



**Hydro One Networks Inc. - Former Service Areas of
Norfolk Power Distribution Inc., Haldimand County
Hydro Inc., and Woodstock Hydro Services Inc.**

Application for rates and other charges to be effective January 1, 2022

**Motion to review and vary aspects of the EB-2021-0033
Decision and Order relating to Account 1576 and
Account 1592, and a request for a partial stay of the
implementation of certain aspects of the Decision**

**NOTICE OF HEARING, PROCEDURAL ORDER NO. 1, and DECISION
ON REQUEST FOR A PARTIAL STAY
January 12, 2022**

Background

Hydro One Networks Inc. (Hydro One) filed an incentive rate-setting mechanism (IRM) application with the Ontario Energy Board (OEB) on August 27, 2021, under section 78 of the *Ontario Energy Board Act, 1998* (Act) seeking approval for changes to its electricity distribution rates to be effective January 1, 2022. The application related to the legacy service areas of the former Norfolk Power Distribution Inc. (Norfolk Power), the former Haldimand County Hydro Inc. (Haldimand County Hydro) and the former Woodstock Hydro Services Inc. (Woodstock Hydro), also referred to collectively as the Acquired Utilities. The OEB assigned file number EB-2021-0033 to the proceeding.

The OEB issued a Decision and Order (Decision) on December 16, 2021, which included subsequent procedural steps related to implementing the OEB's findings by way of a draft rate order process. Amongst other things, the Decision required Hydro One to calculate new balances in two deferral and variance accounts (Account 1576 and Account 1592) and to file those balances as part of the draft rate order process. The deadline for filing the draft rate order is January 13, 2022.

On January 7, 2022, Hydro One filed a notice of motion to review and vary the Decision. Hydro One's motion included a request for an order partially staying the implementation of the Decision pertaining to Account 1576 (for the 2016 to 2022 period) and Account 1592 (for the 2018 to 2022 period), pending the outcome of the motion. Hydro One

proposed that it would otherwise proceed with the draft rate order process as set out in the Decision.

Account 1576

Hydro One's motion with respect to Account 1576 relates only to the former Woodstock Hydro. The Decision found that Hydro One should continue to record transactions, related to changes in accounting policy, in Account 1576 to the end of 2022. The OEB directed Hydro One to quantify the Account 1576 balance from 2016 to the end of 2022 in the draft rate order and dispose of this balance as part of Hydro One's rebasing application for 2023 rates.¹

Hydro One is requesting to have the Account 1576 findings substituted with a finding that, in respect to the former Woodstock Hydro service area, Hydro One does not need to record transactions in Account 1576 for the period from 2016 to the end of 2022, and therefore revoking the direction to quantify the balance over this period and to dispose of such balance in Hydro One's 2023 rate application.

Account 1592, Sub-account CCA Changes

Hydro One's motion also concerns the former service areas of Norfolk Power, Haldimand County Hydro and Woodstock Hydro, where the OEB found that Hydro One should have balances in Account 1592, Sub-account CCA Changes, for each of the Acquired Utilities. The OEB directed Hydro One to calculate the 1592 sub-account balances to the end of 2022.

Hydro One is requesting to have the Account 1592 findings substituted with a finding that, in respect of the former service areas for each of the Acquired Utilities, it is appropriate that there are no balances in Account 1592, Sub-account CCA Changes, and therefore revoking the direction to calculate balances for the 2018 to 2022 period.

Decision on request for a Partial Stay of the Decision

Hydro One's notice of motion included a request for an order partially staying the implementation of the Decision as it relates to portions of the OEB's findings concerning Account 1576 and Account 1592. A request for a stay related to a motion to review is permitted under Rule 40.04 of the OEB's *Rules of Practice and Procedure* (Rules).

With respect to Account 1576 for Woodstock Hydro, Hydro One asked that the OEB stay the requirement in the Decision that it should:

- a) continue to record transactions in Account 1576 until the end of 2022

¹ EB-2021-0110

- b) quantify the forecast Account 1576 balance for 2016-2022 as part of its draft rate order filings due January 13, 2022
- c) dispose of the Account 1576 balance for 2016-2022 to the legacy Woodstock Hydro customers as part of the 2023 Hydro One rebasing proceeding that is currently before the OEB

With respect to Account 1592, Hydro One requested a stay of the OEB's direction that it calculate new balances for Account 1592 on the basis described in the Decision, and to file these balances with its draft rate order.

Hydro One argued that the OEB does not intend to clear the updated balances in Account 1576 and Account 1592 in the original IRM proceeding (EB-2021-0033), and therefore it is not necessary to file the balances at this time.

Findings

There is a well-established three-part test for obtaining a stay in which the applicant must show that:

1. there is a serious issue to be tried
2. it would suffer irreparable harm if the stay is not granted
3. the balance of convenience favours granting the stay²

Hydro One's motion does not reference this test, nor does it specifically address any of its components. Based on the submissions provided with the notice of motion, the OEB is unable to conclude that the test for a stay has been met. In particular, and without commenting on the other elements of the test, it is not clear why a stay is required to avoid irreparable harm to Hydro One.

However, as a matter of efficiency in setting rates for 2022, the OEB will not require Hydro One to file the updated balances of Account 1576 and Account 1592 with its draft rate order on January 13, 2022. It was not the OEB's intention to clear the updated balances of these accounts through rates in 2022. The balances are not required to set rates for 2022. The OEB wants to avoid the possibility of any delay in issuing 2022 rates. As the final rate order can be issued without the updated balances, the OEB will not require Hydro One to file updated Account 1576 and Account 1592 balances with the draft rate order on January 13, 2022. A decision will be made with respect to the filing of the updated balances as part of the motion to review proceeding.

² *RJR MacDonald Inc. v. Canada (Attorney General)* [1994] S.C.R. 311.

Service of Notice and Requests for Intervenor Status

By the issuance of this Notice of Hearing and Procedural Order No. 1, the OEB is convening a hearing to consider the motion and is setting out the necessary procedural steps. The OEB is not seeking preliminary submissions on the “threshold” issue described in Rule 43 of the Rules.

To access Hydro One’s motion application and evidence, please select the file number **EB-2022-0071** from the list on the OEB website: www.oeb.ca/notice. You can also phone our Consumer Relations Centre at 1-877-632-2727 with any questions.

The Notice of Hearing and Procedural Order in EB-2022-0071 is being served on all parties from Hydro One’s 2022 IRM, the 2013-14 proceedings regarding the Acquired Utilities, the 2018-2022 rebasing proceeding, and the current 2023 rebasing proceedings.³ Intervenors in these proceedings are approved as intervenors on this motion proceeding, to the extent they wish to participate and file a submission. Intervenors that were eligible to apply for an award of costs in these proceedings are also eligible to apply for an award of costs in this proceeding.

Being eligible to apply for recovery of costs is not a guarantee of recovery of any costs claimed. Cost awards are made by way of OEB order at the end of this proceeding.

It is necessary to make provision for the following matters related to this proceeding. Further procedural orders may be issued by the OEB.

IT IS THEREFORE ORDERED THAT:

1. Hydro One Networks Inc. is not required to file updated balances for Account 1576 and Account 1592 with its draft rate order in the EB-2021-0033 proceeding.
2. To the extent that Hydro One Networks Inc. has argument in chief in addition to the arguments provided in its Notice of Motion, it shall file these submissions with the OEB and serve it on all parties by **January 31, 2022**.
3. Any written submission by intervenors and OEB staff shall be filed with the OEB and served on Hydro One Networks Inc. and all other parties by **February 14, 2022**.
4. Any reply submission by Hydro One Networks Inc. shall be filed with the OEB by **February 21, 2022**.

³ EB-2021-0033, EB-2013-0187, EB-2014-0244, EB-2014-0213, EB-2017-0049 and EB-2021-0110

Parties are responsible for ensuring that any documents they file with the OEB, such as applicant and intervenor evidence, interrogatories and responses to interrogatories or any other type of document, **do not include personal information** (as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*), unless filed in accordance with rule 9A of the OEB's [Rules of Practice and Procedure](#).

Please quote file number, **EB-2022-0071** for all materials filed and submit them in searchable/unrestricted PDF format with a digital signature through the [OEB's online filing portal](#).

- Filings should clearly state the sender's name, postal address, telephone number and e-mail address
- Please use the document naming conventions and document submission standards outlined in the [Regulatory Electronic Submission System \(RESS\) Document Guidelines](#) found at the [Filing Systems page](#) on the OEB's website
- Parties are encouraged to use RESS. Those who have not yet [set up an account](#), or require assistance using the online filing portal can contact registrar@oeb.ca for assistance

All communications should be directed to the attention of the Registrar at the address below and be received by end of business, 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, Kelli Benincasa at Kelli.Benincasa@oeb.ca and OEB Counsel, Michael Millar at michael.millar@oeb.ca.

Email: registrar@oeb.ca

Tel: 1-877-632-2727 (Toll free)

DATED at Toronto, **January 12, 2022**

ONTARIO ENERGY BOARD

Nancy Marconi
Acting Registrar