



BY EMAIL and RESS

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Ontario Energy Board
2300 Yonge Street
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November 30, 2018
Our File: EB20170049

Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2017-0049 – Hydro One Distribution 2018-2022 – SEC Bill 2 Submissions

We are counsel to the School Energy Coalition ("SEC"). Pursuant to Procedural Order No. 10, these are SEC's submissions on the appropriate adjustments that are required to be made to Hydro One Network Inc.'s ("Hydro One") requested revenue requirement so that it will be set in conformity with section 78(5.0.2) of the *Ontario Energy Board Act* ("OEB Act").

Hydro One Accountability Act, 2018

The Government of Ontario introduced and passed Bill 2, including the *Hydro One Accountability Act, 2018*, which amended the *OEB Act* by adding subsection 78(5.0.2).¹ The section requires that the Board, in setting rates for Hydro One, not include the compensation paid to the Chief Executive Officer ("CEO") and executives within the meaning of the *Hydro One Accountability Act*.² The definition of executives in the *Hydro One Accountability Act* is broad, and includes:

any person who holds the office of executive vice-president, vice-president, chief administrative officer, chief operating officer, chief financial officer, chief information officer, chief legal officer, chief human resources officer or chief corporate development officer, or holds any other executive position or office, regardless of the title of the position or office.³

Hydro One has interpreted the required exclusion from rates to be only for those who meet the definition of executives that are employed by its highest level holding company, Hydro One Limited.⁴ Under such an interpretation, this would only include its CEO, Chief Financial Officer, and its Executive Vice President and Chief Development Officer.⁵ Although Hydro One submits that only these three positions are covered by the legislative exclusion, it believes that it is "reasonable to expand the exclusion of compensation to all members of the Hydro One Executive Leadership

¹ *Urgent Priorities Act*, 2018, S.O. 2018, section 10

² *Hydro One Accountability Act, 2018*, S.O. 2018, c. 10, Sched. 1, section 1

³ *Ibid*

⁴ Hydro One Evidence, October 26 2018, p.1

⁵ *Ibid*, p.2

Team”.⁶ In doing so, Hydro One proposed to exclude from its proposed revenue requirement a total of only six executives.⁷

SEC submits that the Board is required to exclude from Hydro One’s rates all compensation costs for executives as found in the *Hydro One Accountability Act*. This includes all positions at the level of vice-president or higher that have been allocated to Hydro One’s distribution business. The fact that certain executives are employed by Hydro One Limited, Hydro One Inc. or Hydro One Networks Inc. is not relevant. The purpose of the legislation is clear; ratepayers should not be required to have included in rates Hydro One’s executive compensation costs. This is exactly what the Minister of Energy, Northern Development and Mines stated when he introduced the bill at its second reading.

Hon. Greg Rickford:

Madam Speaker, if Hydro One needs to pay for repairs or system upgrades, or the sort of investments that provide long-term value to its customers, it’s reasonable to include that in the costs passed on to ratepayers. What we do not support is the customers having to foot the bill and pay the tab for executive salaries. By this act, we propose to amend the Ontario Energy Board Act, 1998, to provide that the rates charged by Hydro One Ltd. and its subsidiaries exclude amounts paid for CEO and other executive compensation.⁸ [emphasis added]

Similarly, in the Government’s recent fall economic update, the Ontario Economic Outlook And Fiscal Review, it highlighted the passing of legislation which included, “[a]n amendment that was also made to the *Ontario Energy Board Act, 1998* to ensure that compensation paid to Hydro One executives is not funded from electricity rates.”[emphasis added]⁹

It would be antithetical to legislation that is meant to protect ratepayers if Hydro One could get around it simply by choosing which corporate entity employs its executives. Hydro One’s evidence is that of the 41 employees provided in response to the Board’s request in Procedural Order No. 9, 3 are employed by its most senior holding company (Hydro One Limited), 8 by its next level holding company (Hydro One Inc.) and 27 by its main operating company (Hydro One Networks Inc.)¹⁰. Of the 24 that are allocated, in full or in part, to the distribution business, 2 are employed by Hydro One Limited, 3 are employed by Hydro One Inc., and 19 are employed by Hydro One Networks Inc.¹¹

Since Hydro One has exclusive control over who is employed where, it would make little sense to limit the exclusion to only those employed by one of the entities, in this case Hydro One Limited.

SEC submits all of the compensation costs related to those executives must be excluded from Hydro One’s distribution rates, not just the six proposed by Hydro One. The Board has the necessary information on the record. Hydro One has provided the impact of removing the compensation costs of all those executives that were built into its distribution application, in response to SEC interrogatory S104 (See Appendix B).

Impact on SEC’s Final Argument

In SEC’s Final Argument, it proposed. among other reductions to the proposed capital and OM&A budgets, an amount reflecting the difference between the results of median benchmark in the Mercer

⁶ *Ibid*, p.4

⁷ *Ibid*

⁸ “Bill 2 - An Act respecting Hydro One Limited, the termination of the White Pines Wind Project and the labour disputes between York University and Canadian Union of Public Employees, Local 3903”, 2nd reading, *Legislative Assembly of Ontario*, Official Report of Debates No.6, (July 19 2018) at p.187 (Hon. Greg Rickford)

⁹ Government of Ontario, *A Plan for the People, Ontario Economic Outlook And Fiscal Review*, p.38

<<https://www.fin.gov.on.ca/fallstatement/2018/fes2018-en.pdf>>

¹⁰ Interrogatory Response SEC-S105 (See Appendix A)

¹¹ *Ibid*



compensation study for all employees and Hydro One's actual compensation costs.¹² SEC proposed this reduction on the basis that it is not appropriate for ratepayers to be responsible for the above market compensation that Hydro One's evidence shows it pays.¹³ The calculation of the amount that should be reduced was based on Hydro One's response to interrogatory SEC-83.¹⁴

To ensure there is no double counting after required exclusion under subsection 78(5.0.2) of the *OEB Act*, SEC requested Hydro One revise its response to SEC-83 to remove the impact of its executives (both as proposed by Hydro One and by SEC). Hydro One's response to interrogatories SEC-S106 shows that there is no material impact since non-union compensation was already close to the P50 (1% above market median).¹⁵ Therefore, the reduction proposed in SEC's Final Argument related to compensation costs is not impacted by the required exclusion of executives.

Yours very truly,
Shepherd Rubenstein P.C.

Original signed by

Mark Rubenstein

cc: Wayne McNally, SEC (by email)
Applicant and interested parties (by email)

¹² Interrogatory Response SEC-S106; Updated Compensation Study, Attachment (Mercer Study), filed April 20 2018, p.17;

¹³ SEC Final Argument, p.64, 75, 83

¹⁴ Exhibit I-40-SEC-83(a) (updated June 6 2017)

¹⁵ Interrogatory Response SEC-S106(i) and lii)

A

School Energy Coalition Interrogatory #S105

Issue:

Issue 42: Is the updated executive compensation information filed by Hydro One in the distribution proceeding on December 21, 2017 consistent with the OEB's findings on executive compensation in the EB-2016-0160 Transmission Decision?

Reference:

[Attachment 1] With respect Attachment 1:

Interrogatory:

- a) Please provide a revised version of Attachment 1 showing for all employees who they are legally employed by (i.e. Hydro One Limited, Hydro One Networks Inc., etc.).
- b) How does Hydro One determine which corporate entity an executive will be employed by?

Response:

- a) Below please find a revised version of Attachment 1 showing positions in each of Hydro One Limited (Limited or HOL), Hydro One Inc. (Inc. or HOI) and Hydro One Networks Inc. (Networks or HONI).

	Title	Company
Executive Leadership Team (ELT)	President & CEO	Limited
	Chief Financial Officer	Limited
	EVP and Chief Legal Counsel	Inc.
	EVP and Chief Corporate Development Officer*	Limited
	EVP, Customer Care & Corp Affairs	Networks
	Chief Operating Officer	Networks
	SVP, People & Culture, Health & Safety	Networks
	Ombudsman	Inc.
	Corp Secretary & Corp Ethics	Inc.
	SVP, Strategy and Innovation*	Inc.
	VP, Corporate Development*	Inc.
	Senior Vice President, Pensions*	Inc.
	Vice President - Investor Relations*	Inc.
	VP, & Treasurer, Treasury & Risk*	Inc.

	Title	Company
	Senior Vice President, Finance	Networks
	SVP, Internal Audit	Networks
	SVP, Technology & CIO	Networks
	Vice President - Corporate Tax	Networks
	Vice President, Corporate Affairs	Networks
	Vice President, Corporate Controller	Networks
	Vice President, Customer Service	Networks
	Vice President, Regulatory	Networks
	VP & Chief Risk Officer	Networks
	VP, Construction Services	Networks
	VP, Health, Safety & Env	Networks
	VP, Lines and Forestry	Networks
	VP, Office of the President & CEO	Networks
	VP, Operations	Networks
	VP, Planning	Networks
	VP, Shared Services	Networks
	VP, Transmission and Stations*	Networks

b) “Executive” as the term is defined in Bill 2 includes the CEO, CFO and Chief Corporate Development Officer, who are employed by HOL. In 2015 in preparation for the initial public offering of HOI shares, the *Electricity Act, 1998* was amended by section 50.2.1(1)¹ to establish HOL as a holding corporation above HOI. The corporate structure allows the CEO, CFO and Chief Corporate Development Officer to operate in those roles for all subsidiaries including newly acquired subsidiaries.

¹ 50.2.1 (1) Despite subsection 48.2 (5), if Her Majesty in right of Ontario is the only holder of voting securities of Hydro One Inc., the Minister may transfer all of those voting securities to a corporation established under section 50.1, and if the Minister does so, then the following rules apply on and from the completion of the transfer despite anything else in this Act, but subject to the regulations under subsection (2):

1 Every reference in this Part and in the regulations under this Part to Hydro One Inc. shall be deemed to be a reference to that corporation established under section 50.1.

2. Every other reference to Hydro One Inc. in this Act and in the regulations and in any other Act or regulation shall be deemed to include a reference to that corporation established under section 50.1. 2015, c. 20, Sched. 9, s. 6.

B

School Energy Coalition Interrogatory #S104

Issue:

Issue 42: Is the updated executive compensation information filed by Hydro One in the distribution proceeding on December 21, 2017 consistent with the OEB's findings on executive compensation in the EB-2016-0160 Transmission Decision?

Reference:

[p.6-7]

Interrogatory:

Please revise Tables 1-3 to reflect the reduction of all positions listed in Attachment 1 that have been allocated to the distribution business.

Response:

Tables 1, 2 and 3 are updated below to reflect reduction of all positions listed in Attachment 1.

Table 1 - Summary of Bill 2 Executive Compensation Costs (Hydro One's Proposal)

Dx Allocated Costs	2018 Costs in Revenue Requirement	2018 Costs After Exhibit Q Reductions	2018 Reductions Required to Ensure Bill 2 Compliance
Total VP and Above	13.8	11.3	-11.3
OM&A Comp ¹	6.6	4.1	-4.1
Capital Comp ¹	7.2	7.2	-7.2

¹ The methodology used to determine the OM&A and capital portions of compensation costs is described in Exhibit D1, Tab 3, Schedule 1.

Table 2 - Bill 2-Related Changes to Capital Forecast for 2018-2022 (\$M)

	2018	2019	2020	2021	2022
Total Capital Reply Argument	628.1	736.4	699.3	711.0	796.5
Bill 2 Adjustments (Capital Related)	(7.2)	(7.3)	(7.5)	(7.6)	(7.8)
Total Capital Adjusted for Bill 2	620.9	729.1	691.9	703.3	788.7

Table 3 - Summary of Revenue Requirement Components
After Bill 2 Reductions (\$M)

Line		Reference	2018	2019	2020	2021	2022
1	Rate Base	D1-1-1	7,646.4	7,998.9	8,394.8	8,916.8	9,275.8
2	Return on Debt	E1-1-1	198.6	207.7	218.0	231.4	240.7
3	Return on Equity	E1-1-1	275.3	288.0	302.2	320.9	333.8
4	Depreciation	C1-6-2	398.1	418.8	433.3	452.1	465.6
5	Income Taxes	C1-7-2	65.3	68.9	71.5	78.8	79.4
6	Capital Related Revenue Requirement		937.2	983.5	1,025.0	1,083.1	1,119.5
7	Less Productivity Factor (0.45%)			(4.4)	(4.6)	(4.9)	(5.0)
8	Total Capital Related Revenue Requirement		937.2	979.0	1,020.4	1,078.2	1,114.4
9	OM&A	C1-1-1	572.6	576.9	581.3	585.6	600.8
10	Integration of Acquired Utilities	A-7-1				10.7	
11	Total Revenue Requirement		1,509.8	1,556.0	1,601.7	1,674.6	1,715.2
12	Increase in Capital Related Revenue Requirement			41.8	41.4	57.8	36.2
13	Increase in Capital Related Revenue Requirement as a percentage of Previous Year Total Revenue Requirement			2.77%	2.66%	3.61%	2.16%
14	Less Capital Related Revenue Requirement in I-X			0.47%	0.47%	0.48%	0.48%
15	Capital Factor			2.31%	2.19%	3.13%	1.68%