



EB-2018-0165

Toronto Hydro-Electric System Limited

**Application for electricity distribution rates beginning
January 1, 2020 until December 31, 2024**

**DECISION ON ISSUES LIST, PARTIAL DECISION ON
CONFIDENTIALITY AND PROCEDURAL ORDER NO. 3
February 5, 2019**

Toronto Hydro-Electric System Limited (Toronto Hydro) filed a 5-year Custom Incentive Rate-setting (IR) application with the Ontario Energy Board (OEB) on August 15, 2018 (updated September 14, 2018) 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, 2020 to December 31, 2024.

The Decision on Confidentiality and Procedural Order No. 2, dated November 21, 2018, scheduled the dates for filing interrogatory responses and a proposed issues list.

On January 21, 2019, Toronto Hydro filed its interrogatory responses. Toronto Hydro requested confidential treatment of certain information contained in its interrogatory responses.

On January 30, 2019, OEB staff filed a proposed issues list, which was agreed to by all parties.

The OEB's Decision on the issues list and a partial decision on confidentiality (including further procedural steps) are set out below.

Decision on Issues List

The OEB approves the issues list proposed by the parties, with an amendment to Issue 3.2. An important element of planning is the consideration of trade-offs between capital and operating costs. The OEB has therefore revised Issue 3.2 as follows:

Is the level of proposed 2020-2024 capital expenditures and capital in-service additions arising from the distribution system plan appropriate, and is the rationale for planning and pacing choices, including trade-offs between capital and operating costs, appropriate and adequately explained?

The Approved Issues List is attached as Schedule A.

Partial Decision on Confidentiality

Toronto Hydro filed certain information contained in its interrogatory responses in both redacted and un-redacted (confidential, which is only available to parties that have signed the OEB's Declaration and Undertaking with respect to confidentiality) formats. Toronto Hydro requested that the un-redacted information in the interrogatory responses listed below be maintained in confidence pursuant to Rule 10.01 of the OEB's *Rules of Practice and Procedure* and the OEB's *Practice Direction on Confidential Filings*.

Below, the OEB sets out its findings on some of the requests for confidentiality and establishes a process for submissions on the remaining requests.

1. Proprietary Information of Third Parties

- 1B-SEC-3, Appendix A: Davies Consulting, 2016 Emergency Management Benchmark Study
- 1B-SEC-3, Appendix D: Mercer (Canada) Limited, Toronto Hydro Corporation Senior Executive Compensation Policies & Practices
- 4A-SEC-90, Appendix A: Letter from Toronto Hydro Corporation to the City Manager re: Executive Compensation at City Agencies and Corporations
- 1B-Staff-9, Appendix P: Unit Costs for UMS Group Benchmarking Study

Toronto Hydro stated that certain information contained in the above noted documents is proprietary to, or pertains to, third parties, and was obtained by Toronto Hydro or its consultants on the basis that such information would not be publicly disclosed.

The OEB will accept submissions on this category of requests for confidentiality.

2. Commercially Sensitive and Proprietary Information of Consultants

- 1B-SEC-3, Appendix D: Mercer (Canada) Limited, Toronto Hydro Corporation Senior Executive Compensation Policies & Practices
- 4A-SEC-90, Appendix A: Letter from Toronto Hydro Corporation to the City Manager re: Executive Compensation at City Agencies and Corporations
- 1B-CCC-8, various Consultant Retainer Agreements filed as Appendices to the response

Toronto Hydro stated that certain information contained in the above noted documents is of a proprietary and commercially sensitive nature, the public disclosure of which could prejudice the commercial interests and competitive position of the consultants.

The OEB will accept submissions on this category of requests for confidentiality.

3. Personal Information related to Specific Identifiable Individuals

- 4B-Staff-142, Appendix A: 2017 Corporate Tax Return
- 1B-SEC-3, Appendix D: Mercer (Canada) Limited, Toronto Hydro Corporation Senior Executive Compensation Policies & Practices
- 4A-SEC-90, Appendix A: Letter from Toronto Hydro Corporation to the City Manager re: Executive Compensation at City Agencies and Corporations

With respect to the personal information contained in the 2017 corporate tax return, in accordance with the OEB's findings set out in the Decision on Confidentiality and Procedural Order No. 2, the OEB finds that this information is properly considered personal. As such, in accordance with section 4.3 of the OEB's *Practice Direction on Confidential Filings* and Rule 9A.02 of the OEB's *Rules of Practice and Procedure*, the un-redacted version of the information will not be provided to any other party, including a person who has provided a Declaration and Undertaking under the *Practice Direction on Confidential Filings*.¹

In regard to the personal information, which includes the titles and compensation of specific identifiable individuals employed by Toronto Hydro that is not otherwise in the public domain, contained in the responses to 1B-SEC-3 (Appendix D) and 4A-SEC-90

¹ EB-2018-0165, Decision on Confidentiality and Procedural Order No. 2, November 21, 2018, p. 3.

(Appendix A)², the OEB finds that this information is properly considered personal. As such, it will be treated in the same manner as the personal information contained in the corporate tax returns.

4. Business Numbers

- 4B-Staff-142, Appendix A: 2017 Corporate Tax Return

In accordance with the OEB's findings set out in the Decision on Confidentiality and Procedural Order No. 2, the OEB finds that the business numbers in the 2017 corporate tax return shall be kept confidential. The disclosure of this information could expose Toronto Hydro to the risk of fraud.³

5. Information posing Security and Safety-Related Risks

- 1B-SEC-3, Appendix F: Facilities Security Internal Benchmarking Survey
- 2B-SEC-69, Appendix A: Toronto Hydro Preliminary Scoping Business Case – Control Operations Reinforcement Program
- 2B-Staff-96 (c): Response to Interrogatory

In accordance with the OEB's findings set out in the Decision on Confidentiality and Procedural Order No. 2, the OEB finds that there is the potential for security and / or safety-related risks if the information contained in the above noted interrogatory responses is made public. As such, the information will be kept confidential.⁴

6. Information related to Toronto Hydro Affiliates and Non-Rate Regulated Business Activities

- 1A-CCC-1 Appendix A: Toronto Hydro Corporation 2018-2020 Corporate Business Plan

² Toronto Hydro provided updates to the public (redacted) versions of 1B-SEC-3 (Appendix D) and 4A-SEC-90 (Appendix A) to reflect additional redactions required to protect personal information related to specific identifiable individuals. In addition, the confidential (un-redacted) versions of the responses to the noted interrogatory responses were updated to reflect permanent redactions of personal information related to specific identifiable individuals. EB-2018-0165, Toronto Hydro Letter – Request for Confidential Treatment Update, February 1, 2019. These updates were consolidated with the latest versions of the interrogatory responses on February 4, 2019. EB-2018-0165, Toronto Hydro Letter – Interrogatory Response Record Update, February 4, 2019.

³ EB-2018-0165, Decision on Confidentiality and Procedural Order No. 2, November 21, 2018, p. 3.

⁴ EB-2018-0165, Decision on Confidentiality and Procedural Order No. 2, November 21, 2018, p. 4.

- 1B-SEC-9, various Internal Audit Report Summaries filed as Appendices to the response

Toronto Hydro stated that certain information contained in the above noted documents relates to its affiliates as well as its non-rate regulated business activities. The disclosure of this information could prejudice Toronto Hydro's and its affiliates' commercial interests and competitive position with respect to these activities.

The OEB will accept submissions on this category of requests for confidentiality.

7. Information related to Construction Projects Executed by Internal Workforce and External Contractors

- 1B-SEC-9, Appendix A: 2015 Q1 Internal Audit Report Summary
- 1B-SEC-17: Interrogatory Response
- 1B-Staff-9, Appendix O: Toronto Hydro Response to UMS Group Information Request

In the Decision on Confidentiality, dated December 14, 2018, the OEB stated that it would treat certain pre-filed evidence⁵ with respect to internal / external labour costs as confidential until such time that the OEB has an opportunity to ask questions about this information and make a final determination.⁶

The interrogatory responses listed above contain information that is on a similar subject matter as to that which the OEB determined it would address after it has had an opportunity to ask further questions at the oral hearing. As such, the OEB will also treat the information contained in the above noted interrogatories as confidential until such time that it makes a final determination on these related requests for confidentiality.

8. 1B-AMPCO-4 (Appendix A)

By letter dated January 30, 2019, Toronto Hydro noted that it filed certain updates to its interrogatory responses. One of the updates relates to the inadvertent filing, in the public version of its interrogatory responses, of Appendix A to 1B-AMPCO-4. Toronto

⁵ EB-2018-0165, Exhibit 1B, Tab 2, Schedule 2, p. 22.

⁶ EB-2018-0165, Decision on Confidentiality, December 14, 2018, pp. 2-3.

Hydro removed this document in its updated filing and stated that it did not originally intend to provide the document due to copyright restrictions.⁷

The OEB is unsure whether this is a request for confidentiality as there is no reference to this document in the covering letter for the confidentiality requests (and the noted document does not form part of the confidential package of materials filed on January 21, 2019).⁸ The OEB is making provision for Toronto Hydro to explain what treatment it is seeking for the noted document.

It is necessary to make provision for the following matters related to this proceeding. The OEB will issue further procedural orders from time to time. All of the existing deadlines set out in the Decision on Confidentiality and Procedural Order No. 2 remain unchanged.

⁷ EB-2018-0165, Toronto Hydro Letter – Interrogatory Response Update, January 30, 2019. This update was consolidated with the latest versions of the interrogatory responses on February 4, 2019. EB-2018-0165, Toronto Hydro Letter – Interrogatory Response Record Update, February 4, 2019.

⁸ EB-2018-0165, Toronto Hydro Letter – Request for Confidential Treatment, January 21, 2019.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. The Approved Issues List is attached as Schedule A.
2. Toronto Hydro shall file an explanation with respect to the treatment it is seeking for Appendix A to 1B-AMPCO-4 by **February 7, 2019**.
3. OEB staff and intervenors who wish to make written submissions on Toronto Hydro's confidentiality requests included in Items 1, 2 and 6 (as discussed above) shall file such submissions with the OEB, and deliver them to Toronto Hydro and other intervenors, by **February 12, 2019**.
4. If Toronto Hydro wishes to reply to the submissions of other parties, the reply shall be filed with the OEB and delivered to intervenors by **February 14, 2019**.

All filings to the OEB must quote the file number, **EB-2018-0165**, be made in searchable / unrestricted PDF format electronically through the OEB's web portal at <https://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/OEB/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 USB flash drive 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, Lawrie Gluck at lawrie.gluck@oeb.ca and OEB Counsel, Michael Millar at michael.millar@oeb.ca.

ADDRESS

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DATED at Toronto, February 5, 2019

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

SCHEDULE A
DECISION ON ISSUES LIST, PARTIAL DECISION ON CONFIDENTIALITY AND
PROCEDURAL ORDER NO. 3
TORONTO HYDRO-ELECTRIC SYSTEM LIMITED
EB-2018-0165
FEBRUARY 5, 2019
APPROVED ISSUES LIST

Issues List
EB-2018-0165
Toronto Hydro-Electric System Limited
2020-2024 Rates

1.0 General

- 1.1 Has Toronto Hydro responded appropriately to all relevant OEB directions from previous proceedings?
- 1.2 Is the proposed effective date of January 1, 2020 appropriate?
- 1.3 Are the rates and bill impacts resulting from Toronto Hydro's application appropriate?

2.0 Custom Incentive Rate-setting

- 2.1 Are all elements of Toronto Hydro's Custom Incentive Rate-setting proposal for the determination of rates appropriate?
- 2.2 Is Toronto Hydro's proposed custom scorecard appropriate?

3.0 Rate Base and Capital Plan

- 3.1 Are the proposed 2020-2024 rate base amounts (including the working capital allowance amounts) reasonable?
- 3.2 Is the level of proposed 2020-2024 capital expenditures and capital in-service additions arising from the distribution system plan appropriate, and is the rationale for planning and pacing choices, including trade-offs between capital and operating costs, appropriate and adequately explained?
- 3.3 Is the proposed treatment of renewable enabling improvement investments appropriate?

4.0 Load and Other Revenue Forecast

- 4.1 Is Toronto Hydro's 2020-2024 load forecast reasonable?

- 4.2 Are Toronto Hydro's 2020 other revenue and shared services forecasts reasonable?

5.0 Operations, Maintenance and Administration (OM&A) Costs, Depreciation Expenses and Payments in Lieu of Taxes (PILs) Amounts

- 5.1 Is the level of proposed 2020 OM&A expenditures appropriate and is the rationale for planning choices appropriate and adequately explained?
- 5.2 Are Toronto Hydro's proposed depreciation expenses (including decommissioning provision and derecognition) for 2020-2024 appropriate?
- 5.3 Are Toronto Hydro's proposed PILs and other tax amounts for 2020-2024 appropriate?

6.0 Cost of Capital

- 6.1 Are Toronto Hydro's proposed 2020-2024 cost of capital amounts (interest on debt and return on equity) appropriate?

7.0 Cost Allocation and Rate Design

- 7.1 Are Toronto Hydro's cost allocation and revenue-to-cost ratio proposals appropriate?
- 7.2 Are Toronto Hydro's proposals for rate design (including, but not limited to, fixed / variable split, loss factors, retail transmission service rates, specific and other service charges) appropriate?
- 7.3 Is Toronto Hydro's approach to cost responsibility for customer service charges under its conditions of service appropriate?

8.0 Accounting and Deferral and Variance Accounts

- 8.1 Have the impacts of any changes in accounting standards, policies, estimates and adjustments been properly identified and recorded, and is

the rate treatment of each of these impacts appropriate?

- 8.2 Are Toronto Hydro's proposals for the disposition of balances in existing deferral and variance accounts and other amounts appropriate?
- 8.3 Are Toronto Hydro's proposals for the establishment of new accounts, closing of existing accounts or continuation of existing accounts appropriate?