



Ontario | Commission  
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BY EMAIL

October 18, 2021

Ms. Christine E. Long  
Registrar  
Ontario Energy Board  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, ON M4P 1E4  
[Registrar@oeb.ca](mailto:Registrar@oeb.ca)

Dear Ms. Long:

**Re: Hydro One Networks Inc. (Hydro One)  
Leave to Construct Application  
Richview by Trafalgar Reconductoring Project  
OEB Staff Submission on Confidentiality  
OEB File Number: EB-2021-0136**

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In accordance with Procedural Order No. 2, please find attached the OEB staff submission for the above proceeding. This document has been sent to Hydro One and to all other registered parties to this proceeding.

Yours truly,

*Original Signed By*

Andrew Pietrewicz  
Project Advisor, Generation & Transmission

Encl.

cc: All parties in EB-2021-0136



# **ONTARIO ENERGY BOARD**

## **OEB Staff Submission on Confidentiality**

**Hydro One Networks Inc.**

**Leave to Construct Application – Richview by Trafalgar  
Reconductoring Project**

**EB-2021-0136**

**October 18, 2021**

## Background

Hydro One Networks Inc. (Hydro One) applied to the Ontario Energy Board (OEB) on July 16, 2021 under sections 92 and 97 of the Ontario Energy Board Act, 1998, for approval to reconductor four electricity transmission circuits between the Richview Transformer Station and the Trafalgar Transformer Station.

In accordance with Procedural Order No. 1, OEB staff and intervenors filed interrogatories on or before September 24, 2021, and Hydro One responded to these interrogatories on October 8, 2021. As part of its response, Hydro One requested confidential treatment of “information data” contained in a spreadsheet that was filed as an attachment as part of the response to interrogatory Exhibit I, Tab 3, Schedule 3, part i). Hydro One stated that the information should not be disclosed because:

The information included in the spreadsheet is sensitive and privileged data pertaining to flows on the Bulk Electrical System. This is classified as commercially sensitive information as there is a potential for historical data to be used for future speculative transactional opportunities and therefore detrimental to free market forces, and it should not be publicly disclosed. For these reasons, Hydro One submits that the confidentiality of this information outweighs the public interest in terms of its disclosure.

Additionally, Hydro One requested approval to “maintain the redactions of persons names and personal information with regards to landowner agreements submitted as Attachment 1 in response to interrogatory Exhibit I, Tab 2, Schedule 1.” Hydro One stated that the “names are not relevant, nor in the public interest to disclose in the context of this leave to construct Application”.

Hydro One stated that the information for which Hydro One requests confidential treatment “is consistent with the types of information for which confidential treatment is contemplated in Appendix 'A' to the Practice Direction and for which the OEB has consistently granted confidential status”.

Through Procedural Order No. 2, issued on October 13, 2021, the OEB ordered that redactions of persons names and personal information with regards to landowner agreements submitted as Attachment 1 in response to interrogatory Exhibit I, Tab 2, Schedule 1 will be permanently maintained.

Procedural Order No. 2 also allowed parties to file objections to Hydro One's confidentiality request in relation to Attachment 1 provided in response to Environmental Defence interrogatory Exhibit I, Tab 3, Schedule 3 part i), and for Hydro One to reply to any objection. Procedural Order No. 2 provided that any objections are to be filed by October 18, 2021 and that Hydro One's response to any objections is to be filed by October 25, 2021.

### **OEB Staff Submission**

OEB staff does not object to Hydro One's request for confidential treatment of the information data underpinning its response to Environmental Defence's interrogatory Exhibit I, Tab 3, Schedule 3, part i).

OEB staff notes that the OEB granted confidential status to information of a similar nature in the past.<sup>1</sup>

OEB staff accepts Hydro One's assertion that the information could be commercially sensitive and could be used for future speculative transactional opportunities and therefore detrimental to free market forces. OEB staff understands that Hydro One's concern primarily relates to the competitive position of wholesale market participants and not specifically to the competitive position of Hydro One as a transmitter.

OEB staff suggests that this type of sensitive information is generally protected from public disclosure by the OEB. Among the OEB's considerations in determining requests for confidentiality set out in Appendix A of the Practice Direction is "the potential harm that could result from the disclosure of the information, including... prejudice to any person's competitive position; [and] whether the disclosure would be likely to produce a significant loss or gain to any person...".<sup>2,3</sup> Similarly, section 17(1) of the *Freedom of Information and Protection of Privacy Act* provides, in part, that

A head shall refuse to disclose a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, where the disclosure could reasonably be expected to (a) prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of

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<sup>1</sup> Decision on Confidentiality and Procedural Order No. 6, Hydro One Networks Inc. Application for leave to construct: reconductoring of transmission lines and associated transmission station work in the Ottawa area, EB-2020-0265, page 2.

<sup>2</sup> OEB Practice Direction on Confidential Filings, Appendix A, Clause (a)(i)

<sup>3</sup> OEB Practice Direction on Confidential Filings, Appendix A, Clause (a)(iv)

persons, or organization; ... (c) result in undue loss or gain to any person, group, committee or financial institution or agency...

OEB staff would be assisted if Hydro One would support any future confidentiality requests with more explanation as to why the information in question is commercially sensitive and why its public release would be detrimental to free market forces.

OEB notes that one column of the spreadsheet attached to Hydro One's response to interrogatory Exhibit I, Tab 3, Schedule 3, part i) is sourced from publicly available information that is posted on the IESO website. Specifically, Column K with the column heading "HOEP" in the spreadsheet Tab entitled "Summary Table – Confidential" shows the Hourly Ontario Energy Price for the period in question and, according to Hydro One, is from a publicly available price report generated and published by the IESO. OEB staff submits that this column does not need to be deemed confidential.

All of which is respectfully submitted.