



**EB-2017-0049**

**Hydro One Networks Inc.**

**Application for electricity distribution rates beginning  
January 1, 2018 until December 31, 2022**

**DECISION ON CONFIDENTIALITY**

**April 12, 2018**

Hydro One Networks Inc. (Hydro One) filed a 5-year Custom Incentive Regulation application with the Ontario Energy Board (OEB) on March 31, 2016 under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B), seeking approval for changes to its distribution rates, to be effective January 1, 2018 to December 31, 2022 (the Distribution Rates application).

The OEB issued its decision on the Issues List and Interim Rates and Procedural Order No. 2 on December 1, 2017, which also outlined the interrogatory process for this proceeding.

On February 12, 2018, Hydro One provided its responses to the interrogatories and sought confidential treatment for a number of documents attached to materials (Power System Engineering (PSE) working papers) requested in OEB staff IR #23 (a).

In its letter issued on February 28, 2018, the OEB indicated that it would provide opportunities for submissions in respect of the confidentiality request. In Procedural Order No.4, issued on March 9, 2018, the OEB directed Hydro One to provide more comprehensive and detailed reasoning for the confidentiality request and provided for submissions from OEB staff and intervenors.

On March 15, 2018 Hydro One submitted its expanded reasons for the request for confidentiality. This was followed by submissions from the Building Owners and Managers Association of Greater Toronto (BOMA) and OEB staff. Hydro One filed its reply submission on April 2, 2018.

Hydro One submitted that PSE's working papers:

- Contain proprietary technical information
- Contain raw data purchased from third party vendors who do not allow this raw data to be made publicly available
- Are of the type of material contemplated by the OEB in Appendix A to the OEB's *Practice Direction on Confidential Filings*. (Appendix A sets out some of the factors that the OEB may consider in addressing the confidentiality of filings).

Hydro One submitted that the working papers should receive confidential treatment because (i) disclosure of the proprietary data could prejudice PSE's competitive position and produce a significant loss to PSE; and (ii) disclosure of the third party vendor raw data would impede PSE's capacity to fulfill existing contractual obligations.

In its submissions, OEB staff agreed the working papers should be provided with confidential treatment. BOMA opposed the confidential treatment on the grounds that the working papers are necessary for BOMA to assess the work of PSE. Hydro One replied that BOMA has signed a Declaration and Undertaking and therefore can request the working papers from the OEB or from Hydro One.

## Findings

The OEB will treat the working papers as confidential on the basis that they contain proprietary technical information. BOMA can request a copy of the working papers.

The OEB notes that the fact that a utility, or its consultant, has entered into a confidentiality agreement with another party is not necessarily grounds for the OEB treating information as confidential, if the OEB has determined that such treatment is not warranted.

**DATED** at Toronto, April 12, 2018

**ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary