



Ontario  
Energy  
Board | Commission  
de l'énergie  
de l'Ontario

BY EMAIL

October 7, 2021

Attention: Ms. Christine Long, Registrar

Dear Ms. Long:

**Re: Hydro One Networks Inc.  
2023-2027 Transmission and Distribution Joint Rate Application  
Ontario Energy Board File Number: EB-2021-0110**

We are writing to you today regarding two matters arising from Hydro One Networks Inc.'s (Hydro One's) October 5, 2021 reply submission on procedural issues in the above-captioned proceeding (Hydro One's submission). Specifically, it is necessary to address Hydro One's comments on working papers relating to the evidence of its consultant, Clearspring Energy Advisors (the Clearspring evidence); and on Hydro One's comment regarding the execution of the OEB's form of Declaration and Undertaking regarding confidentiality by OEB staff.

With regard to the Clearspring evidence, Hydro One's pre-filed evidence in this proceeding includes a report by Clearspring titled "*Benchmarking and Productivity Research for Hydro One Networks' Joint Rate Application*". Hydro One's submission suggests that the working papers related to the Clearspring evidence have been provided to parties to this proceeding.<sup>1</sup>

OEB staff notes that these working papers have not yet been provided by Hydro One to parties and requests that the OEB direct that Hydro One make these working papers available to parties at its earliest convenience, given that the filing date for interrogatories from OEB staff and intervenors is rapidly approaching.

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<sup>1</sup> EB-2021-0110 Reply Submission Filed: 2021-10-05, p.18 L6-L8.

OEB staff further notes that the provision of these working papers has been normal practice by applicants in numerous previous proceedings, including by Hydro One in both its most recent Custom IR distribution and transmission applications.<sup>2</sup>

OEB staff specifically requests that Hydro One provide the following working papers related to this evidence:

- i) All data in Excel Format.
- ii) Calculations in Excel format or program code to show the derivation of the results from publicly available data.
- iii) Identification of variable names and company ID numbers.
- iv) Any other information needed for an experienced consultant to be able to replicate the work.

OEB staff has no objection to maintaining the working papers in confidence. OEB staff's consultant, Pacific Economics Group, agrees to protect any data released by Clearspring in a manner consistent with agreements Clearspring may have with data vendors.

OEB staff also has a concern regarding Hydro One's comment about OEB staff's execution of the OEB's form of Declaration and Undertaking regarding confidentiality. Hydro One, when discussing confidentiality issues related to the Labour Relations Strategy Appendix, makes the following statement:<sup>3</sup>

In respect of protocols to ensure protection of the confidentiality of the Appendix, Hydro One has requested that: (i) in respect of OEB Staff and intervenors other than the unions – individuals be required to execute and file the OEB's standard Declaration and Undertaking in order to obtain access to the Appendix...

OEB staff notes that the OEB's *Rules of Practice and Procedure* and the *Practice Direction on Confidential Filings* (Practice Direction) govern requests for confidential treatment of documents.

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<sup>2</sup> EB-2017-0049 and EB-2019-0082

<sup>3</sup> Submission, p. 7, L18-L21.

While section 2 of the Practice Direction provides that “the procedures set out in this Practice Direction are to be followed by all participants in a proceeding before the OEB, unless otherwise directed by the OEB”, that section goes on to state:

This Practice Direction does not address the manner in which Commissioners and OEB staff will handle confidential information, which is an issue of the OEB’s internal processes. The OEB has implemented internal procedures that are designed to ensure that confidential information is segregated from other information and is made available within the OEB on a limited basis.

OEB staff do not execute and file the OEB’s standard Declaration and Undertaking in order to obtain access to confidential materials in OEB proceedings, and it is neither necessary nor appropriate that they be required to do so in order to obtain access to the referenced Appendix, or any other material that is filed in confidence in this proceeding. OEB staff submits that this should be confirmed by the OEB in its decision on the matters that are under consideration in this submission.

Yours truly,

Martin Davies  
Project Advisor  
Major Rate Applications & Consolidations

c: Parties to EB-2021-0110