the screening tool were beyond the scope of this proceeding, intervenors made a number of submissions challenging the merits of Hydro One's approach. Parties also proposed processes whereby screening criteria might be modified or the costs of necessary upgrades might be shared. And while some parties argued that Hydro One did not need to do technical screening at all, the Board accepts Hydro One's evidence that technical screening is warranted in order to ensure a safe and reliable system. The Board also finds that there was no evidence to suggest that the specific criteria used in the technical screening tool was having an adverse impact on the timeliness of Hydro One's responses.

Although a consideration of the appropriateness of the specific technical criteria was beyond the scope of this proceeding, it is clear to the Board that refusal to connect by Hydro One is a significant concern to the industry.

At a minimum, Hydro One's communications with applicants around capacity constraints and the assessment process have been inadequate in many instances. The experience of Mr. McLellan is notable in this regard. While it appears that Hydro One's communications have improved over time, this is clearly an area that requires ongoing attention. Hydro One could address this aspect in its compliance plan. For example, Hydro One could provide more information to applicants and potential applicants regarding the parts of its territory where there are likely to be constraints and those where there are likely no constraints. The company could also provide information as to whether and/or when upgrades will be made that will allow projects to proceed that have been refused.

The Board also notes Hydro One's evidence that it remains committed to connecting as many projects as possible and therefore expects Hydro One will work cooperatively with parties to achieve that objective, whether through the use of the technical screening tool or other means.

The Board reminds parties that if an applicant for connection is of the view that it has been treated unfairly by Hydro One, for example by imposing unreasonable costs or refusing service, it may bring its complaint or concern to the Board for consideration.

COST AWARDS

The Board may grant cost awards to eligible stakeholders pursuant to its power under section 30 of the *Ontario Energy Board Act, 1998*. The Board has already determined that CanSIA, OSEA, Wayne McLellan, and Steve and Roger Quenneville would be eligible for an award of costs. When determining the amounts 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 rate for counsel and consultants set out in the Board's Cost Awards Tariff will also be applied.

THEREFORE THE BOARD ORDERS THAT:

1. The Board hereby grants an exemption to Hydro One Networks Inc. from sections 6.2.6 and 6.2.7 of the *Distribution System Code*, ending April 11, 2012 (i.e. 6 months from date of this order), and as set out in further detail below.
2. Hydro One Networks Inc. is exempt from the timelines set out at section 6.2.6 of the *Distribution System Code* for projects that are an indirect connection requiring a site assessment (Group B). For this type of connection, Hydro One Networks Inc. shall be required to issue an offer to connect or issue reasons for refusal within 30 days, for at least 90% of applications. If a customer requests a delay with respect to 6.2.6, the additional time will be added to the timeline. Hydro One Networks Inc. shall track its compliance with this provision.
3. For all projects other than those specifically enumerated in #2 of this Order, the application of section 6.2.6 of the *Distribution System Code* shall remain unchanged.
4. Processing timelines for all projects under 6.2.6 shall only begin once Hydro One Networks Inc. receives a complete application for micro-embedded generation connections. Hydro One Networks Inc. shall log the date that each application is received, including incomplete applications, as well as the date when an incomplete application is deemed complete.
5. Hydro One Networks Inc. is exempt from the provisions of 6.2.7 of the *Distribution System Code*. For micro-embedded generator applications, Hydro One Networks Inc. shall comply with the provisions of sections 7.2.1 and 7.2.3 of the *Distribution System Code*.

6. Hydro One Networks Inc. shall file a compliance plan with the Board by November 15, 2011 which will demonstrate how the company will come into full compliance with the provisions of 6.2.6 and 6.2.7 of the *Distribution System Code* by April 11, 2012.
7. Hydro One Networks Inc. shall file a draft monthly compliance report with the Board by November 15, 2011, and copy all intervenors. Intervenors and Board staff may file comments on the content and form of the compliance report with the Board by November 22, 2011, and copy Hydro One Networks Inc. Hydro One Networks Inc. may file a response to intervenor and Board staff comments no later than November 29, 2011 and copy all intervenors. Hydro One Networks Inc. shall file the first compliance report by January 1, 2012 and monthly thereafter.
8. Cost claims shall conform with the Board's *Practice Direction on Cost Awards*, and shall be filed with the Board and one copy served on Hydro One Networks Inc. by November 30, 2011. Hydro One Networks Inc. may file with the Board any objection to the cost claim and one copy must be served on the claimant by December 7, 2011. The Claimant will have until December 14, 2011 to respond to any objections. A copy of any submissions must be filed with the Board and one copy is to be served on Hydro One Networks Inc.

All filings with the Board must quote the file numbers EB-2011-0118 and be made through the Board's web portal at www.errr.ontarioenergyboard.ca, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties should use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.ontarioenergyboard.ca. If the web portal is not available you may email your document to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All filings should be directed to the attention of the Board Secretary, and be received by the Board **no later than 4:45 p.m.** on the required date. Parties must also include the Case Manager, Vincent Cooney at vincent.cooney@ontarioenergyboard.ca and Board Counsel, Kristi Sebalj at kristi.sebalj@ontarioenergyboard.ca in all electronic correspondence related to this case.

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Attention: Board Secretary

Filings: www.errr.ontarioenergyboard.ca
E-mail: boardsec@ontarioenergyboard.ca

Tel: 1-888-632-6273
Fax: 416-440-7656

DATED at Toronto on October 11, 2011

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

APPENDIX A

PROPOSED CONTENT OF COMPLIANCE PLAN

Board Staff

Customer communications

- ensuring that customers have a clear point of contact for both the offer to connect and the refusal process
- customers should be made aware of the status of their applications throughout the process and be informed as soon as Hydro One determines that the project is constrained, and that a refusal will therefore be issued. Even if Hydro One intends to continue to re-screen the project, if the application is refused and Hydro One intends to re-screen, this should be made clear and customers should be given an answer on the re-screening no more than 45 days from the date of application
- in addition to Form C warnings, a requirement that Hydro One come up with a different, better alternate method to make absolutely clear to applicants that all investments made prior to an offer to connect are at the customer's risk

Resources

- provide an outlook regarding resourcing and the need for new hires, reallocations over time or other resources, depending on certain threshold volumes of applications, and accounting for contingencies such as storm events
- document continuous communication with the OPA and stakeholder groups so Hydro One can get a better forecast of application volumes and need for additional resources

Site Assessments

- plan for streamlining and optimizing site assessments to narrow the timelines as much as possible, and
- ensuring consistent and up-to-date communication with field staff across territory
- policy for missed appointments and clear communication ahead of time if site visits are in jeopardy of being cancelled

Technical Limits

- a plan to ensure that the re-screening of failed projects does not compromise Hydro One's ability to process new applications in a timely manner
- provide continuous and public reporting on system upgrades and the results in terms of new offers to connect of those upgrades
- ensure applicants understand where rescreening has resulted in new offers to connect

Backlog Management Plan

- no further description offered by staff

Contingency Plan

- related to volumes, if applications increase above a certain norm
- there must be a point at which Hydro One needs to put a contingency plan in place if Hydro One cannot continue to process the applications it's receiving.

APPENDIX A (continued)

CanSIA (supported by OSEA)

Compliance Plan should include:

- specific objectives and strategies
- milestones and proper monitoring of progress
- timelines
- demand planning
- consideration of whether external expertise would be helpful in reviewing business process, and the implementation of which would result in Hydro One achieving full compliance with sections 6.2.6 and 6.2.7 by no later than such date as the Board may specify
- Plan filed no later than December 31, 2011

SETL

- More sophisticated demand planning
- Examine and review possible mechanism to fund upgrades, similar to the pooled funding mechanism for FIT projects

**APPENDIX B
PROPOSED INCLUSIONS FOR COMPLIANCE REPORTING**

Brief description	Reference	As submitted by
Volumes of Applications and Compliance Status	Exhibit K1.1 (update of page 8 of Application)	CanSIA
Breakdown of Indirect and Direct	Exhibit J1.7	CanSIA
Board staff table of proposed reporting	Exhibit K2.1	Board staff
Breakdown of cumulative refusals and offers to connect on a monthly basis	Exhibit J1.11	Board staff
Lateness of Applications in non-compliance	Exhibit J1.12	Board staff