



**BY EMAIL and RESS**

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February 8, 2022  
Our File: EB20210110

**Attn: Nancy Marconi, Acting Registrar**

Dear Ms. Marconi:

**Re: EB-2021-0110 – Hydro One Joint Rate Application – Evidence Update and Schedule**

We are counsel to the School Energy Coalition (“SEC”). SEC is in receipt of Hydro One’s letter of February 7, 2021, requesting postponement of the Settlement Conference, and proposing a revised schedule for the proceeding, due to the need to update its evidence. The letter raises several concerns, which SEC wishes to address.

***Scope of the Evidence Update is Insufficient***

As SEC understands, Hydro One’s evidence update relates to its need to re-forecast costs through to the end of the 2027 Custom IR period due to the level of inflation experienced in 2021 and forecast amounts in 2022 that materially differ from those assumed when the company constructed its application and the associated expenditures.

Hydro One’s position is that the impact of the higher than forecast inflation in 2021 and 2022 will have a “cumulative effect throughout the rate period, as forecast OM&A and capital expenditures will start from an inappropriate base amount in 2023.” It notes that, based on the “current forecasted costs for 2023-2027, Hydro One will not be able to achieve the associated volumes of work included in the investment plan for 2023-2027”. Yet, Hydro One proposes only to file an update that consists of information related to the “inflation assumptions within Hydro One’s plan, and to include resulting amendments to OM&A and capital at the envelope level, together with associated bill impacts.”

SEC submits this is wholly inadequate. Based on Hydro One’s description of the issue and its impact, most of the pre-filed evidence, interrogatory responses, technical conference answers and undertaking responses related to 2021 to 2027 costs are no longer accurate, and in many cases materially inconsistent, with its revised request. It is neither sufficient nor appropriate for Hydro One to simply provide amendments to its costs for 2023 to 2027 at the “envelope level”. This prevents a proper review of both past and forecast costs by the OEB.

If Hydro One wants to amend its application and seek additional amounts from ratepayers, then it must revise all impacted portions of the evidence. If not, then a significant portion of the evidentiary record is not only out of date, but is inconsistent with the requested revenue requirements and rates Hydro One is seeking to have approved. The OEB’s *Rules of Practice and Procedure* require Hydro One to

file “appropriate amendments to the evidentiary record”.<sup>1</sup> This must include updating all aspects of the record that are impacted by the change in costs.

Hydro One’s proposed approach will lead to two types of evidence: detailed cost information that is out of date and of limited value, and a separate set of high-level numbers that reflect the capital and OM&A costs that Hydro One is actually seeking recovery from ratepayers. At best, this will lead to confusion. At worst, parties will be required to make submissions, and the OEB will adjudicate the application, based on an evidentiary record where most of the evidence related to costs is knowingly out of date and is not reflective of the actual request the company seeks. At its root, what Hydro One is requesting is permission to base its approvals, no longer on detailed forecasts, but on high level information.

The OEB should direct Hydro One to update all impacted pre-filed exhibits, interrogatory responses, technical conference answers and undertaking responses. This includes all “downstream” evidence such as revenue requirement calculations, cost allocation and rate design. The OEB should have a record that is complete, thorough and consistent, and forms a reasonable basis for a decision on proposed spending.

### ***Schedule***

Hydro One has attached its letter and proposed revised schedule for the remainder of the proceeding. Without seeing the evidence update or a determination of its appropriate scope, it is very hard to determine if the schedule is reasonable.

By way of example, Hydro One proposes that it be given 5 weeks to prepare and file its evidence update. This is followed by one-week intervals for intervenors to review and file interrogatories, Hydro One to prepare and respond to those interrogatories, and then parties to review the response and prepare for the Settlement Conference. This is likely too short.

Based on the proposed contents of the evidence update as currently outlined by Hydro One, it can expect to receive a significant volume of interrogatories asking for updates to various parts of the evidence. This will likely take Hydro One longer than a week to respond to, and parties will need more than a week to review and digest in advance of the Settlement Conference.

In contrast, if Hydro One provides a more comprehensive evidence update as proposed by SEC, then potentially more time will be required to review the evidence in advance of interrogatories, but one week may be sufficient for Hydro One to respond to those that are filed.

Additionally, in either case there is potentially a need for OEB Staff’s expert Pacific Economics Group (“PEG”) to update its evidence to account for the proposed change in Hydro One’s costs. Hydro One may want to ask interrogatories on the revised evidence.

The OEB may be well advised to wait until Hydro One has filed its evidence update before determining the revised schedule, or at the very least, wait until it has more information and has set the expectations regarding the update’s content.

### ***Selective Update of the Evidence and Filing of Reply Evidence***

Hydro One’s letter also states that the evidence update will include a mechanistic update to its load forecast, and potentially reply evidence from Clearspring in response to the evidence recently received from PEG.

This additional evidence is unrelated to the need for the evidence update and raises other concerns. It is not clear precisely what the scope of this load forecast update is, but Hydro One should not be permitted to selectively update its evidence. With respect to the filing of reply evidence, the OEB

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<sup>1</sup> [Rules of Practice and Procedure](#), Rule 11.02



already ruled against Hydro One's request to do so.<sup>2</sup> It is not clear what basis the OEB's previous order in this regard should be reconsidered.

Yours very truly,  
**Shepherd Rubenstein P.C.**

Mark Rubenstein

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

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<sup>2</sup> [Decision on Blue Page Update, Confidentiality Request and Reply on Expert Evidence and Procedural Order No.2, October 25, 2021, p.14](#)