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November 17, 2023

Ms. Nancy Marconi, Registrar  
Ontario Energy Board  
PO Box 2319  
2300 Yonge Street, 27th floor  
Toronto, ON M4P 1E4

Dear Ms. Marconi:

**Re: OEB File No. EB-2023-0195, Toronto Hydro-Electric System Limited ("Toronto Hydro")  
2025-2029 Custom Rate Application for Electricity Distribution Rates and Charges –  
Request for Confidential Treatment**

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Toronto Hydro filed the above-referenced application on November 17, 2023. Concurrently, the utility hereby requests that certain information in the application and related pre-filed evidence be treated as confidential pursuant to Rule 10.01 of the OEB's *Rules of Practice and Procedure* and the OEB's *Practice Direction on Confidential Filings* (the "Practice Direction"). Toronto Hydro's requests for confidentiality are limited to information that (i) is related to current and future collective bargaining negotiations, and (ii) exposes the utility to fraud or security risks.

The information for which Toronto Hydro requests confidential treatment is redacted in the public version of the Application as filed. **Attachment 'A'** contains a compilation of the redacted versions (non-confidential) of the relevant documents. **Attachment 'B'** contains a compilation of the unredacted (confidential) versions of the relevant documents, each of which is marked "confidential" and highlights the specific portions of the documents for which Toronto Hydro requests confidential treatment. Toronto Hydro filed the confidential Attachment 'B' with the OEB as a separate electronic document that is marked "confidential".

The following table describes the particular information for which Toronto Hydro requests confidential treatment and outlines the basis for the requests.

Exhibit	Pages	Basis for Confidential Treatment
Exhibit 6, Tab 2, Schedule 3, T2 Corporation Income Tax Return	pp. 1,9, Schedules 550 and 569	<p><b>Deemed Confidential:</b> The information consists of personal information which is deemed to be confidential pursuant to the Practice Direction, section 10.</p> <p><b>Personal Information:</b> Consistent with the definition of “personal information” under the <i>Freedom of Information and Protection of Privacy Act</i>, RSO, 1990, CF 31, the redacted information includes: the names, phone numbers, job titles, professional designations and years of experience of employees; the names and addresses of external individuals; and the names of students and apprentices.</p> <p><b>Previous Treatment:</b> Pursuant to Appendix A, item (e) of the Practice Direction, this information has been previously held as confidential by the OEB.<sup>1</sup></p>
Exhibit 6, Tab 2, Schedule 3, Form T661 SR&ED Expenditures Claim	Part 1, “Section C” (lines 260,261,269) – for “project number” (i.e., as identified in top right corner) 1-18	
Exhibit 6, Tab 2, Schedule 3, T2 Corporation Income Tax Return	pp. 1-9, Schedules 1, 2, 5, 8, 9, 23, 31, 33, 50, 53, 500, 508, 510, 511, 550, 568 and 569	<p><b>Risk of Fraud:</b> The information consists of business numbers contained in the utility’s corporate income tax return, which is financial/commercial information that is consistently treated in a confidential manner by Toronto Hydro (Practice Direction, Appendix A, Part (b)) as disclosure of this information can expose the utility and other parties to the risk of fraud.</p> <p>Pursuant to Appendix A, item (e) of the Practice Direction, this information has been previously held as confidential by the OEB.<sup>2</sup></p>
Exhibit 6, Tab 2, Schedule 3, Form T661 SR&ED Expenditures Claim	All pages	

<sup>1</sup> See EB-2018-0165, Toronto Hydro-Electric System Decision on Confidentiality and Procedural Order No. 2 (November 21, 2018).

<sup>2</sup> See EB-2014-0116, Toronto Hydro-Electric System Decision on Confidentiality and Procedural Order No. 4 (January 7, 2015) at p.4 and EB-2013-0196, 0197, 0198, Decision on Confidential Request and Procedural Order No. 5 (September 27, 2013) at pp. 7-8.

Exhibit	Pages	Basis for Confidential Treatment
Exhibit 2B, Section E8.1, Enterprise Data Centre	pp. 3, 4, 6-11, 13-29	<p><b>Presumptively Confidential:</b> Pursuant to Appendix A, item (c) of the Practice Direction, this information relates to security and cybersecurity.</p> <p><b>Security Risk:</b> The disclosure of this information could adversely impact the safety and security of the distribution system, including related assets and facilities. More specifically, the information identifies vulnerabilities and locations of existing and proposed technological infrastructure including back up operations and data centres, and information that directly or indirectly identifies vulnerabilities of existing security and cybersecurity infrastructure.</p> <p><b>Previous Treatment:</b> Pursuant to Appendix A, item (e) of the Practice Direction, this information has been previously held as confidential by the OEB.<sup>3</sup></p>
Exhibit 2B, Section E4, Appendix A, ADMS Business Case	pp. 32	
Exhibit 2B, Section E8.2, Facilities Management and Security	pp. 14, 24, 28-31	
Exhibit 4, Tab 1, Schedule 1, Operations, Maintenance & Administration Overview	pp. 23 and 30	<p><b>Presumptively Confidential:</b> This information is presumptively confidential under Appendix B, item 8 of the Practice Direction. Furthermore, the disclosure of this information could significantly prejudice Toronto Hydro's position in current and upcoming labour negotiations.</p> <p><b>Risk of Impacting Collective Bargaining Negotiations:</b> This information (collectively, the "Labour Sensitive Information") consists of workforce compensation projections and</p>
Exhibit 4, Tab 4, Schedule 1, Workforce Staffing and Compensation Overview	pp. 7 and 9	

<sup>3</sup> See EB-2016-0160, Hydro One Networks Inc. Decision on Confidentiality Request (Revised) (September 26, 2016) at pp. 3-4; Decision and Procedural Order No. 4 (October 28, 2016) pp. 2-3, information described in Notice of Motion to Review OEB Decision on Confidentiality Request (September 30, 2016); Ontario Power Generation Inc. Decision and Order on Confidentiality (January 31, 2017) at p. 21.

Exhibit	Pages	Basis for Confidential Treatment
Exhibit 4, Tab 4, Schedule 2, Appendix 2K, Employee Costs/Compensation Table	All pages	<p>assumptions for the 2024-2029 period, the disclosure of which can interfere with current and upcoming rounds of collective bargaining negotiations during this period, which would be prejudicial to utility and ratepayer financial interests.</p> <p><b>Previous Treatment:</b> Pursuant to Appendix A, item (e) of the Practice Direction, this type of information has been previously held as confidential by the OEB.<sup>4</sup></p>
Exhibit 4, Tab 4, Schedule 4, Compensation Strategy and Workforce Governance	pp. 1-3, 14, 17-18	
Exhibit 2A, Tab 4, Schedule 2, Overhead Expense	pp. 4-5	
Exhibit 2A, Tab 4, Schedule 2, Appendix 2-D, Overhead Expense	All pages	
Exhibit 1B, Tab 3, Schedule 3 – PEG Forecast Benchmarking	Sheet 1 – Model Inputs	

### Confidentiality Protections Requested for Labour Sensitive Information

As indicated in the table above, Toronto Hydro requests confidential treatment of its 2024 to 2029 compensation forecasts, including total cash, benefits and pension, and labour capitalization amounts. The forecasts constitute highly labour sensitive information (the “Labour Sensitive Information”) as they include and reflect the utility’s projections and expectations of outcomes of future rounds of collective bargaining that will take place throughout the above forecast period.

If Labour Sensitive Information is disclosed to the unions, or any representatives of the unions, it would be prejudicial to the utility’s – and by extension its ratepayers’ – interests in current and expected labour negotiations. More specifically, Toronto Hydro submits that if the unions have access to the Labour Sensitive Information, they could rely on the projected compensation amounts

<sup>4</sup> EB-2021-0110, Decision on Blue Page Update, Confidentiality Request and Reply on Expert Evidence and Procedural Order No. 2 (October 21, 2021), p.9; Alectra Utilities Corporation and Guelph Hydro Electric Systems Inc., Decision on Confidentiality and Procedural Order No. 2, EB-2018-0014 (July 12, 2018), pp. 2-3; Ontario Power Generation, Decision on Confidentiality, EB-2016-0152 (May 4, 2017), pp. 1-2.

and the relative changes in them (or rate of change) year to year to inform and bolster their positions in current and upcoming bargaining rounds with Toronto Hydro.

As described in Exhibit 4, Tab 4, Schedule 4, Toronto Hydro currently has collective agreements with the following unions:

- (i) Society of United Professionals – Engineers (agreement expires December 31, 2023);
- (ii) Society of United Professionals – IT (agreement expires December 31, 2025); and
- (iii) Power Workers’ Union (PWU) (agreement expires January 31, 2027).

From now until early 2027, Toronto Hydro will be engaging in multiple rounds of collective bargaining with these unions. That said, if collective bargaining with the Society of United Professionals – Engineers concludes while the record for this proceeding is open, Toronto Hydro intends to update the public record and cease confidential treatment with respect to the 2024 and 2025 compensation forecasts.

In respect of non-union intervenors, Toronto Hydro requests that access to the Labour Sensitive Information, like other confidential information, only be provided to those individuals who execute and file the OEB’s standard confidentiality Declaration and Undertaking. In respect of the union intervenors -- PWU, the Society—Engineers and IT, and any other intervening unions -- Toronto Hydro requests that only external counsel and/or external consultant(s) representing the unions in this proceeding be permitted to have access to the Labour Sensitive Information and that, as a condition of obtaining access, they be required to execute and file (i) the OEB’s standard confidentiality Declaration and Undertaking, and (ii) an affidavit or sworn declaration confirming that they are at arms-length from the union and are not and will not be involved in any way in collective bargaining on behalf of the union through to the end of the rate period covered by the application.

The additional requirement in (ii) above, of an affidavit or sworn declaration from unions’ external consultants and counsel, is appropriate to ensure the protection of this Labour Sensitive Information in the circumstances. The OEB has required this added form of protection in a number of prior cases, most recently Hydro One’s custom rate application for 2023-2027 rates (EB-2021-0110).<sup>5</sup> As the OEB noted in prior decisions on this issue, this additional protection is appropriate in the circumstances to provide the applicant and ratepayers with a high degree of confidence in the OEB’s processes and the protection of sensitive information. In the event PWU or the Society objects to this requirement, Toronto Hydro reserves the right to make further submissions on this point as need be.

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<sup>5</sup> Also required in OPG applications EB-2013-0321 and EB-2016-0152, and in Alectra’s application EB-2018-0014.

Please do not hesitate to contact me if you have any questions.

A handwritten signature in dark ink, appearing to be 'Daliana' followed by a stylized surname.

Daliana Coban

Director, Regulatory Applications & Business Support