

June 17, 2022

RESS & EMAIL

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Attention: Nancy Marconi, Registrar

Dear Ms. Marconi:

**Re: Hydro One Networks Inc. (“Hydro One”)
EB-2021-0110: Custom Incentive Rate-setting Application for 2023-2027
Distribution Rates and Transmission Revenue Requirement (“Application”)
- Request for Confidential Treatment of Technical Conference Undertaking
Responses on Application Update**

We are legal counsel to Hydro One, the applicant in the above-referenced proceeding. Hydro One filed its technical conference undertaking responses in connection with the Application Update on June 16, 2022. Pursuant to the OEB’s *Practice Direction on Confidential Filings* (the “Practice Direction”), Hydro One hereby requests the confidential treatment of certain information contained in six of its undertaking responses.

The specific information for which Hydro One seeks confidential treatment and the rationale for its requests are provided below. In making these requests, Hydro One has taken into consideration the OEB’s prior decisions on confidentiality in this proceeding. Appendix ‘A’ provides (i) page references for the information for which confidentiality is requested, and (ii) references to the appendices attached hereto containing the confidential, unredacted copies of each document that is the subject of this request.

A. Procedural Matters

Pursuant to the OEB’s Digitization Program, Hydro One is providing a public version of this letter without confidential attachments electronically through the OEB’s Regulatory Electronic Submission System (RESS). A confidential version of the letter with the attachments will be filed through the RESS as a standalone, password protected file and will also be uploaded to Torys’ Sharefile data management system.

As an interim measure for efficiency, prior to the OEB making its final determination on Hydro One’s requests for confidential treatment, Hydro One will proceed as though its requests for confidentiality have been granted. However, Hydro One reserves the right to submit that it may

not be appropriate for particular intervenor representatives to have access to certain confidential information even though they have completed and signed a Declaration and Undertaking.

Should the OEB grant Hydro One's requests for confidentiality, Hydro One proposes that the OEB order the documents to be disclosed, subject to any conditions the OEB may find appropriate, to only those persons that have signed and filed a Declaration and Undertaking in the approved form. In addition, consistent with section 6.2 of the Practice Direction, Hydro One requests that during oral proceedings any reference to information which the OEB has determined to be confidential, be conducted in camera to preserve its confidential nature – and subject to the additional conditions referred to below in respect of the labour relations information.

If one or more of Hydro One's confidentiality requests are refused, in whole or in part, and Hydro One in turn requests that some or all of the information that is the subject of its request be withdrawn in accordance with section 5.1.12 of the Practice Direction, Hydro One expects that all persons in possession of the said information will be required to promptly destroy the information and confirm its destruction in accordance with their Declaration and Undertaking.

B. Reasons for Confidential Treatment

The specific information for which Hydro One seeks confidential treatment and the rationale for the requests are set out below.

1) Commercial and Proprietary Information of Hydro One and Third Parties

Hydro One requests confidential treatment for the following types of information that belong to Hydro One or have been supplied to Hydro One by third parties. This information is considered commercially sensitive and, in certain instances as indicated below, proprietary:

(i) Commercially Sensitive Pricing Information

- a) Certain portions of the retainer letter agreement between Hydro One and Scotia Capital Inc. ("Scotia") in connection with the Inflation Trends Study, included as Attachment 1 to undertaking response JTV 1.02 ("Scotia Retainer"). The redacted portions of the Scotia Retainer contain commercially sensitive third-party rates and pricing information agreed upon by Hydro One and Scotia through commercial negotiations. Hydro One is advised by Scotia that disclosing this information on the public record could prejudice the economic interest and competitive position of Scotia in future commercial negotiations to provide similar services to other potential clients. Hydro One further notes that third party pricing information, under the Practice Direction, is presumptively considered confidential.¹ Previously in this proceeding, the OEB found comparable rates and pricing information for other third-party experts to be confidential.²

¹ Practice Direction, Appendix B, item 2.

² Decision on Confidentiality Requests and Procedural Order No. 5 ("PO5"), April 14, 2022, p. 14.

- b) The majority of undertaking response JTU 1.16 and the entirety of the response to undertaking JTU 1.19. JTU 1.16 contains detailed descriptions of price adjustment mechanisms that form part of certain major equipment contracts that Hydro One has negotiated with key suppliers. JTU 1.19 contains pricing and volume related terms negotiated by Hydro One with its counterparty in connection with the Advanced Meter Infrastructure 2.0 project.

The price adjustment mechanisms in JTU 1.16, and the pricing and volume related terms in JTU 1.19, are derived from contracts that Hydro One has negotiated with its counterparties, the terms of which specify that the contracts are themselves confidential. The suppliers under these contracts have consented to disclosure of the information provided in each of these undertaking responses, but only on a confidential basis.

With respect to JTU 1.16, disclosure of the detailed descriptions of the price adjustment mechanisms on the public record would give rise to significant potential harm, both to Hydro One and its counterparties, and could provide material undue benefits to competitors of those counterparties. The price adjustment mechanisms consist of formulas or methodologies that are the intellectual property of the suppliers as they have been developed by the suppliers using their expertise and resources for use in managing changes in cost inputs in their contracts with customers such as Hydro One for the supply of equipment. This information would be of significant value to their competitors as it could be used by competitors in their own contracts and thereby undermine the competitiveness of Hydro One's suppliers. Given Hydro One's understanding that many of its key suppliers pay close attention to its regulatory proceedings, the risk of this is high. Moreover, public disclosure of this information would be detrimental to Hydro One as it could impact the company's future contract negotiations with suppliers, deter potential suppliers from doing business with Hydro One if they are concerned about the risk of their intellectual property being disclosed in regulatory proceedings, and ultimately increase Hydro One's costs for procuring equipment that is fundamental to its operations.

With respect to JTU 1.19, public disclosure of the pricing and volume related terms of the AMI 2.0 contract would also give rise to significant potential harm to both Hydro One and its supplier thereunder. The supplier's pricing information could be used by its competitors to gain a competitive advantage in the market for that type of equipment, as well as by its potential future customers to gain a strategic advantage in negotiations for the supply of such equipment. This could cause significant economic harm to the supplier. Furthermore, public disclosure of this pricing information would be detrimental to Hydro One as it could impact the company's future contract negotiations with suppliers and deter potential suppliers from doing business with Hydro One if they are concerned about the risk of their commercially sensitive pricing information being disclosed in regulatory proceedings.

(ii) *Other Commercially Sensitive and Proprietary Information*

- a) Hydro One's inflationary cost model ("Inflationary Cost Model"), in its entirety, which is included as Attachment 1 to undertaking response JTU 1.14. The Inflationary Cost Model contains the analysis and modelling performed by Hydro One to estimate the impacts of inflationary increases on its business in 2022 for materials and third-party services. In particular, the Inflationary Cost Model consists of Hydro One's supply chain taxonomies with individual spend items that have been assigned to certain materials and services that Hydro One purchases. This information is proprietary to Hydro One and commercially sensitive because the public disclosure of the Inflationary Cost Model could prejudice Hydro One's economic interests and its competitive position in future commercial negotiations with suppliers and third-party service providers that are identified in the Inflationary Cost Model.
- b) IHS Global Insight Economic Forecast from April 2022 ("IHS Report"), in its entirety, which is included as Attachment 1 to undertaking response JTU 1.13. The IHS Report is proprietary in nature and contains intellectual property and trade secrets of IHS Markit (now part of S&P Global). The IHS Report was provided to Hydro One under a paid subscription, has consistently been treated in confidence by IHS Markit and Hydro One, and is of considerable commercial value to the consultant as it includes the underlying historical and forecast data that has been processed and calculated with significant investment, expertise, and time. As confirmed with IHS Markit, public disclosure of the IHS Report could prejudice their economic interests and competitive position, while providing an unfair advantage to its competitors. The IHS Report is considered presumptively confidential pursuant to the Practice Direction as it contains the underlying dataset and/or model of a consultant.³ Previously in this proceeding, the OEB found comparable reports from other third parties, filed in response to the same interrogatory to which this undertaking relates, to be confidential.⁴

2) Non-Public Forward-Looking Financial Information

Hydro One requests confidential treatment, by means of redaction, for certain portions of its 2022 Team Scorecard ("2022 Scorecard"), which is included as Attachment 1 to undertaking response JTU 1.18. The redacted portion of the 2022 Scorecard contains net income performance level targets of Hydro One Limited ("HOL"), the parent company of Hydro One. This information is non-public, forward-looking financial information of HOL, which is a publicly traded entity. The disclosure of this information could give rise to liability under Ontario securities law. Hydro One notes that this category of information, under the Practice Direction, is presumptively confidential.⁵ Moreover, Hydro One notes that the OEB, previously in this proceeding, found comparable non-public forward looking financial information of HOL to be confidential.⁶ Once the 2022 Scorecard performance achievements have been determined and disclosed publicly by HOL, Hydro One will file an unredacted copy of the 2022 Scorecard on

³ Practice Direction, Appendix B, item 7.

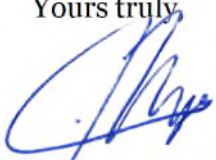
⁴ Decision on Confidentiality – 2021-2027 Integrated Business Plan and Interrogatory Responses, June 14, 2022, p. 14.

⁵ *Ibid.*, item 9.

⁶ *Ibid.*, pp. 12-13; PO5, p. 16.

the public record of this proceeding.

Yours truly,

A handwritten signature in blue ink, appearing to read 'Jonathan Myers', is written over a faint, light blue circular stamp or watermark.

Jonathan Myers

cc: Hydro One
All Parties

Appendix 'A'

Undertaking ("UT")	UT/Attachment Description	Confidential Info Location	Confidential Submission Appendix	Rationale Summary Reference
JTU 1.02, Att. 1	Scotia Retainer	p. 3 (of 12)	Appendix 'B'	Section 1(i)(a)
JTU 1.13, Att. 1	IHS Report	Entire document	Appendix 'C'	Section 1(ii)(b)
JTU 1.14, Att. 1	Inflationary Cost Model	Entire model	Appendix 'D'	Section 1(ii)(a)
JTU 1.16	UT Response	pp. 2-10 (of 10)	Appendix 'E'	Section 1(i)(b)
JTU 1.18, Att. 1	2022 Scorecard	p. 1 (of 1)	Appendix 'F'	Section 2
JTU 1.19	UT Response	p. 1 (of 1)	Appendix 'G'	Section 1(i)(b)

Appendices B to G have been filed confidentially with the OEB in accordance with the *Practice Direction on Confidential Filings*