August 28, 2019

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
P.O. Box 2319
Toronto, Ontario
M4P 1E4

Dear Ms. Walli:

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

Please find, attached, the Final Argument of the Consumers Council of Canada pursuant to the above-referenced proceeding.

Please feel free to contact me if you have questions.

Yours truly,

Julie E. Girvan

Julie E. Girvan

CC: Toronto Hydro, Regulatory Affairs
All Parties

FINAL ARGUMENT OF THE CONSUMERS COUNCIL OF CANADA

RE: TORONTO HYDRO-ELECTRIC SYSTEM LIMITED – RATES 2020-2021

EB-2018-0165

INTRODUCTION:

On August 15, 2018, Toronto Hydro-Electric System Limited ("Toronto Hydro") applied to the Ontario Energy Board ("OEB") for approval of rates and other charges effective January 1, 2020 and a Custom Price Cap Index (" CPCI") framework to set rates for the period January 1, 2021 to December 31, 2024.

The specific relief requested is:

1. Approval of 2020 base revenue requirement of $771.39 million:[1]
2. Approval of 2020 electricity rate and charges based on that revenue requirement;
3. Approval to dispose of balances in existing deferral and variance accounts;
4. Approval to establish continue existing deferral and variance accounts
5. Approval of new deferral and variance accounts;
6. Approval of a rate setting formula to set rate for the years 2021-2024 and related elements; and
7. Approval of an annual reporting framework.[2];

Toronto Hydro is seeking to recover a base revenue requirement for 2020 of $771.39 million and a total base revenue requirement of $4.126 million over the term of the 5-Year plan.[3] The proposed capital expenditures for 2020 are $518.4 million and over the rate plan term are $2.8 billion.[4] The proposed Operating, Maintenance and Administration ("OM&A") budget for 2020 is $278.2 million, which will escalate each year over the term of the term of the plan through the CPCI.

THESL is applying for distribution rate increases that result in an average annual increase for a typical residential consumer of approximately 3%. This follows a 5-

[1] Ex. J1.8
[2] Ex. 1A/T2/S1
[3] Ex. J1.8
[4] Ex. U/T2/S2/Appendix A and U-Staff 168

Year rate plan period (2015-2019) in which the annual increases were approximately 7%.[5]

Following the filing of the Application, the OEB established a process that included interrogatory stages, a Technical Conference and an Oral Hearing that commenced on June 27, 2019 and concluded on July 16, 2019, with a total of 11 hearing days.

These are the final submissions of the Consumers Council of Canada ("Council") with respect to THESL's Application. In preparing this Argument the Council is cognizant of the comments made by the presiding member at the close of the oral hearing process. The OEB Panel encouraged parties to follow the Issues List. In addition, they encouraged parties to be concise and focused on the important issues. In drafting this Argument the Council has followed that directive.

The Council has worked collaboratively with other intervenors at all stages throughout this proceeding. Specifically, the Council has worked with the Association of Major Power Consumers in Ontario ("AMPCO") and the School Energy Coalition ("SEC") in developing positions on the issues. The Council has also reviewed the comprehensive and detailed submissions filed by OEB Staff. At times throughout this Argument the Council has supported the submissions made by others, rather than repeat the submissions and the evidence references.

The Council acknowledges that the OEB must assess the merits of THESL's overall plan and the extent to which it is consistent or compliant with the OEB's Renewed Regulatory Framework ("RRFE") policy. What is equally, or perhaps more important, from the Council's perspective is that the OEB consider whether THESL's plan is consistent with the following objective as set out in the Ontario Energy Board Act:

1. To protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service.

Strict compliance with the RRFE does not necessarily mean that a rate plan is in the best interests of a distributor's ratepayers. Ultimately, the rates arising out of the plan must be structured in a way that ensures the risks to ratepayers are minimized throughout the plan term.

The Council's submissions are at a relatively high level and primarily focused on the structure of the overall CPCI Framework and whether it results in rates that are just and reasonable. We support many of the detailed submissions filed by other regarding Toronto Hydro's capital plans, in particular. Toronto Hydro's capital plans are driving the rate increases and they were the primary focus of this proceeding. The Council has concerns that the CPCI Framework does not strike an appropriate balance between the interests of Toronto Hydro's shareholder and its

[5] JTC 4.6

customers, nor will customers be getting value for money over the next five years. Rather than presenting a rate plan that provides incentives for Toronto Hydro to find sustainable productivity that will ultimately benefit its customers, Toronto Hydro has developed one that is more like cost of service regulation. Capital is essentially a pass-through. It is a model that shifts more risk onto ratepayers relative to the other RRFE options. In order to strike a better balance between the interests of the utility shareholder and the ratepayers, the Council submits that the OEB will be required to make changes to the proposals and budgets advanced by Toronto Hydro. Those changes will be critical to ensure that the interests of ratepayers are protected and that the resulting rates are just and reasonable.

OVERVIEW

On July 31, 2014, Toronto Hydro filed its first 5-year Custom Incentive Rate-making Plan. That plan was approved by the OEB on December 29, 2015. It is important from the Council's perspective for the OEB to assess the outcomes of that rate plan in order to test the reasonableness of the current proposed plan. Some key observations about that plan should inform the OEB in determining whether Toronto Hydro's proposals are reasonable and whether amendments are required:

- The rate increases during that period were approximately 7 % per year, amounting to significant impacts on distribution rates for all of Toronto Hydro customers during that period;

- In three of those years Toronto Hydro exceeded its return on equity ("ROE") relative to its allowed return;[6]

- No earnings were shared with ratepayers during the plan term;

- Toronto Hydro made investments of $2.5 billion over the plan term, and plans to ramp that up during the proposed plan period;

- The total cost benchmarking analysis undertaken in support of this Application demonstrates that Toronto Hydro's cost performance has declined.[7]

- Toronto Hydro has provided very little evidence of quantified productivity achieved during the previous period, which is supposed to be one of the key outcomes of incentive regulation.

Toronto Hydro's CPCI and the other elements of the rate plan are for the most part remaining the same for the next rate plan period. Clearly, in order to ensure the

[6] Ex. J3.2
[7] Ex. M1 and M3

interests of the ratepayers are protected and the rates just and reasonable, the OEB must make changes to the proposals being advanced by Toronto Hydro. As set out below the Council is making the following key proposals:

- Accept an effective date of January 1, 2020;
- Accept the Inflation factor proposal for the term of the plan;
- Set the X factor (base productivity and stretch) at 1%;
- Reject the C-factor or in the alternative set include an incremental stretch factor of .64 %;
- Maintain capital spending at historical levels;
- Reduce the 2020 OM&A budget to reflect the fact that no explicit productivity has been incorporated into the numbers and no quantifiable productivity from the previous period identified. In addition, reduce the budget to reflect the individual items identified by OEB Staff.

GENERAL ISSUES:

Has Toronto Hydro responded appropriately to all relevant OEB directions from previous proceedings? (Issue 1.1)

Customer Engagement:

In the its last Decision in which it approved the 2015-2019 rate plan the OEB made several findings with respect to Toronto Hydro's customer engagement activities. The OEB pointed to several deficiencies and indicated that it expected THESL to address those deficiencies in its next full cost of service or Custom IR application. In its Decision the OEB concluded:

1. The OEB agrees with intervenors and OEB Staff that Toronto Hydro did not provide its customers with sufficient information on the context of the proposed Application such as its existing benchmarking ranking and its relative levels of productivity and efficiency;

2. Toronto Hydro did not develop its plan in conjunction with its customer engagement activities. It sought input to confirm the plan it had already prepared rather than engaging its customers to ascertain their preferred options in the context of Toronto Hydro's current cost and reliability situations;

3. Achievement of RRFE outcomes relies on an ongoing effort by the distributor to engage customers in a process designed to inform its plans.[8]

[8] EB-2014-0116, Decision and Order dated December 29, 2015, p. 8

Toronto Hydro undertook customer engagement once again to obtain customer feedback in its planning process. The customer engagement process, which was led by Innovative Research Group ("Innovative"), was undertaken over a period of 18 months, consisting of two phases at a cost of over $450,000. This process was summarized in its AIC:

> First, the utility heard from customers about their priorities, needs and preferences before developing its plan (Phase 1). Then, Toronto Hydro developed a plan that was responsive to what it heard from customers. It then achieved this in part by taking active steps to ensure that customer feedback was incorporated into its planning processes. Next the utility took its plan to customers to validate that it accurately incorporated their feedback from Phase I and received detailed feedback from customers on the plan itself (Phase 2). Toronto Hydro then made further refinements to its plan based on that feedback it received from customers.[9]

Toronto Hydro has concluded from its customer engagement that its plan, "is supported by all customer classes, because it successfully balances utility obligations and customer feedback"[10]. The Council submits that this is conclusion that cannot and should not be the basis for the OEB's approval of Toronto Hydro's rate plan proposals. Customer engagement can be useful, but to imply from the customer engagement that THESL undertook that all of its customers support its rate plan proposals is a leap that cannot be supported by the evidence.

In its evidence THESL has summarized the feedback from its customers from Phase 1 with the following key points:

- Keeping distribution price increases as low as possible;
- Maintaining long-term performance for customers experiencing average or better service;
- Improve service levels for customers experiencing below average service or who have special reliability needs (e.g. hospitals) and
- Balancing other customer priorities (e.g. customer service) with the need to contain rate increases.[11]

The purpose of Phase 2 was:

- To confirm customer needs, preferences and priorities identified in Phase 1;
- To solicit customer feedback on the content of Toronto Hydro's proposed plans and the subsequent rate impact including customer preferences toward particular capital programs where trade-offs on pacing existed; and
- To solicit customer feedback on Toronto Hydro's planning development process, including the customer engagement process[12].

[9] AIC, p. 4 and 1B-CCC-9
[10] AIC, Introduction
[11] Ex. 1B/T3/S1/p. 4
[12] Ex. 1B/T3/S1/p. 5

From that work Innovative concluded that "customers generally supported Toronto Hydro's proposed plan, and that the majorities of residential, small business mid-mark and key account customers say (the utility should stick with the its proposed plan or do more."[13]

One of the key conclusions of the work of Innovative was to confirm that ,"price and reliability dominate as customers' top priorities". This is not a surprise as it is a long standing conclusion of any electric utility customer engagement process. The Council, however, does not accept that the process Innovative took, in conjunction with Toronto Hydro, is sufficient to conclude that "all customer classes support Toronto Hydro's rate plan" which is based on a complex, multi-year capital plan. It is simply unrealistic for the average residential consumer to understand Toronto Hydro's investment decisions, and the implications regarding the pacing of such things as rear-lot line conversions, the removal and replacement of paper insulated lead covered cable, underground network transformers, cable chamber replacement, investments in energy storage, monitoring and control equipment, the development of microgrids etc.

In the residential workbook, for example, customers were given the following choices with respect to paper insulated lead covered cable ("PILC cable"):

- Toronto Hydro should address reliability issues and other risks posed by PILC cable at the current pace (completed by 2049) as part of its proposed rate increase of 3.4% per year, even if its more disruptive to do so in the future;

- Toronto Hydro should accelerate is replacement of PILC cable by 10 years, even if it costs the typical residential customer an additional $0.09 per month ($0.44 on the average monthly bill by 2024), because it's less disruptive to do it now than in the future;

- I would like Toronto Hydro to slow down this program so the proposed rate increase can be reduced;

- I don't know[14].

It is difficult to understand how customers could answer this question and similar questions related to the other asset categories.

Customer engagement is complicated and is obviously one tool that can be used by a utility to "take the pulse" of its customer base. Toronto Hydro and Innovative

[13] Ex. 1B/T3/S1/ Appendix A
[14] Ex. IB/T3/S1/Appendix 3.1

undertook a significant effort to educate and engage its customers. This has been something required by the OEB, although the OEB has never given the LDCs direction on the nature, scope and approach regarding customer engagement it expects. The Council submits that a large part of the results of customer engagement depend upon that initial "education" process, which in the context of utility regulation and capital investment decision making and planning is complex. We are of the view that the results may have been very different if customers were made aware of the following points:

- The current rate application follows a period (2015-2019) where your distribution rates increased by almost 50%;
- Included in your rates is an allowed rate of return on equity for THESL, or profit, of approximately 9%;
- During the previous rate plan period Toronto Hydro exceeded its allowed rate of return. None of those earnings were shared with customers;
- Toronto Hydro is ramping up its capital expenditure budget throughout the rate plan term relative to the previous period, but ratepayers are not benefiting from any increased reliability associated with that increased capital spending.

From the Council's perspective the OEB cannot assume from the customer engagement undertaken by Innovative that Toronto Hydro has full support from its customer base for the proposals set out in its proposed rate plan. The Council also believes that it will be incumbent upon the OEB going forward to consider what it views as meaningful customer engagement for Ontario LDCs and what type of engagement is required to support rate applications. The RRFE has been in place for a number of years and it is likely time to review many of its elements including the expectations around customer engagement. The fact that Toronto Hydro spent more than $450,000 on customer engagement in support of its Application is concerning, especially because the overall value to its customers and the OEB needs to be questioned.

Loss Factors:

In its last Decision regarding Toronto Hydro's 2025-2019 Customer IR the OEB required Toronto Hydro to update its loss factors in its next major rate filing. The Council submits that Toronto Hydro has sufficiently complied with that directive.

Is the proposed effective date of January 1, 2020 appropriate (Issue 1.2)

THESL has proposed an effective date of January 1, 2020. THESL made a concerted effort to file early to ensure that there would be no retroactive rate adjustments associated with its Application. There were no delays associated with the Application that are attributable to THESL and as such the Council is of the view that

the effective date should be January 1, 2020. THESL's staff has throughout this process accommodated the OEB and met all of the prescribed deadlines.

Are the rate and bill impacts resulting from Toronto Hydro's application appropriate (Issue 1.3)?

The Council is making a number of submissions throughout this Argument that, if accepted by the OEB, would impact the overall rate levels and bill impacts proposed by THESL. To the extent the OEB accepts THESL's rate plan, as filed, the Council would not consider the rates just and reasonable and those bill impacts appropriate.

CUSTOM INCENTIVE RATE-SETTING (Issue 2.0)

Are all of the elements of Toronto Hydro's Custom Incentive Rate-setting proposal for the determination of rates appropriate? (Issue 2.1)

The Custom IRM framework that THESL has proposed is a continuation of the framework approved by the OEB in the 2015-2019 rate application. Year 1 is determined through a traditional cost of service rebasing approach and distribution rates in Years 2-5 are set through the following Custom Price Cap Index as follows:

CPCI = I – X + C – g

- "I" is the OEB's inflation factor determined annually
- "X" is the sum of the OEB's productivity factor and THESL's custom stretch factor;
- "C" is the custom capital factor
- "g" is intended to capture the revenue growth over the forecast period based on THES's load forecast for the period 2021-2024.[15]

Inflation:

Toronto Hydro is proposing to continue to use the OEB's tow factor for electricity distributors which is determined on an annual basis. Given that the OEB has not undertaken a comprehensive review of its RRFE and the underlying rate making options, it is possible that such a review might be undertaken during the 5-year period covering Toronto Hydro's rate plan. In fact, the Council is of the view that such a review is appropriate. As part of that review there may be changes made to the inflation factor. The Council submits that to the extent that changes are made, these changes should be applicable to Toronto Hydro. If Toronto Hydro disagrees it will be incumbent on it to bring forward evidence at that time supporting an alternative approach.

[15] Ex. 1B/T4/S1/p. 2

Base Productivity and the Stretch Factor:

Toronto Hydro is proposing to use the base productivity factor of 0% accepted by the OEB for 4th generation IRM[16]. The proposed stretch factor is .3%, determined through an analysis undertaken by Power System Engineering ("PSE"). This custom stretch factor developed by PSE is lower than the .6% that would otherwise be assigned to Toronto Hydro using the OEB-approved methodology and the one assigned by the OEB to Toronto Hydro in its last Customer IRM plan.

OEB Staff retained Pacific Economic Group ("PEG") to determine a stretch factor for Toronto Hydro. PEG proposed a stretch factor of .45%.[17] OEB Staff in its submissions proposed that the OEB use a stretch factor of .45% on the basis that it was recommended by PEG and represents an average of Toronto Hydro's proposed stretch factor of .3%, PEG's recommendation and the OEB's most recent generic stretch factor assigned to Toronto Hydro of .6%.[18]

SEC has in it Final Argument presented a critique of the PSE work and Toronto Hydro's proposed X-factor. The stretch factor of .3% being proposed by Toronto Hydro is based on a sample that includes a large number of U.S. utilities in addition to 6 Ontario utilities.[19] The base productivity factor of 0% is based on the OEB determined productivity factor, which has been derived using Ontario only distributors.

The Council notes that in the OEB Rate Handbook for Utility Rate Applications the OEB concluded with respect to Custom IR applications:

> It is insufficient to simply adopt the stretch factor that the OEB has established for electricity distribution IRM applications. Given a utility's ability to customize the approach to rate-setting to meet its specific circumstances, the OEB would generally expect the custom index to be higher, and **generally no lower,** than the OEB-approved X-factor for Price Cap IR (productivity and stretch factors) that is used for electricity distributors (emphasis added).[20]

The Council submits that the OEB should not adopt accept Toronto Hydro's proposal, which is essentially a .3% reduction in the custom price cap formula (based on 0% productivity and a .3% stretch) for the purposes of setting rates for 2012-2024 for the following reasons:

- An X factor of .3% does not provide a sufficient up front benefit to ratepayers for the term of the plan – especially when the OEB has an explicit requirement under the RRFE for "continuous improvement";

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[16] Tr. Vol. 7, p. 141
[17] Ex. M1/p. 9
[18] OEB Staff Submission, dated August 21, 2019, p. 35
[19] Tr. Vol. 7, pp. 142-143
[20] Rate Handbook, dated October 13, 2016, p. 25

- Toronto Hydro appears to be accepting the OEB's approach with respect to a base productivity factor, but in developing a custom stretch factor it is rejecting the OEB's most recent generic stretch factor that should apply to it;

- Toronto Hydro's proposals are inconsistent with the Rate Handbook, which explicitly requires that a custom index have a higher X-factor than the one used for a standard Price Cap IR;

- Although the OEB's base productivity factor is 0% the Council continues to believe that there should be an embedded incentive and expectation that productivity will occur during the term of the plan. If productivity has been at a 0% level in the past, that does not necessarily mean that 0% productivity is acceptable for the future. It is only with an upfront adjustment to the formula that customers will definitely benefit in any meaningful way from any efficiencies achieved during the rate plan term. Given the lack of explicit productivity identified in the evidence the OEB should give due consideration to a more meaningful X-factor than that proposed by Toronto Hydro.

The Council submits that the X-factor should be 1% in order to allow for ratepayers to benefit up front from what Toronto Hydro itself expects – future productivity savings.

Capital Factor

Toronto Hydro has proposed a C-factor for the following reasons as set out in its evidence:

- The premise of the the inclusion of a custom capital factor, or C-factor is to reconcile the OEB's guidance that the CIR framework is best suited for utilities with significant, multi-year capital investment requirements as it is clear that the standard 4th Generation IR framework is not;

- The proposed C-factor is designed a rate adjustment mechanism that is directly proportional to the degree of capital investment required by Toronto Hydro as detailed in its DSP;

- It is comprised of two sub-components that serve two primary functions: to reconcile Toronto Hydro's capital investment need in a price cap framework; and Return to ratepayers the funding already provided through the standard "1-X" increase.[21]

[21] Ex. 1B/T4/S1/pp. 7-8

The Council has several concerns regarding the C-factor proposed by Toronto Hydro and questions whether it is appropriate for the OEB to approve a C-factor at all.

- The C-factor is essentially a capital pass-though, that is the same as having a capital cost of service adjustment to rates in each year. Although under Toronto Hydro's proposal there is a slight adjustment to reflect the proposed stretch factor, that adjustment has a de minimis impact on the rates;

- Allowing Toronto Hydro to embed in the rates the revenue requirement arising out of its proposed capital spending in each year provides no incentive for Toronto Hydro to be efficient and strive for sustainable productivity;

- The evidence of PEG and PSE regarding total cost benchmarking has demonstrated that Toronto Hydro's cost performance has been declining over time and will continue to do so over the proposed IR term[22]. Allowing for the C-factor adjustment will continue this trend, ultimately to the detriment of its ratepayers if sustainable efficiencies are not achieved.

Overall, the Council believes that Toronto Hydro has not justified the continued use of the C-factor. If the OEB believes that the C-factor has been justified the Council submits that an incremental stretch factor of .64% as proposed by PEG should be applied.

Growth factor:

Toronto Hydro analysis resulted in a growth factor of 2.482%.[23] Although Toronto Hydro is proposing a growth factor of 2%[24] the Council submits the more appropriate number is 2.5%.

Capital Related Variance Accounts:

Toronto Hydro has proposed the continuation of the three capital related variance accounts:

- Capital Related Revenue Requirement Variance Account ("CRRRVA"): This was established to the revenue requirement associated with approved in-service capital additions and actuals of they were less than approved;

- Variance Account for Externally Driven Capital: This account was approved in the last rates proceeding to capture the difference between the amounts

[22] Exs. M3 and M1
[23] Ex. J8.1
[24] Ex. 1B/T4/S1/p. 11

included in rates related to capital spending on third party initiated relocation and expansion projects and the amounts actually spent from 2015-2019. The OEB approved this account on the basis that the projects are outside of the control of Toronto Hydro;

- Variance Account for Derecognition: This account was established to record the costs associated with the derecognition of assets as a result of accounting treatment under IFRS.

The Council supports the continuation of the first two accounts, and supports that arguments advanced by OEB Staff that the Variance Account for Derecognition should be discontinued.

Z-factor and Off-Ramp:

Toronto Hydro proposes to apply the OEB's existing policy with respect to off-ramps. The RRFE Report indicates that each rate-setting method include a trigger mechanism with an annual return on equity dead band of plus or minus 300 basis points, at which point a regulatory review would be initiated.[25]

Toronto Hydro is proposing that it continue to have Z-factor relief available to it. The Council supports Toronto Hydro 's position.

Earnings Sharing Mechanism:

THESL is proposing to include, as part of its rate plan, an earnings mechanism.
In the last proceeding the OEB determined that the ESM applicable to that period would only track the variance between the non-capital related revenue requirement embedded in rates and the actual non capital related revenue requirement. The OEB indicated its view that the establishment of the ESM would allow Toronto Hydro's customers to benefit from any efficiency gains achieved during the course of the Custom IR Plan and thereby alleviate the need for additional reporting requirements to track savings achieved during the term of the plan.[26]

The previously approved ESM was symmetrical and triggered if utility earnings exceeded 100 basis points deadband.

The Council is opposed to the ESM proposed by Toronto Hydro. It is essentially a mechanism that trues up the non-capital related revenue requirement.[27] The way it is structured is that if Toronto overspends on OM&A, and the deadband is reached, those incremental OM&A costs are recovered from ratepayers. This is not

[25] Ex. 1B/T4/S1/p. 13
[26] EB-2014-0116, Decision and Order dated December 29, 2015, p. 49
[27] TC Tr. Vol. 4/pp. 32-33

appropriate and effectively mutes the incentive to find efficiencies. In addition, the ESM does not account for load variances. [28]

The Council submits that in the context of Toronto Hydro's rate plan the OEB should establish an ESM that is consistent with all of the recent ESM's that have been approved by the OEB. This included, Horizon Utilities, Hydro Ottawa, Kingston Utilities and Enbridge Gas Distribution Inc. These ESMs are symmetrical and based on a comparison between approved ROE and actual ROE calculated on an annual basis. This is consistent with OEB policy that states that an ESM protects consumers against rate increases and should be based on overall earnings.[29] The ESM amounts should also be calculated annually and disposed of at the end of the plan term.

Is Toronto Hydro' proposed custom scorecard appropriate? (Issue 2.2)

Toronto Hydro has proposed a Custom Performance Scorecard, which builds on the OEB's standard scorecard. Toronto Hydro had developed 15 custom measures using historical data to set the baseline for performance going forward. The Council accepts the scorecard as reasonable and agrees with OEB staff that Toronto Hydro should establish a baseline for both pole replacement costs and vegetation management costs per kilometer. Toronto Hydro should have targets for these metrics to ensure there are sufficient incentives in place to demonstrate performance in these key areas.

RATE BASE AND CAPITAL PLAN (Issue 3.0)

Are the proposed rate base amounts (including the working capital allowance amounts) reasonable? (Issue 3.2)

THESL is proposing to spend $2.83 billion during the 2020-2024 rate plan term. During the last rate plan term THESL will have spent by the end of 2019 $2.38 billion. [30] The OEB approved a capital budget of $2.24 billion in the last proceeding.[31]

With respect to the largest capital expenditure category, System Renewal, the numbers are $1.3 billion and $1.62 billion [32] which represents an increase of approximately 24%.

The Council has reviewed the detailed analysis provided by AMPCO regarding Toronto Hydro's proposed capital spending. We agree that in light of that analysis Toronto Hydro's capital spending levels should not be increased beyond the

[28] Tr. Vol. 7, p. 164
[29] Rate Handbook/p. 28
[30] Tr. Vol. 1, p. 27
[31] Tr. Vol. 1, p. 27
[32] Tr. Vol. 1, p. 30

historical year levels. In addition, we support the detailed capital submissions advanced both by OEB Staff and SEC setting out proposed reductions at a capital program level. Clearly, Toronto Hydro has not justified its proposals to significantly ramp up capital spending over the rate plan period.

With respect to Energy Storage Systems, which Toronto Hydro has proposed as part of its capital plan, the Council supports the conclusion made by OEB Staff that the issues related to energy storage should be considered as part of the OEB's ongoing consultations regarding Distributed Energy Resources.

LOAD AND OTHER REVENUE FORECAST (Issue 4)

Is Toronto Hydro's Load Forecast Reasonable? (Issue 4.1)

THESL has prepared a load forecast that is the basis for the 2020 base rates and for determining the growth factor in the CPCI for the 2021-2024 period. The most recent load forecast was filed on April 30, 2019 as part of the Exhibit U update.[33]

It its THESL's position that the load forecast is reasonable for the following reasons:

i. It prepared the forecast using a robust approach consistent with the Chapter 2 Filing Requirements for Electricity Rate Applications and historical experience ;[34]and

ii. Historical results demonstrate that THESL's forecasting approach produces accurate and reliable results[35].

The Council notes that THESL continues to derive its load forecast internally[36]. The Council submits that Toronto Hydro should be required to obtain an independent review of its load forecasting methodology to be filed with its next rebasing application. An independent review will provide check on Toronto's methodology and ensure that it is using best practices going forward.

OPERATIONS, MAINTENANCE COSTS, DEPRECIATION AND PILS (Issue 5.0)

Is the proposed level of 2020 OM&A expenditures appropriate and is the rationale for planning choices appropriate and adequately explained? (Issue 5.1)

Toronto Hydro's proposed OM&A cost for 2020 is $278.20 million. For the period 2021-2024 the OM&A levels will be adjusted through the price cap formula. The

[33] Ex. U/T3/S1/Appendices A-G
[34] Filing Requirements dates July 12, 2018, pp. 22-28
[35] AIC, p. 47
[36] Tr. Vol. 6, p. 136

2020 levels represent and increase of $9.9 million relative to the 2018 amounts, which are the last full year of actuals available. The Council has reviewed the OEB Staff submissions and agrees that the 2020 forecast should be reduced for the following specific reasons:

- Customer Care costs should be reduced to reflect an overstatement of bad debt. The Bad Debt expense should be lowered to be more aligned with the 2018 historical levels. In addition, external services costs should be reduced to reflect the fact that incremental expenses should not be required to manage winter disconnections;

- Asset and Program Management cost should be reduced to remove the forecast of CWIP write-off which is not an appropriate expense;

- Legal and Regulatory costs should be reduced to reflect the fact that these costs have increased significantly relative to the costs incurred for the previous multi-year application. These cost increases have not been justified and when compared to other major applications before the OEB they are clearly excessive. If Toronto Hydro want to spend significantly more to advance an Application that is not appropriately balanced, the shareholders should be responsible for those costs.

- OM&A should be reduced to reflect the fact that in spite of significant cost overruns with respect to the Enterprise Resource Planning Project, the overall savings have not materialized as projected;

- Compensation costs should be reduced to reflect the most recent forecast of Full Time Equivalents ("FTEs") and related compensation costs as set out in Exhibit J5.1.[37]

The Council is also of the view that OM&A should be reduced in light of the following:

- Despite the fact that ratepayers experienced rate increases that amounted to almost 38% over the previous Custom IR term, they are not seeing any "sustained" productivity embedded in the 2020 budgets and

- Toronto Hydro was unable to demonstrate that it has built in explicit productivity savings into its OM&A budget for 2020.

COST OF CAPITAL (issue 6.0)

[37] OEB Staff Submission, pp. 106-115

Are Toronto Hydro's proposed cost of capital amounts appropriate? (Issue 6.1)

The Council has no issues or submissions regarding THESL's cost of capital amounts for the rate plan period. The Council does encourage the OEB, however, to undertake a full cost of capital review as soon as possible. The last extensive review was in 2009 and circumstances have changed considerably in the interim period particularly with respect to the relative risks and rewards associated with utility regulation.

COST ALLOCATION AND RATE DESIGN (Issue 7)

The Council has no submissions regarding Toronto Hydro's cost allocation and rate design proposals.

ACCOUNTNG AND DEFERRAL AND VARIANCE ACCOUNTS (Issue 8)

The Council has reviewed OEB Staff submissions regarding the accounting issues and deferral and variance accounts and supports those submissions.