

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

BILL BENNETT

Plaintiff

and

HYDRO ONE INC., HYDRO ONE BRAMPTON NETWORKS INC., HYDRO ONE  
REMOTE COMMUNITIES INC., NORFOLK POWER DISTRIBUTION INC. and  
HYDRO ONE NETWORKS INC.

Defendants

Proceeding under the *Class Proceedings Act*, 1992

**STATEMENT OF CLAIM  
(Notice of Action dated August 24, 2015)**

1. The plaintiff claims:
  - (a) an order certifying this action as a class proceeding pursuant to the *Class Proceedings Act*, 1992, S.O. 1992, c. 6 (the “CPA”) and appointing the plaintiff as representative plaintiff for the class, described herein;
  - (b) an order directing the defendants to preserve and disclose to the plaintiff all records, in any form, relating to the issues raised in this Statement of Claim;
  - (c) a declaration that the defendants breached their contracts with some or all members of the class;
  - (d) a declaration that the defendants owed a duty of care to the class and that the defendants breached this duty with respect to some or all class members;

- (e) a declaration that the defendants have been unjustly enriched, that the members of the class have suffered a corresponding deprivation, and that there is no juristic reason for such enrichment;
- (f) general damages for the class in an amount of \$100 million or as otherwise calculated on an aggregate basis for breach of contract, negligence and unjust enrichment;
- (g) punitive and exemplary damages in the amount of \$25 million, or such other sum as this Honourable Court may find appropriate;
- (h) an accounting of all sums collected by the defendants from the class members after May 2013;
- (i) prejudgment and postjudgment interest pursuant to the *Courts of Justice Act*, R.S.O. 1990, c. C.43;
- (j) costs of the action on a substantial indemnity basis;
- (k) the costs of notice and of administering the plan of distribution of the recovery in this action, plus applicable taxes; and
- (l) such further and other relief as this Honourable Court may deem just.

**A. OVERVIEW**

2. The defendants (collectively, “Hydro One” or the “company”) make up the largest electricity transmission and distribution company in Ontario. Hydro One owns and operates substantially all of Ontario’s electricity transmission system, accounting for 97% of transmission

capacity in the Province. It also delivers and sells electricity to approximately 75% of Ontario electricity customers. Hydro One is currently wholly owned by the Government of Ontario, which appoints its Board of Directors.

3. Hydro One provides a crucial and necessary service to approximately 1.3 million customers across Ontario, who are entirely reliant on the timely and effective delivery of electricity and are entitled to accurate billing for the electricity they consume. For these Ontarians, the company holds a virtual monopoly. In many regions, there are no other electricity distribution companies.

4. As a Crown corporation holding a near-monopoly for the provision of a necessary service, Hydro One has certain obligations to its customers. Its complete and utter failure in meeting these obligations is what gives rise to this class proceeding.

5. As thoroughly detailed in a scathing report by the Ombudsman of Ontario, Hydro One failed in numerous ways in the planning and implementation of its new billing and customer information system (herein “CIS” or the “System”).

6. When the System was implemented in or around May 2013, problems arose immediately. Tens of thousands of customers stopped receiving bills. Many customers received months of “estimated” bills, only to be hit with massive “catch-up” bills. In some cases, Hydro One automatically withdrew huge sums from the bank accounts of its customers, causing extreme stress and disruption to their lives. As a result of this billing debacle, the bills issued to customers failed to accurately reflect the electricity actually consumed.

7. When customers contacted Hydro One's customer service to complain and seek help, they were met with delays, confusion, inadequate or inconsistent answers, endless wait times, and doublespeak.

8. Owing to the public outcry and mountain of complaints, the Ontario Ombudsman initiated a comprehensive investigation. The investigation concluded in May 2015, when the Ombudsman issued a 104 page report, making 65 recommendations regarding Hydro One's conduct (the "Ombudsman Report"). The Ombudsman Report documents numerous Hydro One failings, both before and after the System's implementation. Hydro One's implementation of the CIS was flawed at every stage, and its customer service teams were understaffed, inadequately trained, and incentivized to rush customers off the phone instead of helping fix their problems.

9. Some of the steps taken by Hydro One in the implementation of the System were described as "high risk" by PricewaterhouseCoopers LLP in a report commissioned for Hydro One (the "PwC Report"). The PwC Report was critical of many aspects of the preparation and implementation of the company's new CIS.

10. The problems experienced by customers were the result of Hydro One's systemic failure to take reasonable steps to ensure that it was using an accurate and reliable billing system and providing timely, effective, and informed customer service. When faced with problems, instead of acknowledging the issue and working with customers to address problems, Hydro One engaged in a campaign of deflection and deceit, in a bad faith attempt to keep the problem under wraps.

11. As a result of Hydro One's behaviour, systemic failures, and bad faith, its customers have suffered damages.

**B. THE PARTIES**

12. The plaintiff, Bill Bennett, resides in Ontario and has been a Hydro One customer for many years. Mr. Bennett has purchased electricity from Hydro One on numerous occasions since May 2013 for a property located near Gravenhurst, Ontario. Mr. Bennett's Hydro One bills are addressed to Mr. WM Bennett.

13. The defendant Hydro One Inc. is a corporation established under the *Business Corporations Act (Ontario)*, R.S.O. 1990, c. B.16 that is wholly-owned by the Province of Ontario, which appoints its Board of Directors. Hydro One Inc. is a holding company that owns a number of subsidiaries. The defendants, Hydro One Networks Inc., Hydro One Remote Communities Inc., Hydro One Brampton Networks Inc., and Norfolk Power Distribution Inc., are subsidiaries of Hydro One Inc.

14. The defendant Hydro One Networks Inc. operates most of the high voltage transmission grid throughout Ontario and serves approximately 1.3 million customers in homes, farms, and businesses across Ontario.

15. The defendant Hydro One Brampton Networks Inc. distributes electricity to the city of Brampton, Ontario and serves approximately 150,000 urban retail customers.

16. The defendant Hydro One Remote Communities Inc. operates and maintains the generation and distribution assets used to supply electricity to twenty one remote communities in northern Ontario that are not connected to the province's electricity grid. It serves approximately 3,500 customers.

17. The defendant Norfolk Power Distribution Inc. distributes electricity to approximately 18,000 customers in Norfolk County. Norfolk Power Distribution Inc. was purchased by Hydro One Inc. on or about August 29, 2014.

**C. THE CLASS**

18. The plaintiff brings this action on his own behalf and on behalf of a class of all persons and entities, other than the Excluded Persons, who purchased electricity from Hydro One between May 2013 and the date of the certification order in this action (the “Class” and the “Class Members”).

19. Excluded from the Class are the defendants, their current and former officers and directors, members of their immediate families, and their legal representatives, heirs, successors or assigns (“Excluded Persons”).

**D. SOURCES OF HYDRO ONE’S OBLIGATIONS TO CLASS MEMBERS**

**(i) Regulatory**

20. Hydro One operates in a highly regulated environment. Hydro One Inc. was incorporated on December 1, 1998 pursuant to the *Energy Competition Act, 1998*, S.O. 1998, c.15 which restructured Ontario’s electricity sector to introduce competition. Hydro One Inc. was one of a number of companies and agencies created as a result of this major restructuring.

21. Hydro One is registered as a distribution company under the *Electricity Act, 1998*, S.O. 1998, c.15, Sch A. As a distribution company, Hydro One is regulated by the Ontario Energy Board (the “OEB”), which oversees Hydro One’s activities pursuant to the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Sch. B.

22. As part of its oversight, the OEB promulgates certain policies, including the Distribution System Code (“DSC”) and the Retail Settlement Code (“RSC”), which set minimum standards that every Ontario electricity distributor must meet in carrying out its operations.

23. As a distributor, Hydro One must meet the obligations set out in the DSC. Under s. 7.11 of that Code, “a distributor must issue an accurate bill to each of its customers”. This requirement must be met “at least 98 percent of the time on a yearly basis”. In other words, Hydro One is required to issue accurate bills to its customers 98 percent of the time. Pursuant to s. 7.1, a bill is accurate if it “contains correct customer information, correct meter readings, and correct rates that result in an accurately calculated bill”.

24. Thus, pursuant to the DSC, Hydro One owes all Class Members an obligation to use a billing system that is accurate and reliable, resulting in accurate bills at least 98 percent of the time.

25. Hydro One must also meet the obligations set out in the RSC. Pursuant to ss. 7.1.3, 7.2.4, and 7.3.3 of that Code, a distributor such as Hydro One has certain obligations in responding to customer inquiries concerning distribution service. These obligations include a duty to respond to customer inquiries regarding meter accuracy, distribution rates, and bill calculation errors. The RSC also imposes obligations on Hydro One regarding billing errors. Included among these are provisions to which Hydro One must adhere in relation to overbilling or under-billing.

**(ii) Contractual**

26. The relationship between each Class Member and Hydro One is defined in part by a contract whereby Hydro One agrees to provide electricity and, in exchange, the Class Member agrees to pay for the electricity actually consumed.

27. Class Members' contracts are informed by the regulatory context in which Hydro One operates, which sets out certain standards that Hydro One must meet in its billing practices.

28. It is an express or implied term of Class Members' contracts with Hydro One that Hydro One will employ a billing system that accurately and reliably bills customers for the amount of electricity actually consumed. It is also an express or implied term of Class Members' contracts with Hydro One that Hydro One will employ a system or process to ensure that bills issued to customers accurately state the consumption of electricity upon which the bill is based.

29. It is also an express or implied term of Class Members' contracts with Hydro One that the company will employ a system or process to ensure that it provides timely, effective, accurate, and informed customer service that is responsive to questions posed by Class Members about meter accuracy, distribution rates and billing errors.

30. Furthermore, it is an express or implied term of Class Members' contracts that Hydro One observe a duty of good faith and fair dealing with them, characterized by candour, reasonableness, honesty, and forthrightness. Put another way, it is an express or implied term of Class Members' contracts that Hydro One will not act in bad faith by being, for example, untruthful, misleading or unduly insensitive.

***(iii) Duty of Care***

31. The relationship between Hydro One and Class Members is a relationship of proximity, such that it would be reasonably foreseeable that any lack of care on the part of Hydro One relating to the System and to its customer service would be likely to cause harm to the members of the Class. The relationship between Hydro One and the Class is also a special relationship



characterized by a power imbalance caused by Hydro One's monopolistic position in providing a necessary service.

32. Proximity between Hydro One and Class Members arose by virtue of representations made by Hydro One to Class Members that it accurately and reliably bills customers for the amount of electricity actually consumed, Class Members' reliance on such representations, and the close and direct interaction between Hydro One and the Class Members. Proximity also arises by virtue of the vendor-purchaser relationship between Hydro One and the Class Members.

33. In these circumstances, Hydro One owes a duty of care to Class Members. At a minimum, this duty of care requires that Hydro One take reasonable steps to ensure that it:

- (a) employs an accurate and reliable billing system and provides timely, effective, and informed customer service to the Class;
- (b) employs a system or process to ensure that bills issued to the Class accurately state the consumption of electricity upon which the bill is based; and
- (c) employs a system or process to ensure that it provides timely, effective, and informed customer service to the Class that is responsive to questions about meter accuracy, distribution rates and billing errors.

34. The content of this duty of care to the Class is informed by Hydro One's obligations under the regulatory scheme and in particular by the DSC and RSC.

**E. HYDRO ONE RUSHED TO IMPLEMENT A NEW BILLING SYSTEM**

***(i) The Preparation Phase***

35. In 2006, Hydro One began a four-phase business transformation project, known as Cornerstone, which would replace Hydro One's business processes and software applications. The fourth and final phase of Cornerstone, which commenced in 2011, was to replace Hydro One's main customer systems with a CIS made by SAP, a manufacturer of enterprise application software. The purpose of the implementation of the system was ultimately to reduce costs. Hydro One predicted that the System would improve customer service and yield up to \$172 million in benefits over a seven-year period.

36. At all material times, Hydro One knew that utility billing and customer service system implementations are complex projects that require expertise, diligence, and precision. Moreover, Hydro One was aware that its CIS implementation posed specific additional challenges caused by, *inter alia*:

- (a) the aggressive timeline set by Hydro One;
- (b) the numerous system, data, and process dependencies that existed;
- (c) the regulatory context of the Ontario electricity market;
- (d) the challenges associated with smart meter data acquisition and related processes;
- (e) complex billing for commercial customers;
- (f) an intricate series of vendor relationships; and
- (g) the planned implementation of the System across all customers at once.

37. During the planning phase, numerous problems arose in the preparations for the CIS implementation. Hydro One was forced to extend the timeline for implementation by seven months and replaced its project executive team. After another series of problems, Hydro One changed the project sponsor, adjusted the project scope, changed the composition of the project's management, and established more specific monitoring.

38. Some of these problems were caused by Hydro One's CIS project team. The CIS project was led by individuals with limited experience leading large, transformational projects. The team also suffered from inconsistent governance and high turnover. The CIS project team was also hindered by having siloed expertise, which impaired its ability to identify and fix the causes of issues and to implement changes in a coordinated and consistent manner.

39. In addition, Hydro One failed to engage an external third party to provide independent oversight of the CIS project's progress. Hydro One was aware that most utilities engage such third party providers when implementing projects of similar size and scope.

40. Another cause of System implementation problems was Hydro One's ineffective vendor management. The CIS project involved numerous vendors with separate spheres of expertise and responsibility. In order to achieve success, Hydro One had to ensure that these vendors worked cooperatively and collaboratively. However, this did not happen.

41. After various delays, Hydro One set the target date for implementation for May 21, 2013. However, even as that date approached, there were further delays.

42. As a result, Hydro One allowed the testing phases of the Systems Integration Testing ("SIT"), User Acceptance Testing ("UAT"), and Operational Readiness Testing ("ORT") to

overlap instead of ensuring that they occur sequentially. At all material times, Hydro One was aware that this type of overlapping testing is a high-risk practice.

43. Hydro One cut corners with System testing in other ways. Almost 18 percent of the 2,900 documented requirements were intentionally excluded from SIT, and thus their capabilities were not evaluated prior to CIS implementation. Similarly, for UAT, only 10 percent of the planned test scenarios were actually run, and for ORT, only 29 of the 1,010 exception types were triggered, received, and completed.

44. Hydro One's CIS implementation team was forced to create workarounds to deal with problems as they arose. These activities occurred up to the night before System implementation. In these circumstances, it was entirely foreseeable that implementation of the CIS on May 21, 2013 would lead to a number of serious but preventable errors.

***(ii) Implementation and Go Live***

45. The System was implemented on the "Go Live" date of May 21, 2013 ("Go Live"). CIS was implemented despite Hydro One's awareness that the System was not ready for implementation and despite the fact that it knew or ought to have known that customers would experience problems caused by defects.

46. Within 30 days of Go Live, it became apparent that there were issues with the System and data analysis as well as problems with the new CIS billing processes. These problems were causing Class Members to receive "estimated" bills, billing exceptions and "no-bills", as well as creating a host of other billing anomalies.

47. Due to the rushed nature of the implementation of the CIS, neither Hydro One's billing employees nor its customer service representatives were able to receive adequate training on the System. This resulted in increased errors that further exacerbated the problems experienced by Class Members.

48. The volume and severity of the problems with the CIS post-Go Live overwhelmed Hydro One's operational support processes.

*(iii) Hydro One's Responses to the Post-Go Live Problems*

49. Customers immediately began contacting Hydro One to report problems and seek solutions.

50. When Class Members contacted Hydro One's customer service with inquiries as to the billing issues and seeking help to fix the problems, they received confusing responses and inadequate assurance that their issue would be resolved in a timely fashion.

51. The backlog of unresolved customer complaints increased steadily from the Go Live date, with more and more Class Members unable to get adequate answers from Hydro One and unable to have their problems resolved. The customer service call centre had inadequate resources to respond to the immense volume of customer complaints.

52. Furthermore, Hydro One incentivized call centre employees to minimize the duration of each customer call. Hydro One call centre employees who failed to meet the average call duration time faced disciplinary measures. As a result, from the moment a call began between a Hydro One representative and a Class Member, the Hydro One representative was trying to bring the call to a

close, rather than trying to solve the customer's complaint or to make a genuine effort to determine the accuracy of the bills that had been issued to the customer.

53. Class Members who contacted Hydro One's customer service did not receive adequate service. Their questions went unanswered, and their problems went unresolved.

54. Even in the face of this mounting volume of customer complaints, Hydro One was unwilling and unable to take action. In this post-implementation period, many of the individuals on the CIS project team departed due to the fixed-price nature of the vendor contracts. This resulted in an unacceptably low level of reporting on key operational measures, such as those related to billing defects. This lack of reporting contributed to Hydro One executives being unable to appreciate the seriousness and volume of operational issues and their impacts on Class Members and rendered them unable to take necessary corrective action.

55. To the extent that Hydro One sought to remediate the billing problems, many of its efforts resulted in more billing issues for Class Members. For example, fixing billing exceptions often resulted in Class Members receiving an exceptionally large "catch-up" bill which led to further inquiries, large automatic bank account withdrawals, cancellations or rebills, and extreme stress.

***(iv) Report of the Ontario Ombudsman***

56. On February 4, 2014, the Ontario Ombudsman, André Marin, announced the commencement of a systemic investigation into complaints about serious problems with billing and customer service at Hydro One. Once the investigation was announced, the Ombudsman's office received more complaints about Hydro One than it had about any single organization in the forty-year history of the Ombudsman.

57. After a thorough 15-month investigation, the Ombudsman released his report entitled “In the Dark”. The Ombudsman Report is highly critical of Hydro One. It described Hydro One’s “mind-boggling maladministration” and found that Hydro One was “completely out of step with public sector values.”

58. As just one example of Hydro One’s failings, the Ombudsman Report stated: “As late as February 2015, during the coldest month in Ontario’s recorded history, the company lied to and bullied customers with the threat of disconnection.”

59. The Ombudsman Report described Hydro One as having adopted “a dismissive and minimizing approach” once the problems began to surface.

60. In its conclusions, the Ombudsman Report made 65 recommendations to Hydro One in order to avoid similar failures in the future.

#### **F. THE PLAINTIFF’S HISTORY AS A HYDRO ONE CUSTOMER**

61. Mr. Bennett’s experience with Hydro One since the implementation of the System has been incredibly frustrating and typifies the conduct of Hydro One described in the Ombudsman Report.

62. In the year prior to the implementation of the CIS, Mr. Bennett would typically receive monthly bills from Hydro One that ranged between approximately \$70 and \$120 in new monthly charges. These bills indicated that the kilowatt hour usage at Mr. Bennett’s property near Gravenhurst, Ontario ranged between approximately 260 kWh and 525 kWh.

63. Following implementation of the System, Mr. Bennett’s Hydro One bills began to reflect increased monthly electricity usage, despite that there had been no change in the usage associated

with his property. For example, the bills received by Mr. Bennett in August and September 2013 indicated electricity usage in excess of 700 kWh.

64. In May 2014, Mr. Bennett received an envelope from Hydro One containing 4 separate “catch up” bills disclosing a significant increase in electricity costs and consumption for the period starting November 8, 2013 through to March 11, 2014. These bills ranged from \$573.00 to \$1,092.00. Included with a package of bills received by Mr. Bennett in May 2014 was a letter from Hydro One, purporting to explain “corrections” being made to Mr. Bennett’s bill.

65. The May 2014 Hydro One letter made no reference to the serious and significant issues that Hydro One was experiencing with the System at the time. Instead, it stated that “bill correction can occur for a number of reasons. For example, we make a bill correction when we have estimated one of your past bills but your actual meter readings become available and necessitates a correction to that bill.”

66. Distressed by the significantly increased charges and consumption of electricity reflected on these “catch-up” bills, Mr. Bennett contacted Hydro One on numerous occasions. Hydro One, instead of acknowledging any billing issues or other problems, suggested to Mr. Bennett that these increased charges might reflect unauthorized usage of his property during times while he was away. Mr. Bennett was unable to obtain any satisfactory explanation from Hydro One regarding these charges.

67. Between August 2014 and February 2015, Mr. Bennett continued to receive bills from Hydro One that were significantly increased from previous years. During this period, Mr. Bennett’s bills fluctuated between approximately \$150 and \$600 in new monthly charges, and indicated electricity usage between 530 kWh and 2700 kWh.



68. On April 6, 2015, without adequate prior forewarning, Mr. Bennett received an envelope from Hydro One containing nearly 40 “revised” bills, dating back to the period between October 2011 and February 2015. These “revised” bills, all dated February 26, 2015, reflected a significant increase of approximately 185% in Mr. Bennett’s alleged electricity bills and usage between the period October 2011 and July 2013. For the period between July 2013 and February 2015, the “revised” bills did not increase Mr. Bennett’s kilowatt hour usage during that period; however, the electricity charges reflected on these bills increased approximately 190%.

69. No explanation from Hydro One was included with this massive envelope of “revised” bills received by Mr. Bennett on April 6, 2015, nor did Hydro One make any attempt to rationalize these bills to those that had been received by Mr. Bennett over the previous years. Mr. Bennett was told that he owed \$2,587.69 to Hydro One. The revised bills fail to properly record amounts that had been paid by Mr. Bennett to Hydro One since October 2011. Mr. Bennett has tried and failed to seek an adequate explanation from Hydro One.

70. Mr. Bennett has, on numerous occasions, written to Hydro One, the Ombudsman, Ontario legislators, and the Ontario Energy Board for assistance. The complete and utter fiasco that Mr. Bennett has experienced since the implementation of the System remains unresolved. Even though Hydro One admits that its customers expect and deserve timely and accurate billing information, this is not what Mr. Bennett has received.

71. Mr. Bennett’s situation was caused or contributed to by Hydro One’s failures in the planning and implementation of the CIS, as detailed in the claim. The plaintiff pleads that his experience is but one example of the havoc caused to Class Members by its failings detailed in this Claim.

**G. SYSTEMIC BREACHES OF CLASS MEMBERS' CONTRACTS**

**(i) Failure to Ensure Accurate Billing**

72. Contrary to the express or implied terms of the Class Members' contracts as informed by the DSC and the RSC, Hydro One systemically failed to employ a System that accurately and reliably bills customers for the amount of electricity actually consumed. Specifically, Hydro One breached Class Members' contracts by, *inter alia*:

- (a) issuing inaccurate bills to some or all Class Members;
- (b) failing to employ a system or process to ensure that bills issued to Class Members accurately state the consumption of electricity upon which the bill is based;
- (c) issuing multiple bills for the same period to some or all Class Members;
- (d) failing to issue bills for every billing period to some or all Class Members;
- (e) withdrawing from some Class Members' bank accounts significant sums that did not reflect actual electricity consumed; and
- (f) failing to rectify these issues in a timely manner.

73. Further particulars of Hydro One's conduct are within the knowledge of the company and will be provided before the trial of the common issues.

**(ii) Failure to Provide Adequate Customer Service to Address Problems**

74. Contrary to the express or implied terms of the Class Members' contracts, Hydro One systemically failed to provide timely, effective, and informed customer service. Specifically, Hydro One breached Class Members' contracts by, *inter alia*:

- (a) failing to provide adequate training to customer service representatives;
- (b) failing to ensure that customer service representatives were sufficiently informed on the System and its defects;
- (c) creating an environment in which customer service representatives were asked to reduce the average duration of calls with Class Members rather than seeking to address Class Members' problems;
- (d) providing insufficient customer service resources such that Class Members had long wait times to have their problem addressed;
- (e) providing customer service that did not deliver honest answers and failed to address Class Members' complaints.

**(iii) Failure to Act in Good Faith**

75. Contrary to the express or implied terms of the Class Members' contracts, Hydro One systemically acted in bad faith with respect to its obligations to Class Members. Specifically, Hydro One breached Class Members' contracts by, *inter alia*:

- (a) failing to act in good faith by refusing to acknowledge that the System was causing serious losses and harm to Class Members;
- (b) failing to act in good faith by delaying taking action to address the systemic issues that were causing harm to Class Members; and
- (c) failing to act in good faith by misleading class members and obfuscating the serious nature of the problems plaguing Hydro One's CIS.

**H. HYDRO ONE HAS ACTED NEGLIGENTLY**

76. Given the relationship of proximity that exists in the customer relationship between Hydro One and Class Members, Hydro One owes Class Members a duty of care. This duty requires that Hydro One take reasonable steps to ensure that it employs an accurate and reliable billing system and provides timely, effective, and informed customer service to the Class.

77. Due to Hydro One's unique position as a Crown-owned monopolistic corporation providing a necessary service, it has a heightened duty to ensure it acts with due care with respect to Class Members. This duty of care is informed by Hydro One's obligations set forth, *inter alia*, in the DSC and the RSC.

78. Hydro One has breached this duty of care by, among other things:

- (a) issuing inaccurate bills to some or all Class Members;
- (b) failing to employ a system or process to ensure that bills issued to Class Members accurately state the consumption of electricity upon which the bill is based;
- (c) issuing multiple bills for the same period to some or all Class Members;
- (d) failing to issue bills for every billing period to some or all Class Members;
- (e) withdrawing from some Class Members' bank accounts significant sums that did not reflect actual electricity consumed;
- (f) failing to rectify these issues in a timely manner;
- (g) failing to provide adequate training to customer service representatives;

- (h) failing to ensure that customer service representatives were sufficiently informed on the System and its defects;
- (i) creating an environment in which customer service representatives were asked to reduce the average duration of calls with Class Members rather than seeking to address Class Members' problems;
- (j) providing insufficient customer service resources such that Class Members had long wait times to have their problem addressed;
- (k) providing customer service that did not deliver honest answers and failed to address Class Members' complaints;
- (l) failing to act in good faith by refusing to acknowledge that the System was causing serious issues for Class Members;
- (m) failing to act in good faith by delaying taking action to address the systemic issues and the individual issues experienced by Class Members; and
- (n) failing to act in good faith by misleading class members and obfuscating the serious nature of the problems plaguing Hydro One's CIS.

**I. HYDRO ONE HAS BEEN UNJUSTLY ENRICHED**

79. Hydro One has been unjustly enriched as a result of its systemic failure to properly design and implement the System. Specifically, Hydro One has been enriched by:

- (a) billing Class Members for amounts over and above each Member's actual electricity consumption;

- (b) charging Class Members interest on amounts that do not reflect the actual electricity consumed by Class Members; and
- (c) levying service charges and delivery charges on Class Members without providing the Class with the services that these charges are meant to reflect.

80. The Class Members have suffered a corresponding deprivation, including in the form of:

- (a) amounts paid to Hydro One that were over and above what Class Members owed based on actual electricity consumption;
- (b) interest on overbilled charges; and
- (c) improper electricity service and delivery charges.

81. There was no juristic reason for the resulting enrichment of Hydro One. The contracts between Hydro One and its customers provide that customers will pay for the electricity actually consumed. The amounts paid to Hydro One that reflected higher than actual electricity consumption and the related interest and fees thereon were paid for no juristic reason.

82. Class Members are entitled to the difference between the price they paid Hydro One for electricity and the price that they would have paid had Hydro One correctly designed and implemented the System. Class Members are also entitled to the interest that would have accrued on payments that were improperly demanded by and made to Hydro One.

**J. A CLASS PROCEEDING IS APPROPRIATE**

83. As individuals, Class Members cannot match the resources of Hydro One in the context of a legal proceeding. Hydro One is a large and well-resourced company, backed by the Government

of Ontario. An individual Class Member's lawsuit would be unlikely to have any real or lasting impact on its behaviour. On the other hand, a class proceeding would produce either a voluntary change or a court-ordered change by Hydro One.

84. The alternative to a class action would be a multitude of individual legal proceedings. This would both be inefficient and create the potential for inconsistent results.

#### **K. DAMAGES**

85. As a result of the conduct of Hydro One detailed above, Class Members have suffered damages in the amount of \$100 million or as otherwise calculated on an aggregate basis for breach of contract, negligence and unjust enrichment.

86. This is an appropriate case for the class proceedings judge to admit statistical evidence of class members' losses and to award damages based on an aggregate assessment, as contemplated by sections 23 and 24 of the *CPA*.

87. Further, members of the Class are entitled to aggravated, exemplary, and punitive damages in an amount of \$25 million, or such other amount as this Honourable Court may determine, owing to the arbitrary, callous, and highhanded actions of Hydro One set out above.

88. The plaintiff pleads and relies on the following statutes and regulations:

- (a) *Energy Competition Act*, 1998, S.O. 1998, c.15
- (b) *Electricity Act*, 1998, S.O. 1998, c.15, Sch A
- (c) *Ontario Energy Board Act*, 1998, S.O. 1998, c.15, Sch. B
- (d) *Class Proceedings Act*, 1992, S.O. 1992, c. 6; and

(e) *Courts of Justice Act*, R.S.O. 1990, c. C.43.

89. The plaintiff proposes that this action be tried in the City of Toronto.

Date: September 9, 2015

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**BILL BENNETT**  
Plaintiff

-and- **HYDRO ONE INC.** et al.  
Defendants

Court File No. CV-15-535019-00CP

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

Proceeding Commenced at Toronto

Proceeding under the *Class Proceedings Act, 1992*

**STATEMENT OF CLAIM**  
**(Notice of Action dated August 24, 2015)**

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