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January 17, 2022
Our File: EB20210110

Attn: Nancy Marconi, Acting Registrar

Dear Ms. Marconi:

Re: EB-2021-0110 – Hydro One Joint Rate Application – Motions Hearing

We are counsel to the School Energy Coalition (“SEC”). Pursuant to Procedural Order No. 3, below is a list of interrogatories and undertakings which SEC will address at the Motions Hearing¹, and the rationale for why the requested information is relevant and should be produced² by Hydro One Networks Inc. (“Hydro One”).

1. Technical Transcript Day 1, p. 47, Ln 21-22 (Request for fill out KT 1.1 and KT 1.2)

At the Technical Conference, SEC requested (on its own behalf and that of AMPCO) that Hydro One complete two spreadsheets³ that would provide a breakdown of the quantity of assets by their asset analytics composite index and sub-index scores, which are derived from the company’s asset analytics system⁴ used as part of its Asset Risk Assessment process.⁵ The requested information is used by the company to monitor the overall health and state of its assets.⁶ Information on the overall state of Hydro One’s assets using its own information is clearly relevant to the assessment of Hydro One’s transmission and distribution spending plan. With respect to the asset condition sub-index specifically, the information is important to ensuring there is a comparability on asset condition over time, which was requested in numerous interrogatories⁷. Hydro One presented the information in its evidence in three categories, as opposed to the five in previous applications⁸, with the result that the Board cannot

¹ SEC had planned to bring a motion regarding Undertaking JT 1.4. Earlier today, counsel for Hydro One informed the undersigned that Hydro One will now provide the requested material. Assuming the requested material is filed, then there is no issue regarding Undertaking JT 1.4.

² [Rules of Practice and Procedure](#), Rule 27.01

³ KT1.1 and KT1.2

⁴ Technical Conference Transcript December 13, 2021 (Day 1), p.47

⁵ B-1-1, Section 1.7, p.10-12; EB-2019-0082, B-1-1, TSP Section 2.1, p.12-17

⁶ Technical Conference Transcript December 13, 2021 (Day 1), p.45; B-1-1, Section 1.7, p.10-12; B1-AMPCO-4; See also example the attachments to B2-Staff-76, including attachment 3, and documents provided in response to JT 1.20.

⁷ B2-SEC-63, B2-Staff-40c, B1-AMPCO-18

⁸ Technical Conference Transcript December 13, 2021 (Day 1), p.47-48; B2-SEC-69

properly compare asset conditions from the current case to the previous one. The information is relevant, is readily available to Hydro One, and should be produced.

2. Undertaking JT 1.11

Interrogatory B2-Staff-59⁹ requested that Hydro One complete an updated version of a spreadsheet that it had previously completed in EB-2019-0082, providing asset replacement and cost information.¹⁰ Hydro One provided a response, but for assets that are part of integrated station investments, it did not provide the cost information, even though it was able to do so in EB-2019-0082.¹¹ SEC followed up at the Technical Conference.¹² In Undertaking JT 1.11, Hydro One refused to complete the full table, explaining that the “integrated investments’ costs are not readily separable at the asset level nor available” and that “[t]he method used to complete SEC’s table in EB-2019-0082 results in a likelihood of error to misapplying and misinterpreting the estimates i.e. reflecting unit costs.”¹³ The information is relevant and should be provided. SEC submits that Hydro One’s view on how information may or may not be interpreted is not a valid basis for a refusal. The request is asking Hydro One to do no more than provide the information on the same basis that it did, without objection, in its last proceeding.

3. Undertaking JT 2.31

Hydro One filed an IT benchmarking report undertaken by Gartner Consulting.¹⁴ The report compares Hydro One costs against two different peer groups of companies, a custom peer group and a utilities subset of the consultant’s IT Key Metrics Data (ITKMD). Hydro One and/or Gartner have refused to provide the names of the peer companies.¹⁵ Hydro One cannot file a benchmarking study, used as evidence to demonstrate the reasonableness of its cost, and then refuse to provide the most important underlying information, which is against whom is Hydro One being compared. The OEB has specifically commented, in ordering production in the context of a similar dispute regarding benchmarking information in a previous Hydro One proceeding (EB-2012-0140), that “those studies are almost useless to the Board if we are only able to see Hydro One’s individual results against an average, when we don’t even know the identity of the other participants.”¹⁶ The information is relevant and should be provided. Hydro One has an obligation as a matter of fairness to produce this foundational information.¹⁷ Insofar, as Hydro One itself does not have that information, it was well aware of the OEB’s previous decisions on confidentiality arrangements between the utility and third-parties when they retained Gartner.¹⁸ If Gartner will not provide the information, the report should be struck from the record.

⁹ SEC asked Hydro One to complete an almost identical spreadsheet in Interrogatory (B2-SEC-106)

¹⁰ EB-2019-0082, I-7-SEC-36, updated in Undertaking JT 1.24, Attachment 1. The table was itself an updated version completed by Hydro One in EB-2016-0160 (I-6-20).

¹¹ Technical Conference Transcript December 13, 2021 (Day 1), p.76-79

¹² Technical Conference Transcript December 13, 2021 (Day 1), p.76-79

¹³ Undertaking JT 1.11

¹⁴ B-4-1, GSP Section 4.3, Attachment 3

¹⁵ Undertaking JT2.31; B4-SEC-162a

¹⁶ [Motion Hearing Transcript \(EB-2012-0031\), October 23, 2012](#), p.28

¹⁷ [BIE Health Products v. Attorney General \(Canada\), 2018 ONSC 2142](#), para. 19

¹⁸ See for example, [Procedural Order No.3, \(EB-2020-0007\), February 19, 2021](#), p.2; [Decision on Phase 1 Partial Decision and Order: Production of Documents \(EB-2011-0140\), June 14, 2012](#), p.3

4. Undertaking JT 4.29

In response to interrogatory B1-SEC-053a, Hydro One provided results of its monthly productivity report as of September 2021.¹⁹ At the Technical Conference, SEC requested the most recent (at the time) monthly productivity report, which would have been November 2021. In its response to Undertaking JT 4.29, Hydro One refused to provide the requested monthly productivity report on the basis that, in its view, it would constitute disclosure of non-public information on the company, and so it is precluded by securities law from selectively sharing such material. This is not a valid reason to refuse to provide the information. Issues regarding public disclosure of non-public information are appropriately dealt with by a request for confidential treatment, which is explicitly contemplated by the *Practice Direction on Confidential Filings*.²⁰ The information is important to understanding how Hydro One productivity compares against its forecast. The OEB has told Hydro One twice of its clear expectation that Hydro One will provide the most up-to-date financial information at each step of the process, including through technical conference undertakings.²¹

5. Undertaking JT 5.10/E-SEC-212

Hydro One has filed a benchmarking study undertaken by Mercer that shows that its compensation costs remain above the benchmark.²² SEC requested in interrogatory E-SEC-212 an estimate of the dollar difference between the weighted average total compensation for Hydro One's employees, and the P50 median used in the study for each year of the application period, and to provide both a step-by-step explanation, and all supporting calculations. Hydro One (or Mercer) did not provide an adequate response to the interrogatory²³ or the follow up Undertaking JT 5.10. It has not provided a sufficiently detailed step-by-step calculation, and most importantly, did not provide the supporting calculations, so the numbers can be reproduced and verified. No reason has been provided. Hydro One also did not provide the information broken down by the three main Hydro One employee categories (the same basis as the Mercer Study). The OEB in almost every previous Hydro One decision has commented on the unreasonableness of Hydro One's compensation costs.²⁴ In a number of those decisions, the OEB made reductions explicitly premised, in full or in part, on a calculation of the difference between compensation costs included in the application and the P50.²⁵ Parties and the OEB must properly understand and be able to verify the calculations Hydro One has made between the benchmark levels, and the compensation costs included for recovery in the application.

6. Undertaking JT 5.13/E-SEC-213

Hydro One's evidence includes an addendum report from Mercer, which provides a forecast of how Hydro One compensation costs will benchmark in 2023 and 2027, based on certain potential labour relation outcomes.²⁶ Interrogatory E-SEC-13a requested Hydro One provide the "step-by-step explanation of how the forecast was determined and include all supporting calculations, including

¹⁹ B1-SEC-053a

²⁰ [Practice Direction of Confidentiality](#), Appendix B

²¹ [OEB Letter to Hydro One, Re: Blue Page Update, December 2, 2021](#), p.2; [Decision on Blue Page Update, Confidentiality Request and Reply on Expert Evidence and Procedural Order No. 2](#), October 25, 2021, p.3

²² E-6-1, Attachment 1

²³ Technical Conference Transcript December 17, 2021 (Day 5), p.19-22

²⁴ [Decision and Order \(EB-2019-0082\)](#), April 23, 2020, p.142

²⁵ See [Decision and Order \(EB-2019-0082\)](#), April 23, 2020, p.126-127,142; [Decision and Order \(EB-2017-0049\)](#), March 7, 2019, p.3, 110-111; [Decision and Order \(EB-2016-0160\)](#), October 11, 2017, p.51,58

²⁶ E-6-1, Attachment 1.1



related to all assumptions, so the numbers can be verified.”²⁷ Insufficient information, and no supporting calculations, were provided. At the Technical Conference, SEC followed up, asking Hydro One to provide further details, including the full calculations on a similar basis as had been requested in Undertaking JT 5.10.²⁸ In the response to Undertaking JT 5.13, Mercer provides some further information regarding the methodology, but again did not provide the underlying calculations. No rationale was provided. For similar reasons as discussed with respect to Undertaking JT 5.10, SEC requests the OEB order Hydro One to provide the underlying calculations for the forecast benchmarking information.

Yours very truly,
Shepherd Rubenstein P.C.

Mark Rubenstein

cc: Ted Doherty, SEC (by email)
Applicant and intervenors (by email)

²⁷ E-SEC-213

²⁸ Technical Conference Transcript December 17, 2021 (Day 5), p.26