



**EB-2017-0049**

**Hydro One Networks Inc.**

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

**DECISION ON CONFIDENTIALITY AND PROCEDURAL ORDER NO. 6  
May 18, 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).

On March 9, 2018, the OEB issued Procedural Order No. 4 which, among other matters, set the start date of the oral hearing as June 4, 2018. The OEB also acknowledged the February 27, 2018 motion by Rogers Communications Inc. (Rogers) in which it advised that it intended to file expert evidence related to Hydro One's proposed pole attachment rate. The OEB confirmed that it expected to address matters relating to pole attachments following the outcome of the OEB's consultation on pole attachment charges<sup>1</sup> and that Rogers would not be required to file expert evidence by the April 6, 2018 deadline applicable to OEB staff and Anwaatin Inc.

On April 6, 2018, the OEB issued Procedural Order No. 5 in which, among other matters, the OEB confirmed that it was not issuing further directions with regard to pole attachment rates at that time, but may still do so at a later date.

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<sup>1</sup> EB-2015-0304

On April 20, 2018, Hydro One filed two additional pieces of compensation evidence: an update to a Mercer (Canada) Limited (Mercer) compensation cost benchmarking study; and a Willis Towers Watson (WTW) report dated November 28, 2017, on “Management and Non-Represented Role Benchmarking and 2018 Compensation Structure Recommendations”. The School Energy Coalition (SEC), an intervenor in this proceeding, filed a letter on May 7, 2018 in response to the Hydro One filing requesting further information.

On May 11, OEB staff filed responses to interrogatories by parties on the evidence prepared by Pacific Economics Research Group LLC (PEG). OEB staff requested that a portion of the material provided in response to one of Hydro One’s interrogatories be afforded confidential treatment.

This procedural order addresses the various matters set out above.

### **Pole Attachment Issues**

On March 22, 2018, the OEB issued its *Report of the Ontario Energy Board Wireline Pole Attachment Charges* (the pole attachment report)<sup>2</sup>. The OEB has determined that submissions by Hydro One, Rogers and other parties would be useful as it determines how to move forward on this matter in this proceeding in light of the issuance of the pole attachment report.

### **Additional Compensation Evidence**

On April 20, 2018, Hydro One filed additional compensation evidence that included the WTW report and an updated compensation benchmarking study by Mercer.

On May 7, 2018, SEC filed a letter with the OEB noting that the Mercer report was an updated version of the compensation study included in the pre-filed Hydro One evidence, but the WTW study was new. SEC asked that Hydro One: (a) provide a new or updated response to interrogatory SEC-83, which had been asked in regard to the original Mercer study included with the pre-filed evidence, but which SEC argued is equally applicable to the updated Mercer report; and (b) respond to an additional enclosed interrogatory regarding the WTW report. SEC stated that doing so would avoid the need for it to cross-examine WTW on its report at the oral hearing.

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<sup>2</sup> EB-2015-0304

SEC further noted that Hydro One has publicly announced that it has reached a tentative settlement for a new two-year collective agreement with the Power Workers Union (PWU). SEC requested that Hydro One file a copy of the memorandum of agreement (MOA) as well as detailed calculations showing the difference between the terms of the tentative settlement and the assumptions that underlie the proposed test period forecast budgets that are included in this distribution rates application. SEC argued that this information was clearly relevant to the application and having it before the oral hearing would ensure cross-examination time will be used more efficiently.

## Findings

The OEB has determined that all parties should have the opportunity to ask interrogatories on the WTW study as it was not previously on the record of this proceeding. Hydro One is also expected to update its responses to any interrogatories affected by the update to the Mercer report.

The OEB will not, at this time, require Hydro One to file the additional material requested by SEC with respect to the tentative settlement for a new two-year collective agreement with the PWU. The OEB notes that Hydro One has stated that it anticipates the outcome of the vote by PWU members on this tentative settlement by June 27, 2018. The OEB will provide further direction in this regard once the outcome of the vote on the tentative settlement is known.

## Confidentiality Issues

On May 11, 2018, OEB staff filed responses to interrogatories by parties on the report prepared by PEG entitled *IRM Design for Hydro One Networks*. In the cover letter attached to these responses, OEB staff asked for confidential treatment of certain information requested in one of the Hydro One interrogatories (Exhibit L1 Tab 8 Schedule HONI-9). This interrogatory asked PEG to provide all “working papers,” including all data used for the total factor productivity and benchmarking analyses in PEG’s evidence. OEB staff noted that certain data used in the response to this interrogatory was provided by Hydro One and its consultant, Power Systems Engineering (PSE) in confidence in response to an OEB staff interrogatory (Exhibit I Tab 8 Staff 23).

OEB staff further noted that in its April 12, 2018 Decision on Confidentiality (Confidentiality Decision), the OEB had determined that PSE’s “working paper” data would be held in confidence and, as such, PEG is bound to not publicly disclose the data that it obtained from PSE in accordance with the Confidentiality Decision and its

signed Declaration and Undertaking. OEB staff added that the additional data that had been incorporated by PEG into the PSE data could not be readily disaggregated from the PSE data and therefore it was not possible to file a redacted public version of this interrogatory response.

## Findings

The OEB will treat the referenced OEB staff interrogatory response (Exhibit L1 Tab 8 Schedule HONI-9) as confidential on the basis that it contains proprietary technical information that has already been determined to be confidential in the Confidentiality Decision. The OEB accepts OEB staff's position as to why it is not possible for a redacted public version of this interrogatory response to be filed.

## Oral Hearing Start Date

In Procedural Order No. 4, the OEB had set the start date of the oral hearing as June 4, 2018. In light of the additional process now established to deal with the WTW report, the OEB has determined that the oral hearing will begin on June 11, 2018. To facilitate an effective and efficient oral hearing, the OEB has requested OEB staff to canvass parties as to whether there are any issues on the issues list that could be dealt with in writing. OEB staff will use that information in preparing a hearing plan.

The OEB considers it necessary to make provision for the following matters related to this proceeding.

## THE ONTARIO ENERGY BOARD ORDERS THAT:

1. OEB staff and intervenors shall request any relevant information and documentation regarding the Willis Towers Watson study filed by Hydro One on April 20, 2018 as part of the additional compensation evidence by written supplemental interrogatories to be filed with the OEB and served on all parties by May 28, 2018.
2. Parties shall file any submissions they may have on the appropriate process related to the pole attachment issue with the OEB and also serve them on all parties by May 28, 2018.
3. Hydro One shall file with the OEB complete written responses to the supplemental interrogatories and any updates to interrogatory responses

resulting from the updated Mercer report, and serve them on all intervenors and OEB staff by June 7, 2018.

4. In consideration of the additional procedural requirements established above, the OEB will commence the oral hearing of this application on June 11, 2018 at 9:30 am in the OEB's North Hearing Room at 2300 Yonge Street, 25<sup>th</sup> floor, Toronto Ontario, and continuing on June 12, 14, 15, 18, 19, 21, 22, 25, 26, 28 and 29, 2018. The hearing dates of June 25, 26, 28 and 29, 2018 are additional to those contained in Procedural Order No. 4. The hearing dates of June 4, 5 and 8, 2018 established in Procedural Order No. 4 are cancelled.

All filings to the OEB must quote the file number, **EB-2017-0049**, be made in searchable /unrestricted PDF format electronically through the OEB's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>. Two paper copies must also be filed at the OEB's address provided below. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <http://www.oeb.ca/Industry>. If the web portal is not available parties may email their documents 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 communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Martin Davies at [martin.davies@oeb.ca](mailto:martin.davies@oeb.ca) and OEB Counsel, James Sidlofsky at [james.sidlofsky@oeb.ca](mailto:james.sidlofsky@oeb.ca).

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**DATED** at Toronto, May 18, 2018

**ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary