



BY EMAIL and RESS

Mark Rubenstein
mark@shepherdrubenstein.com
Dir. 647-483-0113

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
M4P 1E4

June 13, 2022
Our File: EB20210110

Attn: Nancy Marconi, Registrar

Dear Ms. Marconi:

Re: EB-2021-0110 – Hydro One JRAP – Public Submissions on Confidentiality

We are counsel to the School Energy Coalition (“SEC”). SEC previously filed submissions on Hydro One’s request for confidential treatment, by way of permanent redactions, to portions of its 2021-2027 Integrated Business Plan. These submissions were filed on a confidential basis. In our covering letter, we asked Hydro One to review them and identify any confidential information that it believed required redactions to allow the submissions to be filed on the public record. Hydro One has now done so and communicated its position to SEC. On that basis, attached, please file the public redacted submissions of the School Energy Coalition filed on May 9, 2022 (as revised on May 22, 2022).

Yours very truly,
Shepherd Rubenstein P.C.

Mark Rubenstein

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

Hydro One's 2021-2027 Integrated Business Plan - SEC Submissions on Confidentiality

Is some or all of the redacted information relevant to this proceeding, and if so, which information and why?

Hydro One Networks Inc. ("Hydro One") seeks to permanently redact portions of its 2021-2027 Integrated Business Plan ("Business Plan") on the basis that the information contains, i) forward-looking information related to Hydro One Limited, which includes non-rate regulated affiliates, and ii) information related to non-rate regulated affiliates and non-regulated business activity.¹

SEC submits that the information sought for permanent redaction can be classified into four separate categories. SEC addresses each category below.

a. Information Related to Hydro One's Transmission and Distribution Business Directly At Issue In This Proceeding (All of pages 27, 30, most of pages 9, and parts of pages 6, 11, 12, 45)

Hydro One is seeking permanent redactions over certain information that are entirely related to Hydro One's transmission and distribution business at issue in this proceeding. The basis for the proposed redactions appears to be that it is forward-looking information, such as forecast 2024-27 OM&A (pages 27 and 30) and net income related to previously acquired utilities (Norfolk, Woodstock, and Haldimand) (see page 45), that presumably have not been disclosed in other parts of the application. The information is relevant and shows forecast costs that Hydro One will incur for its distribution and transmission business during the term of the proposed rate framework (2023-2027). Relevant non-public forward-looking financial information is a basis for confidential treatment but not permanent redaction.²

b. Information Related to Other Hydro One related OEB Regulated Businesses (All of page 35, and most of pages 45, 52)

Hydro One is also seeking permanent redactions over certain information related to its OEB regulated businesses not directly at issue in this proceeding. This includes information related to Hydro One Remotes, Hydro One Sault St. Marie, Bruce to Milton, Niagara Reinforcement, recently acquired utilities (Peterborough and Orillia), and planned new transmission partnerships. It is not clear what Hydro One's basis is for permanent redaction of this type of information. These activities are OEB rate regulated, and they are relevant to understanding within the Hydro One transmission and distribution business the allocation of capital and OM&A costs, as they relate to the components of the business segments at issue in this proceeding. These other OEB regulated business segments are either integrated within Hydro One's business directly (i.e. Hydro One Sault St. Marie, recently acquired utilities, and new transmission partnerships before those partnerships are formed), or indirectly through a service agreement (i.e. Bruce to Milton, Niagara Reinforcement). There is no reason that information regarding other OEB rate-regulated entities should be permanently redacted and kept from all parties. In so far as the request is based on the claim that information is non-public forward-looking financial information, as noted above, that is not a basis for permanent redaction.

¹ Hydro One Letter, Re: Request for Confidential Treatment of Certain Information in Interrogatory Responses, November 30 2021, p.6

² [Practice Direction on Confidential Filings](#), see Appendix B

c. Information Related to Non-Rate Regulated Businesses and Activities (All of page 36, parts of pages 5, 9, 45, 52)

As a general matter, depending on the issues in a proceeding, it may be appropriate that information related solely to non-regulated businesses and activities are relevant and will need to be placed on the record.

In the context of this proceeding, with a limited exception, SEC does not oppose permanent redaction of information related only to non-rate regulated businesses and activities, as it is not relevant to the issues in the proceeding. The limited exception is general information about these businesses and activities if it is referencing the provision of services to Hydro One (see certain bullets on page 36).

d. Aggregated Information of one or more of categories (a)-(c) (All of page 3, 5, 6, 7, 8, 10, 11, 44-45, part of page 9, 12)

Hydro One seeks to permanently redact any information in the Business Plan that involves aggregating information in two or more of the other three categories. The OEB should deny this request, even if it includes aggregation of data of non-rate regulated businesses and activities for which SEC does not object to permanent redaction.

The Business Plan sets out the corporate and financial direction of the entire Hydro One Limited family of companies (i.e. all of the various subsidiaries, including Hydro One) through the end of the 2027 rate framework term. Hydro One Limited's most recent Annual Report notes that its regulated business makes up 99% of its total revenues³, 98% of its total assets⁴, and 95% of its OM&A costs.⁵ [REDACTED]

[REDACTED] Within those regulated businesses, the transmission and distribution segments directly at issue in this proceeding makeup an overwhelming majority of revenue, assets, and costs. This is not a situation where a regulated business at issue in a proceeding is just one, even a substantial part, of the overall corporate entity. Hydro One is almost all of the Hydro One Limited business.

The aggregate financial information contained in the Business Plan is relevant in several ways. First, certain pages include various risks and opportunities (pages 11 and 12). Hydro One has not sought permanent redaction or even confidential treatment over the identification of these opportunities and risks (page 11), presumably because it knows this is relevant information. SEC submits understanding the financial impacts are just as relevant.

Second, information related to Hydro One Inc. and Hydro One Limited's debt outlook, ratings and credit metrics (page 10) are directly relevant to Hydro One and the issues in this proceeding. Hydro One Inc. issues third-party debt for all subsidiaries, including Hydro One.⁷ Hydro One is seeking approval in this application for long-term debt costs based on debt issued by Hydro One Inc.

Third, aggregate financial information (pages 8, 9, 12, 44-45), primarily related to forecast net income, earnings, and dividends, is relevant information. It shows what metrics and targets Hydro One's management and Board of Directors review and consider significant enough to be included in the Business Plan. This directly impacts the issues in this application, as Hydro One is such a substantial

³ [Hydro One Limited 2021 Annual Report](#), p.16

⁴ [Hydro One Limited 2021 Annual Report](#), p.16

⁵ [Hydro One Limited 2021 Annual Report](#), p.19

⁶ [REDACTED]

⁷ Exhibit F, Tab 1, Schedule 2, p.1

portion of Hydro One Limited. It is telling that the Business Plan spans the length of the proposed Hydro One rate framework.

Lastly, most of the information has not been provided on a Hydro One-only basis. The company should not be permitted to avoid scrutiny by simply combining relevant Hydro One financial data with a small amount of other data.

Similar to SEC's comments on the other categories, if the objection also relates to the information being non-public forward-looking financial information, that is not a proper basis for permanent redaction.

If some of the information is relevant to this proceeding, should this information be confidential and why?

SEC recognizes that a significant portion of the information relates to non-public forward-looking financial information. The OEB's *Practice Direction on Confidential Filings* categorizes such information as presumptively confidential.⁸

Information in the Business Plan which Hydro One seeks to redact that would not be non-public forward-looking financial information would include general information, headings, or descriptions of tables and charts. It would include any 2020 and 2021 information.

SEC also notes that Hydro One Limited has included in its most recent Annual Report forecast capital expenditures across all subsidiaries through 2027.⁹ This information is similar to the capital expenditure information contained on page 6 of the Business Plan, and so no longer is non-public forward-looking financial information that requires confidential treatment. The numbers do differ, but presumably, this is because the Annual Report forecast is more recent.

⁸ [Practice Direction on Confidential Filings](#), see Appendix B

⁹ [Hydro One Limited 2021 Annual Report](#), p.24