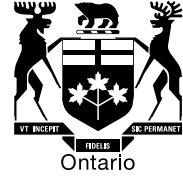


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BY E-MAIL

September 14, 2016

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Hydro One Networks Inc.
2017 and 2018 Transmission Cost of Service Application
Board File Number EB-2016-0160
OEB staff Submissions on Confidentiality**

In accordance with Procedural Order No. 2, OEB staff is providing its submissions on Hydro One confidentiality claims with regard to its responses to interrogatories.

OEB staff apologizes for the late filing of these submissions.

Yours truly,

Original Signed By

Harold Thiessen
Ontario Energy Board staff
Case Manager – EB-2016-0160

Hydro One Networks Inc. Transmission
Application for electricity transmission revenue
requirement and related changes to the Uniform
Transmission Rates beginning January 1, 2017 and
January 1, 2018

EB-2016-0160

**OEB Staff Submission
On
Confidentiality**

September 14, 2016

A. INTRODUCTION

Hydro One Networks Inc. (Hydro One) filed a cost of service application with the Ontario Energy Board (OEB) on May 31, 2016, seeking approval for changes to its transmission revenue requirement and to the Ontario Uniform Transmission Rates, to be effective January 1, 2017 and January 1, 2108.

On July 27, 2016, the OEB issued Procedural Order No. 1 approving intervenor status for fifteen parties and also approving cost award eligibility for ten of those intervenors. Procedural Order No.1 also established the dates for filing of interrogatories and for Hydro One's reply to those interrogatories.

On August 31, 2016, Hydro One provided its responses to the interrogatories and sought confidential treatment for a number of documents attached to eight of its interrogatory responses.

On September 8, 2016, the OEB issued Procedural Order No.2 which cited the OEB's *Practice Direction on Confidential Filings* noting that the practice direction permits any party to a proceeding to object to the requests for confidentiality by filing a written objection. The Procedural Order established the process for receiving such objections and responses to such objections.

The Procedural Order indicated that intervenors and OEB staff who wish to make submissions on the request for confidentiality were permitted to file these submissions with the OEB and serve on all parties by Tuesday, September 13, 2016.

After submissions were received the OEB will make its findings with respect to the applicants' claims for confidentiality.

OEB staff supports some of requests for confidentiality but not all.

B. ANALYSIS

Hydro One requested confidential treatment for twelve documents attached to eight of its interrogatory responses. In the letter provided with the interrogatory responses, Hydro One provided a general description of each document and the justification for each request for confidential treatment.

As a general comment OEB staff submits that, as set out in the OEB's Practice Direction on Confidential Filings (Practice Direction), it is the OEB's general policy that all records should be open for inspection by any person unless disclosure of the record is prohibited by law. This reflects the OEB's view that its proceedings should be open transparent and accessible. The OEB seeks to balance these objectives with the need to protect confidential information however the onus is on the person requesting confidentiality to demonstrate why it is appropriate. While OEB staff recognizes that Hydro One may have agreements with third parties not to disclose the information, the OEB has consistently allowed this type of information to form part of the public record.

Further, when confidentiality is requested, the party requesting confidentiality is required to redact only those portions of a document for which confidentiality is sought and should make every effort to ensure as much information as possible is on the public record.

Each document is addressed in turn below:

1) Attachment to Interrogatory Response I-1-20

Document: *Fosters Associates 2014 Failure Analysis Report*

Hydro One describes this report as a 2014 statistical analysis of physical and inspection failures observed in selected plant categories classified in Transmission Lines, Transmission Stations and Distribution Lines owned and operated by Hydro One. The study compares service life indications derived using the lowa curve family with indications derived by Hydro One using the Weibull survival function. The scope of the investigation was limited to a statistical life analysis.

Hydro One indicated that it has been advised by Fosters Associates that this report is a proprietary commercial work product. The development of the hazard curves described in the report is proprietary information and the subject-matter of work products prepared by Fosters Associates to various clientele. Public disclosure of the report would adversely affect the commercial and financial interests of Foster Associates as potential clients could otherwise access and make use of the report information free of charge. OEB Staff submission: OEB staff submits that where confidentiality is claimed on the proposition that a document contains proprietary information, Hydro One has an obligation to make the third party aware that any reports or studies Hydro One commissions or purchases may be used or compelled as evidence, in whole or in part, in its regulatory proceedings.

OEB staff submission: OEB staff does not agree that public release of the information will adversely affect the commercial and financial interests of Forster and Associates.

2) Attachment to Interrogatory Response I-1-118

Document: *Summary of actual results for Inergi's performance indicators (PIs), which include the monthly, quarterly and yearly measures, for the period from March 2015 to February 2016*

Hydro One indicates that this summary categorizes the PIs and provides: the number of PIs in each category; the number and percentage of PIs for which Inergi met performance expectations; and the number of PIs for which Inergi missed target or minimum performance levels. As an explanatory note in the summary, Hydro One indicates how many PIs were adjusted upward to achieve continuous improvement as per the Inergi Agreement, effective as of January 1, 2016.

Hydro One indicates that Inergi LP has requested that this information be treated confidentially because it is not information that is in the public domain, the information is commercially sensitive and disclosure would adversely affect its commercial interests with other clientele.

OEB staff submission: OEB staff submits that this document be placed on the public record. OEB staff submits that this type of information is of interest to the OEB and Hydro One has not provided any information as to why the public disclosure of the information would adversely affect Inergi's commercial interests.

3) Attachment to Interrogatory Response I-2-11

Document: *Inergi Outsourcing Agreement*

Hydro One indicates that this agreement is described in Exhibit C1, Tab 3, Schedule 2. The document contains terms and conditions defining the scope of services, fees payable to Inergi for performing the services, the governance structure and protocol applicable to the arrangement, and the allocation of risk and responsibility between the parties for various related matters.

Inergi LP has requested that this document be treated confidentially as it contains very commercially sensitive information which would be impactful to its commercial activities outside of Hydro One. Portions of this agreement pertaining only to Hydro One's distribution business have been redacted.

OEB staff submission: OEB staff submits that the OEB has frequently held that this type of information be placed on the public record. In essence it is an agreement between the applicant and a third party with respect to services provided.

4) Attachment to Interrogatory Response I-2-25

Document: Amended and Restated Operating Agreement with the Independent Electricity System Operator (IESO) dated April 25, 2014

Hydro One indicated that this agreement contains terms and conditions describing each party's respective role, rights, and responsibilities with respect to the secure and reliable use and operation of the "transmission facilities", as described therein. In addition to provisions addressing the allocation of risk and responsibility and the governance structure applicable to the relationship, the document also contains information on special protection systems and operating parameters and practices.

Hydro One submitted that it has been advised by the IESO that the requested operating agreement is not publicly available. It contains both commercially sensitive information and information regarding operation of the integrated electric system ("IES"). Public disclosure could adversely impact security and safety of the IES.

OEB staff submission: OEB staff does not object to the request for confidential treatment on the grounds put forward by Hydro One.

5) Attachments to Interrogatory Response I-3-11

Document 1: Canadian Electricity Association's (CEA) report "2014 Bulk Electricity System Delivery Point Interruptions & Significant Power Interruptions"

Hydro One indicates that the 2014 annual report provides "All Canada" composite numbers for delivery point performance measures. Both the single year (2014) and five-year (2010 to 2014) average performance figures are provided in this report. This report

is produced by the Transmission Consultative Committee on Outage Statistics (T-CCOS) with the CEA. Hydro One is a member of this committee. The CEA 2014 composite numbers in Figures 8a, 8b, 9, 10, and 11 in that Exhibit are from this report.

Hydro One submits that it has been advised by the CEA that the requested report is not publicly available and is sold on a subscription fee basis only. Public disclosure would adversely affect the commercial and financial interests of the CEA as potential clients could otherwise obtain access and make use of the Report information free of charge.

Document 2: *2014 Annual Report, Forced Outage Performance of Transmission Equipment*

Hydro One indicates that the 2014 annual report provides “All Canada” composite numbers for equipment performance measures. Only the five-year (2010 to 2014) average performance figures are provided. This report is produced by the Transmission Consultative Committee on Outage Statistics (T-CCOS) with the CEA. Hydro One is a member of this committee. The CEA 2014 composite five-year moving averages in Figures 12 and 13 on page 26 of that Exhibit are based on information from this report.

Hydro One submits that it has been advised by the CEA that the requested report is not publicly available and is sold on a subscription fee basis only. Public disclosure would adversely affect the commercial and financial interests of the CEA as potential clients could otherwise obtain access and make use of the Report information free of charge.

OEB staff submission: OEB staff submits that Hydro One should be aware of the likelihood that information such as what is set out in the two documents referenced above may reasonably be required to be produced as part of the regulatory process. However, that being said, OEB staff recognizes that the public disclosure of these documents may adversely affect the commercial and financial interests of the CEA and therefore does not object to the claim for confidentiality.

6) Attachment to Interrogatory Response I-6-1

Document: *Submission to Hydro One’s Board of Directors regarding the 2017-2018 Transmission Application*

Hydro One indicates that this is a submission to Hydro One’s Board of Directors summarizing the company’s proposed application to the OEB, seeking approval of cost of service transmission revenue requirement for 2017 and 2018. In its submission,

management summarizes the form of application (i.e. cost of service), addresses the applicable transmission filing requirements, and the *Renewed Regulatory Framework for Electricity Distributors* (“RRFE”). Management details the financial metrics of the proposed application, the rationale behind the May 31st filing date, and the alignment of Hydro One’s vision, values and business objectives with the RRFE. The submission also summarizes Hydro One’s customer engagement approach, the Transmission System Plan, its development, and the current status of Hydro One’s critical transmission assets. The document also contains a discussion on the impact on rates of the proposed application and the technical and strategic positions the proposed application adopts on certain issues.

The requested information is not publicly available and consistently treated in a confidential manner. Board of Director materials have been afforded confidential treatment in prior proceedings, see for example EB-2013-0416, Exhibit I-1.1-9 SEC 1.

OEB staff submission: OEB staff submits that there is nothing in the information provided to Hydro One’s Board of Directors presentation that would make this document confidential. Staff submits that this document ought to be public.

7) Attachments to Interrogatory Response I-6-57

Document 1: *Hydro One: Updated Discussion Notes – Preliminary CEO/CFO Pay Benchmarking* by Hugesson Consulting (April 2015)

Hydro One indicates that Hugessen Consulting was engaged by Hydro One’s Board of Directors to perform a competitive market assessment and provide advice for appropriate compensation for the recruitment of a new President and CEO and Chief Financial Officer. The report describes the compensation philosophy employed, the primary peer group and other reference groups used, and the benchmarking results. Based on Hugesson Consulting’s market assessments, the CEO’s total direct compensation was positioned close to the average (P50) of four other larger Canadian utilities and sits in the fourth quartile of the bottom 30 companies making up the S&P/TSX 60 Index. The CFO’s total direct compensation is also in the fourth quartile of the bottom 30 companies making up the S&P/TSX 60 Index.

Hydro One submits that it has been advised by Hugesson Consulting that the content of its report is not publicly available; the information is proprietary and commercially sensitive. Public disclosure of the report would adversely impact Hugesson Consulting’s

commercial interests in providing similar analysis of this information to other clientele which it does on a fee for service basis.

Document 2: *Hydro One: Executive Compensation Benchmarking Report dated October 16, 2015*

Hydro One indicates that this report was prepared after Hydro One engaged Towers Watson to complete a competitive market assessment of its total rewards program for executive-level management employees. On a total rewards basis, Hydro One is positioned on average below the 25th percentile. The report compares peer group organization profiles and compensation levels. It provides some market compensation data and observations regarding the data in relation to Hydro One.

Hydro One has been advised by Towers Watson that the content of its report is not publicly available; the information is proprietary and commercially sensitive. Public disclosure of the report would adversely impact Towers Watson's commercial interests in providing similar analysis of this information to other clientele which it does on a fee for service basis.

Document 3: *Hydro One: Non-executive Compensation Benchmarking Report dated October 16, 2015*

Hydro One indicates that this report was prepared after Hydro One engaged Towers Watson to complete a competitive market assessment of its total rewards program for non-executive-level management employees. On an aggregate basis, Hydro One's position is aligned "at" or slightly above market median with any above market variance largely attributable to its "Support" segment identified in the report. The report describes its benchmark methodology and peer groups. It divides Hydro One's subject group into two segments and provides applicable benchmarking results. It also considers the role of pension and benefits in Hydro One's total rewards program.

Hydro One submits that it has been advised by Towers Watson that the content of its report is not publicly available; the information is proprietary and commercially sensitive. Public disclosure of the report would adversely impact Towers Watson's commercial interests in providing similar analysis of this information to other clientele which it does on a fee for service basis.

OEB staff submission: Given the OEB's view of the importance of benchmarking, OEB staff submit that all three of the above benchmarking reports should be public.

OEB staff submits that the information contains important benchmarking information that will allow the public to see how Hydro One`s compensations compare to other utilities and to other companies. It is relevant information to the application and the setting of just and reasonable rates. OEB staff further submits that the OEB has relied on precisely this type of salary benchmarking data to set rates in other proceedings. The information is presented in a manner that provides a high level aggregation of information and does not identify other participant`s details. To the extent that there is personal information identified OEB staff does not object to that information being redacted in accordance with the Practice Direction.

Benchmarking is a core component of how the OEB regulates the energy sector and this was reaffirmed in the OEB`s Renewed Regulatory Framework for Electricity Distributors.

The public interest in disclosing the benchmarking surveys outweighs any private right of confidentiality.

8) Attachments to Interrogatory Response I-9-6

Document 1: Results and Analysis of Phase 1 Insulator Tests Performed in Support of Hydro One Insulator Replacement Program

Hydro One indicates that this report was produced by the Electric Power Research Institute (“EPRI”) and contains condition and testing data of insulators that is representative of a large installed insulator population. The condition of Hydro One insulators was assessed through benchmarking to EPRI and public domain test data. The test data supports the urgent replacement of COB and CP insulators manufactured between 1965 and 1982 that were installed at locations that pose safety concerns to the public.

Hydro One submits that this report has been prepared in contemplation of Hydro One carrying out an asset replacement program. The information contained in the report is commercially sensitive and may adversely impact negotiations with equipment vendors involved in the replacement program.

Document 2: *Galvatech Coating System Assessment – Aging Performance, Service Life and Evaluation of Field Applications by EPRI*

Hydro One indicates that this report documents various test approaches and the performance evaluation of Galvatech 2000. It provides information on anticipated service life of the coating system, application methods and quality control.

This report has been prepared in contemplation of Hydro One carrying out an asset replacement program. The information contained in the report is commercially sensitive and may adversely impact negotiations with equipment vendors involved in the replacement program.

OEB staff submission: There does not seem to be a compelling reason for why these two documents should be treated as confidential. Hydro One submits that both documents were prepared in contemplation of Hydro One carrying out an asset replacement program. OEB staff is of the view that these document should be on the public record.

All of which is respectfully submitted.