

**BY EMAIL AND RESS**

April 21, 2022

Ms. Nancy Marconi  
Registrar  
Ontario Energy Board  
Suite 2700, 2300 Yonge Street  
P.O. Box 2319  
Toronto, ON M4P 1E4

Dear Ms. Marconi,

**EB-2021-0110 – Custom IR Application (2023-2027) for Hydro One Networks Inc. Transmission and Distribution (Hydro One) – Timetable under Procedural Order No. 5**

This correspondence is regarding the timetable for next steps established under Procedural Order No. 5 dated April 14, 2022 (“PO5”). Hydro One writes in respect of certain steps and their timing, particularly the expert conferral process under rule 13A.04 and related steps. With a view to helping ensure timetable efficiencies and process enhancement, set out below are suggestions we respectfully ask the Ontario Energy Board (OEB) to consider.

With respect to the timing for the testing of the application amendment evidence, Hydro One takes no issue with, nor makes any suggestions in respect of, those steps or their timing. Regarding the timing for the econometric experts, Clearspring Energy Advisors and PEG, to confer and prepare their joint statement under rule 13A.04, and the further interrogatory process relating to the joint statement, we have a few suggested timetable adjustments in respect of these steps.

**The Timing of the Expert Conferral in relation to the Settlement Conference**

PO5 provides for the expert conferral and joint statement process to occur prior to the settlement conference. This is different than what was contemplated in the previously established timetable under Procedural Order No. 2 dated October 25, 2021 (“PO2”) and Procedural Order No. 1 dated September 17, 2021. Consistent with the previous timetable, we would suggest that the settlement conference need not await completion of the expert conferral.

Under PO2, the OEB referred to the rule 13A.04 process and the intention that Clearspring and PEG undertake that process. The timetable established by the OEB did not require this step to occur prior to the settlement conference (scheduled for early February). Rule 13A.04(a) refers to the expert conferral process occurring “in advance of the hearing”. Accordingly, we assumed that what was contemplated and expected by the OEB was for Clearspring and PEG to confer following the settlement conference and in advance of the oral hearing (if no settlement, or at least no settlement of the issues to which their evidence related, was reached).

After the issuance of PO2, including as we approached the time for the settlement conference, none of the parties suggested that the expert conferral process should or needed to take place prior to the settlement conference.

In Procedural Order No. 4 dated February 18, 2022 related to the Settlement Conference Adjournment (“PO4”), the OEB indicated that the extension of the timing for the settlement conference – and the related extension of the decision performance metric under the OEB’s Protocol for Adjusting Adjudicative Timelines – was due to the application amendment and the necessary steps relating to it, i.e. the filing of the amendment evidence and the testing of that evidence. Those steps consist of the interrogatory process and the technical conference relating to the application amendment. The Clearspring/PEG conferral process under rule 13A.04 is unrelated to the application amendment and was not encompassed within PO4.

In the circumstances, and consistent with the previous sequencing of procedural steps, we suggest that it remains appropriate and efficient for the parties to attend the settlement conference prior to completing the rule 13A.04 process. In this way the settlement conference could proceed shortly after completion of the technical conference and undertakings from it. We suggest the settlement conference could proceed during the week of June 20 or alternatively the week of June 27.

#### **The Length of Time Required for the Experts to Confer**

PO5 gives Clearspring and PEG ten weeks to confer and prepare the joint statement under rule 13A.04, from April 14 to June 23, 2022. We believe this process could be completed in less time, regardless of whether this step happens before or after the settlement conference. As stated in PO5, the preparation of the joint statement involves the experts preparing a statement identifying any points of agreement and disagreement on the issues, and the portions of their respective reports on which they will continue to rely at the hearing.

We think this step could reasonably be completed within 4 to 6 weeks from the date of PO5. We have checked with Clearspring’s principal, Mr. Fenrick, and he has indicated that from his perspective this amount of timing should be sufficient. Mr. Fenrick has also confirmed that he is available from this point onwards to meet with PEG in order to complete this step in a timely way. Even assuming this step were to take a full 6 weeks, the joint statement could be filed by May 27, 2022. We ask the OEB to consider adjusting the timing for this step in this way, which would be helpful in ensuring that the timetable and remaining steps can proceed as efficiently as possible (an objective the OEB reiterated in PO4 and PO5).

We also note that the above timing would still result in the joint statement being filed prior to the settlement conference, even assuming the settlement conference timing is moved up to June as we are suggesting. If the OEB is of the view that it is useful for the parties to see the joint statement for purposes of the settlement conference, they will have received it by then.

## **Interrogatories on the Experts' Joint Statement**

PO5 provides for interrogatories on the Clearspring/PEG joint statement. This is a new step not included in the prior procedural orders. PO2 and the prior timetable did not provide for an interrogatory process in connection with the rule 13A.04 conference, which is consistent with the fact that the joint statement is not expected to comprise new substantive evidence by either of the experts.

The two experts have already exchanged detailed reports setting out their respective evidence on the issues. As noted, after conferring, the joint statement is expected to simply identify any points of agreement and remaining points of disagreement on the issues, and identify the portions of their reports on which they continue to rely for purposes of the hearing. The joint statement itself will not be new substantive evidence that would require further interrogatories.

The only new substantive expert evidence is Clearspring's eleven page report dated March 31, 2022, provided to the parties on April 1 (and a further copy filed on the evidentiary record on April 19 pursuant to the direction in PO5). We recognize it would be appropriate and useful for parties to have the opportunity to ask interrogatories on the March 31 Clearspring report. Since the parties have had this report since April 1, any interrogatories on it could be asked at the same time as interrogatories on the application amendment evidence, i.e. on May 2, with responses to them by May 16. If a few additional days are needed to prepare any such interrogatories, we would have no objection to that timing.

For the above reasons, it would enhance and streamline the process for the timetable to be adjusted by removing the step for interrogatories on the rule 13A.04 joint statement, and instead providing for interrogatories on the Clearspring March 31 report filed by May 2, or possibly shortly after, and responses by May 16. If this adjustment to the timetable is made, it would mean that the rule 13A.04(a) expert conferral process could be completed with the filing of the joint statement in late May.

## **Settlement Conference Timing and Subsequent Steps**

As suggested above, the settlement conference could proceed in late June 2022 (during the week of the 20<sup>th</sup> or 27<sup>th</sup>).

Based on the timing of and depending on the outcome of the settlement conference, the subsequent steps in the process could be adjusted accordingly based on the OEB's metric with completion earlier than under the PO5 timetable. This would be consistent with and in furtherance of the OEB's objective, emphasized in PO4 and PO5, of ensuring efficiency as much as possible and a streamlined process for the remaining steps in the circumstances.

We appreciate your consideration of the above points and suggestions, and would be pleased to answer any questions you may have regarding them.

Sincerely,

A handwritten signature in black ink that reads "Frank D'Andrea". The signature is written in a cursive style with a prominent initial 'F' and a long, sweeping underline.

Frank D'Andrea

cc: EB-2021-0110 parties