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PAR COURRIEL

Me Véronique Dubois, Secrétaire
Régie de l'énergie
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Objet : Demande relative à la modification des tarifs et conditions des services de
transport d'Hydro-Québec à compter du 1er janvier 2009
R-3669-2008, phase 2

Chère consœur,

Veillez trouver ci-joint les commentaires de NLH dans le présent dossier.

Espérant le tout conforme, nous vous prions de recevoir l'expression de nos salutations distinguées.

FASKEN MARTINEAU DuMOULIN S.E.N.C.R.L., s.r.l.

A handwritten signature in black ink, appearing to read 'André Turmel', written in a cursive style.

André Turmel
AT/mb
p.j.
c.c. : HQT et les intervenants

FILE R-3669-2008 PHASE II

Newfoundland and Labrador Hydro (“NLH”) comments on Hydro-Québec TransÉnergie (“HQT”) Open Access Transmission Tariff (“OATT”) updated on March 1st, 2012 following Régie de l’énergie (“Régie”) decision D-2012-010

As requested, please find below NLH comments on HQT’s proposed updated OATT filed on March 1st, 2012 following Régie decision D-2012-010.

1. SECTION 1.63.1 – DEFINITION OF NON-FIRM SALE

In its definition of “Non-Firm Sale”, HQT has added the phrase “for purposes of applying section 30.4 and 38.5” to the definition.

Conclusion: NLH does not recognize the need for this limitation in the application of the definition and requests that the phrase “for purposes of applying section 30.4 and 38.5” be removed. HQT should adopt the FERC definition of “Non-Firm Sale”, which is as follows:

“1.29 Non-Firm Sale

An energy sale for which receipt or delivery may be interrupted for any reason or no reason, without liability on the part of either the buyer or the seller.”

2. SECTION 4 – OPEN ACCESS SAME-TIME INFORMATION SYSTEM (OASIS)

With a view to facilitating the tracking of changes in designated Distributor Resources since 2001, the Régie requested in paragraph 738 and in Appendix 1 of its decision that HQT post on the OASIS website the following information:

- a) a list of all generating stations or other resources initially designated in 2001;
- b) for each subsequent year, a list of new designated resources and a list of cancellations of designated resources;
- c) an up-to-date list of designated resources.

Section 4 of the OATT specifies the information that has to be posted on OASIS by the transmission provider. In the proposed version of the OATT, HQT did not include a reference to the information requested by Régie.

Conclusion: NLH requests that a reference to HQT's obligation to post information regarding designation of resources on OASIS be included in section 4 of the OATT.

3. SECTION 6 – RECIPROCITY

In section 6 of the proposed OATT, HQT added reference to the requirement to offer comparable service to all participants in RTOs and ISOs or to other transmission organization approved by the Commission. In this case, the Commission would be the *Federal Energy Regulatory Commission* (“FERC”).

However, no reference is made to other transmission organization approved by any other provincial regulator, such as the New Brunswick Energy and Utilities Board.

Conclusion: NLH requests that a reference to “other transmission organization approved by any other provincial regulator” be added at section 6.

4. SECTION 29.2 (v) – DESCRIPTION FOR EACH OFF-SYSTEM NETWORK RESOURCE AND SECTION 37.1 (iii) – DESCRIPTION FOR EACH OFF-SYSTEM RESOURCE

a) HQT has added the phrase “when available” in sections 29.2 (v) and 37.1 (iii) in reference to the following:

- i) *Transmission arrangements on the external transmission system(s), when available;*
- ii) *Operating restrictions, if any, when available.*

The expression “when available” was not in the proposed text for section 29.2(v) dated June 23, 2010 and it is not in section 29.2 of the FERC pro-forma tariff.

Furthermore, in paragraph 721 of the Regie decision, the Regie stated that “the Transmission Provider must verify that the agreements respecting transmission of the resource over a third party system, as the case may be, are firm.

Conclusion: Inclusion of the phrase “when available” is inconsistent with the Régie ruling, NLH requests that this phrase be removed.

- b) In section 37.1(iii) the words “For each on system resource, such description shall include” have been deleted, however now that HQT has added requirements to this section for descriptions relating to off-system resources as ordered by the Régie, Nalcor believes on system resources should be identified as such in order to clearly delineate between on and off system resources.

Conclusion: NLH requests that the words “For each on system resource, such description shall include” be included to clearly delineate between on and off system resources and ensure clarity in this section.

- c) In accordance with the Régie order to include information requirements for off-system designated resources, in section 37.1 (iii) HQT has added the following “For each off-system Network Resource, such description shall include [...]”. Section 37.1(iii) of the OATT relates to Part IV – Native Load service not Network service, therefore the term “Network Resource” is not applicable in this section of the OATT.

Conclusion: NLH requests that the term “Network Resource” be removed and replaced with “For each off-system Distributor Resource”.

5. SECTION 30.7 – LIMITATION ON DESIGNATION OF NETWORK RESOURCES AND SECTION 38.8 – LIMITATION ON DESIGNATION OF RESOURCES

The phrase “for the amount approved by the Régie, or” has been added to section 30.7. This addition has not been discussed at the hearing before the Régie. NLH does not recognize the need for the addition of this phrase that was not present in the proposed text for section 30.7 dated June 23, 2010. This phrase is also included in the new text added to section 38.8.

Conclusion: NLH requests that the phrase “for the amount approved by the Régie, or” be removed from sections 30.7 and 38.8 unless an adequate explanation can be provided for its inclusion.

6. **SECTIONS 37.1(V), 38.2 AND 38.8 – EXEMPTION OF RESOURCES USED TO DELIVER THE HERITAGE POOL FROM CERTAIN ATTESTATION REQUIREMENTS**

In accordance with the Regie ruling HQT has added the following underlined wording to sections as follows:

Section 37.1(v): “A statement signed by an authorized officer [...] attesting that: (1) **except for resources that may be used to deliver heritage pool electricity** the Distributor owns the resources listed in section 37.1 (iii), has committed to purchase generation for the amounts approved by the Regie, or pursuant to an executed contract, or has committed to purchase generation where execution of a contract is contingent upon the availability of transmission service under IV of the Tariff [...]”

Section 38.2: “The new designation must include a statement attesting (1) that **except for a resource that may be used to deliver heritage pool electricity**, the Distributor owns the resource, has committed to purchase generation for the amounts approved by the Regie, or pursuant to an executed contract, or has committed to purchase generation where execution of a contract is contingent upon the availability of transmission service upon part IV of the Tariff [...]”

Section 38.8: “**Except for resources that may be used to deliver heritage pool electricity**, the Distribution shall demonstrate that it owns the resource, or has committed to purchase generation for the amounts approved by the Regie, or pursuant to an executed contract in order to designate a generating resource as a Distributor Resource”.

NLH has a number of concerns regarding the text being proposed by HQT.

First, the phrase “**may be used to deliver heritage pool electricity**”, provides too much discretion and thereby significantly weakens the attestation requirement.

Secondly, the term “**heritage pool resources**” is not a defined term in the OATT and therefore must be defined. The lack of transparency surrounding the definition of heritage pool resources greatly weakens the attestation requirement unless the term is defined.

Thirdly, it is unclear why resources used to deliver the heritage pool should be relevant in section 38.2 which relates to Designation of New Distributor Resources. NLH understands that in accordance with section 38.1, heritage pool resources are existing “*generation stations able to supply the Distributor’s Native Load in date of January 1, 2001*”. It is unclear how a new resource can obtain

heritage status. This lack of clarity also demonstrates the need for a definition of heritage pool resources.

Conclusions:

- a) Use of the words “**may be used to deliver heritage pool electricity**” implies discretion over the exemption from this attestation requirement. To ensure that the exemption is explicit NLH requests that the words “**that may be**” be removed from these sections and replaced with the following: “**Except for capacity of Distributor Resources that has been identified in a statement by the Distributor as being a Heritage Pool Resource used to deliver heritage pool electricity**”.
- b) Given that this is an exemption, the term “**heritage pool resources**” should be a defined term in the OATT. NLH requests that “**heritage pool resources**” be added to the defined terms in the OATT.
- c) Given that section 38.2 relates to Designation of New Distributor Resources, NLH requests that the attestation exemption relating to heritage pool resources be removed from section 38.2 of the OATT.

7. SECTION 38.5 – OPERATION OF DISTRIBUTOR RESOURCES

There are two issues of concern in this section.

- a) HQT has changed the wording that was present in the proposed text for section 38.5 dated June 23, 2010.

The changed text in section 38.5 differs from the compatible text in section 30.4 of Part III (Network service) and is not consistent with the text in the FERC 890 pro forma OATT.

Specifically the proposed text in section 38.5 is as follows:

“For all of the Distributor Resources not physically connected with the Transmission Provider’s Transmission System, the Distributor may not schedule delivery of energy in excess of the Distributor Resources [...]”.

Section 38.5 in the June 23, 2010 OATT read as follows:

“For all Distributor Resources the Distributor may not schedule delivery of energy in excess of the Distributor Resource’s capacity”.

Section 30.4 in the March 1st, 2012 OATT reads as follows:

“For all Network Resources not physically connected with the Transmission Provider’s Transmission System, the Network Customer may not schedule delivery of energy in excess of the Network Resource’s capacity, as specified in the Network Customer’s Application [...]”

The text “..... Resource’s capacity” is consistent with the FERC proforma OATT.

In the proposed revised text in section 38.5, the limit of the delivery of energy from the Distributor Resource that is not physically connected with the transmission system has been changed from the capacity of that Distributor Resource to the total capacity of all Distributor Resources – a plural term. This is a substantive change to the limit.

Conclusion: This wording change in section 38.5 was not discussed by the Régie nor directed by its decision and given that it results in further ambiguity in the text related to the maximum delivery rate from an off system resource utilizing Native-Load Transmission Service and a discrepancy between Part III (Network Service) and Part IV (Native Load Service), NLH requests that the phrase “Distributor Resources” be replaced with “Distributor Resource’s capacity”.

- b) In section 38.5, the text has been changed to read “the Distributor shall not operate its Designated Resources”. “Designated Resources” is not a defined term. Consistent with the rest of the text, the term “Distributor Resource”, which is a defined term, should be used in this phrase, instead of “Designated Resource”.

Conclusion: NLH requests that in the phrase “The Distributor shall not operate its Designated Resources” the term “Designated Resources” be replaced with the term “Distributor Resources”.

8. SECTION 38.8 LIMITATION ON DESIGNATION OF RESOURCES

To be more precise regarding which resources are being referred to in this text and to be consistent with section 30.7 of part III of the OATT “Limitation on Designation of Network Resources”, section 38.8 should be entitled “Limitation on Designation of Distributor Resources” and not “Limitation on Designation of Resources”.

Conclusion: The title of Section 38.8 should be changed to include the term “Distributor Resources”.

9. SCHEDULE 4 – EXEMPTION FOR SYNCHRONIZED GENERATING UNITS LOCATED OUTSIDE THE TRANSMISSION PROVIDER’S BALANCING AREA

The Regie requested that HQT add text to Schedule 4 to codify the possibility that generating units synchronized to the Transmission Provider’s system but located outside the Transmission Provider’s balancing area may be exempted from schedule 4 charges if an agreement is reached between HQT and the Balancing Authority responsible for the system where the power plant is located.

In the March 1st, 2012 OATT, HQT has added text on page 195 of Schedule 4 to comply with the Regie’s order.

However instead of specifying an agreement between balancing authorities, HQT is proposing an agreement between Reliability Coordinators. A balancing authority is the entity responsible for managing in advertent flow and scheduling between balancing areas and therefore is the appropriate party to such an agreement.

In file R-3699-2009 HQ Reliability Coordinator proposed in the glossary of terms the following definition for “Reliability Coordinator” and “Balancing Authority”:

“Reliability Coordinator: The entity that is the highest level of authority who is responsible for the reliable operation of the Bulk Electric System, has the Wide Area view of the Bulk Electric System, and has the operating tools, processes and procedures, including the authority to prevent or mitigate emergency operating situations in both next-day analysis and real-time operations. The Reliability Coordinator has the purview that is broad enough to enable the calculation of

Interconnection Reliability Operating Limits, which may be based on the operating parameters of transmission systems beyond any Transmission Operator’s vision. (Coordonnateur de la fiabilité)”

“**Balancing Authority**: The responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a Balancing Authority Area, and supports Interconnection frequency in real time. (Responsable de l’équilibrage)”¹

Conclusion: NLH requests that the term “Reliability Coordinator” be replaced with the term “Balancing Authority”.

10. ATTACHMENT C – METHODOLOGY FOR ESTIMATING AVAILABLE TRANSFER CAPABILITY – CLARIFICATION OF THE OF THE ACRONYM QCRND PRODUCER

In paragraph 139 of the Regie decision, the Regie ordered that the acronym QCRND non-firm be replaced with QCRND_{Producer} [QCRND for Québec Ressource Non Désignée – Non Designated Resource for Québec].

The Regie also confirmed in paragraph 133 that as proposed by HQT, commitments to provide secondary service to serve native load from non-designated resources will be reflected by QCRND. The associated terms have been included in Attachment C, however they do not appear in section 36.3 “Secondary Service”, for clarity the terms QCRND_{Producer} and QCRND_{Distributor} should be added to section 36.3.

However, adding these terms to section 36.3 raises the important issue of priority of service. In response to NLH concerns regarding the improper use of the term QCRND_{Producer} by Hydro Quebec Production to avail of secondary services, the Regie, relies, in paragraph 136, on HQT’s confirmation that no priority is given to the Producer when it calls on non-designated resources temporarily and over short periods of time to supply the heritage pool. NLH is concerned that in section 36.3 – secondary service it states that “**Deliveries from resources other than designated resources shall have a higher priority than any Non-firm Point to Point Transmission Service under Part II herein**”.

¹ Régie de l’énergie, file R-3699-2009, exhibit HQCMÉ-6, document 6, Glossary of Terms and Acronyms used in Reliability Standards, December 2011.

There is still significant uncertainty surrounding the acronym QCRND_{Producer} and specifically which customer, the Distributor or the Producer, is permitted to use this secondary native load service. It is important to bring transparency to this matter.

If only the Distributor is permitted to use this secondary service when scheduling deliveries of energy to native load from non-designated resources, then it should be made clear in the OATT that QCRND_{Producer} refers to a secondary service that is only permitted for use by the Distributor and that QCRND_{Producer} is an acronym that the Distributor uses to identify undesignated resources that are being sourced from its affiliated Producer.

However, *if* the Regie deems that this secondary native load service is to be used by the Producer to schedule energy deliveries when it uses non-designated resources to supply the heritage pool to serve native load in Quebec then certain changes are required to the OATT because currently the OATT grants the right to use Native Load service to the Distributor only. Specifically:

1. The Preamble to Part IV states that “***Native Load Transmission Service allows the Distributor to integrate, economically dispatch and regulate its present and planned resources in order to supply its Native Load [...]***”. This must be amended to state that the Producer and the Distributor can use Native Load service.
2. Section 36.5 of the OATT states “***the Distributor shall not use Native Load Transmission Service to [...] (i) directly or indirectly provide transmission service to third parties.***” This section will require amendment to permit the Producer to use secondary native load service.
3. The acronyms QCRND_{Producer} should be added to Section 36.3 “Secondary Service” of the OATT along with a statement that the Producer is eligible to use this secondary native load service.
4. Given that the Distributor’s use of Secondary Service is included in its Native Load Transmission Service agreement, the OATT should contain a standard form agreement for secondary native load service that the Producer must sign and must be filed with the Regie.
5. All relevant sections of the OATT which refer to reservations for service, scheduling of energy, transmission service curtailment and delivery interruptions should be modified to recognize the Producer as an eligible user of secondary native load service. In particular, but not limited to, section 36.3 “Secondary Service” will have to be amended to include the provision that “The Producer” may use secondary service. The Regie will have to address the issue that currently in accordance with section 36.3 ***“deliveries from resources other than designated***

resources shall have a higher priority than any Non-Firm Point-to-Point Transmission Service under Part II, herein...” which is in direct contradiction to Hydro Quebec’s assertion that “**no priority applied to the Producer when the Producer calls on un-designated resource temporarily and over short periods to supply the heritage pool**” as cited in paragraph 136 of the Regie decision. The current wording in section 36.3 is also inconsistent with table R15.1 “**Priority of Interconnections Use**” Doc HQT-8, doc 1, page 17 of 20.

6. Currently in the OATT only the Distributor is permitted to use secondary native load service at no additional expense. The schedule of fees for service should be amended to include fees for the Producer to pay when it uses secondary native load service. The fees to be paid by the Producer should be included in the cost of service allocation methodologies and calculations.

Conclusions:

In the interests of transparency, NLH is requesting that the acronyms QCRND_{Producer} and QCRND_{Distributor} be defined in section 1 of Attachment C as secondary service and also referenced in section 36.3 of the body of the OATT.

Furthermore, NLH is requesting clarification be added to the OATT on which customer is permitted to use QCRND_{Producer}. If only the Distributor is permitted to use this secondary service then it should be clearly stated in the OATT and that QCRND_{Producer} is an acronym that the Distributor uses to identify undesignated resources that are being sourced from its affiliated Producer. If the Producer is permitted to use this secondary service then the OATT amendments 1- 6 identified above should be made to address the inconsistencies of the current text of the OATT.

11. ATTACHMENT C – AVAILABILITY OF RELEVANT INFORMATION TO ALLOW VALIDATION OF ATC

In paragraph 166 of its decision, the Regie stated that:

“The Transmission Provider should make the relevant information available to customers who require it in order to, inter alia, allow them to validate or reconstitute the calculation of the ATC. The Regie is of the opinion that the availability of this information is necessary out of a concern for transparency.”

This requirement to make available information necessary for customers to independently validate ATC calculations is of critical importance in providing transparency to reduce the potential for undue discrimination.

Also, it is important to be clear what information is considered relevant to be provided to customers. Relevant information should be specified in the OATT.

Conclusion: NLH strongly agrees with the Regie’s statement on making information available to transmission customers and given its importance, requests that HQT be required to include, in the introductory paragraph of Attachment C, the following statement:

“The Transmission Provider shall make available to customer all relevant information necessary in order to allow them to validate or reconstitute the calculation of the ATC.”

A description of the relevant information should also be added to Attachment C.

12. ATTACHMENT K – PROCESS FOR INFORMATION AND DISCUSSION ON TRANSMISSION SYSTEM PLANNING

NLH was encouraged by the Regie’s recognition of the potential risk for undue discrimination in the planning process in paragraph 303 of the Regie decision:

“[...] the Regie considers that the FERC’s goal of ensuring sufficient protection against the risks of undue discrimination in terms of the planning of transmission systems merits particular attention due to, firstly the monopolistic nature of electric power transmission in Quebec and the presence of affiliates in the electric power distribution and wholesale sectors”.

In keeping with this goal, FERC mandated in its order 890 proforma OATT that:

“The Transmission Provider shall establish a coordinated, open and transparent planning process with its Network and Firm Point-to-Point Transmission Customers [...] to ensure that the Transmission System is planned to meet the needs of both the Transmission Provider and its Network and Firm Point-to-Point Transmission Customers on a comparable and non discriminatory basis. The Transmission Provider’s coordinated,

open and transparent planning process shall be provided as an attachment to the Transmission Provider's Tariff".²

FERC required that the planning process satisfy nine principles, as defined in FERC Final Rule in Docket No. RM05-25-000: "coordination, openness, transparency, information exchange, comparability, dispute resolution, regional participation, economic planning studies, and cost allocation for new projects."

In the 890 Proforma OATT, FERC also required that:

"The Transmission Provider's planning process must include sufficient detail to enable Transmission Customers to understand:

- (i) The process for consulting with customers and neighboring transmission providers;
- (ii) The notice procedures and anticipated frequency of meetings;
- (iii) The methodology, criteria, and processes used to develop transmission plans;
- (iv) The method of disclosure of criteria, assumptions and data underlying transmission system plans;
- (v) The obligations of and methods for customers to submit data to the transmission provider;
- (vi) The dispute resolution process;
- (vii) The transmission provider's study procedures for economic upgrades to address congestion or the integration of new resources; and
- (viii) The relevant cost allocation procedures or principles".³

The text suggested by the Régie and proposed by HQT for Attachment K does not explain the process that HQT is going to adopt.

The proposed text states that: "**The Transmission Provider shall implement a process for information and discussion on Transmission System Planning with all its customers**" and that the objective of that process is "**to promote a better understanding**"

² Order 890 proforma OATT, Attachment K, Original Sheet No. 162.

³ Order 890 proforma OATT, Attachment K, Original Sheet No. 162-163.

of the methods used by the Transmission Provider and to ensure greater transparency in the development of plans for its transmission system”.

Beyond stating that meetings will be held annually, no details are provided on what the process will be, and items (i) to (viii) identified by FERC in proforma OATT 890 are not addressed. Also, there is no timeline identified on when the process will be adopted.

The absence of details on the process is of great concern to NLH because unless the process is included in the OATT, the Régie will have no direct means of ensuring that the process established by HQT meets the Régie’s requirements as outlined in the Régie decision, particularly paragraphs 313 – 317.

Failure to ensure that adequacy of the process upfront may lead to unnecessary disputes and delays in implementation and ultimately is not consistent with the objectives of order 890 to bring about greater openness and transparency in the planning process in order to avoid undue discrimination.

Conclusions: In order to ensure that the Régie’s requirements are met for the opening up and sharing of transmission planning information with transmission customers, NLH requests that text be added to Attachment K that clearly describes the process to be adopted and addresses the eight process elements identified in the FERC 890 proforma OATT.

NLH also requests that HQT specify when the Attachment K process will commence in section 44.2 – NLH understands that it will come into force at the date of the adoption of the text of the OATT by the Régie.