

RESS & EMAIL

October 1, 2025

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

Attention: Ritchie Murray, Acting Registrar

Dear Mr. Murray:

**Re: Hydro Ottawa Limited - Custom Incentive Rate-Setting Application for 2026-2030
Electricity Distribution Rates and Charges (EB-2024-0115) - Procedural Matters**

We are legal counsel to Hydro Ottawa Limited (“Hydro Ottawa”), applicant in the above referenced proceeding. We are writing (i) in response to OEB staff’s letter of September 29, 2025, in which it requested that the OEB make provision for staff to file third-party expert evidence related to the rate framework, and (ii) to raise related procedural concerns. In summary, as further discussed below, it is Hydro Ottawa’s view that:

- a) OEB staff’s request has not sufficiently demonstrated, in accordance with the OEB’s rules, why it should be granted leave to file third-party expert evidence;
- b) OEB staff has not provided sufficient or timely notice of its intent to file expert evidence which puts Hydro Ottawa at a procedural disadvantage;
- c) if OEB staff’s request is granted, Hydro Ottawa should be provided a reasonable opportunity to consider OEB staff’s expert evidence, to engage an expert to assist it in reviewing and filing interrogatories on OEB staff’s expert evidence, and to file reply expert evidence (if necessary);
- d) the delays and deviations from the OEB’s standard timelines in the proceeding to date, and any further delays that would result from granting OEB staff’s request to file expert evidence, impact Hydro Ottawa’s ability to efficiently plan and prepare for its ongoing participation in this proceeding and should be without prejudice to Hydro Ottawa’s proposed effective date;

- e) to enable Hydro Ottawa to plan its resources and prepare for its ongoing participation in this proceeding, the OEB should promptly establish by way of a procedural order the remaining dates in the proceeding; and
- f) if the procedural timeline to be established by the OEB is likely to impact Hydro Ottawa's ability to implement its new rates as of the proposed effective date, Hydro Ottawa will follow up with a request for the OEB to declare Hydro Ottawa's current rates interim as of January 1, 2026 to preserve its ability to make the new rates effective as of such date.

A. Staff's Request for Leave to File Expert Evidence

Pursuant to Rule 13.04 of the OEB's *Rules of Practice and Procedure*, when requesting leave to file evidence, a party shall provide a description of the proposed evidence and an explanation of why leave should be granted based on the considerations set out in Rule 13.03. Rule 13.03 states that in determining whether to grant leave for a party to file evidence, the OEB will consider factors that include the relevance and materiality of the proposed evidence and any other relevant considerations affecting the fairness, efficiency or timeliness of the proceeding.

In Hydro Ottawa's view, OEB staff has provided neither an adequate description of their proposed expert evidence nor any substantiation as to why leave should be granted based on the considerations set out in Rule 13.03. Without this information, the OEB has no basis to consider the relevance or materiality of the proposed evidence, or to weigh the potential value of the proposed evidence against the impacts that granting the request would have on fairness, efficiency or timeliness of the proceeding. These considerations are further addressed below.

B. Procedural Fairness Considerations

While not precluded, the OEB's Performance Standards do not include intervenor or OEB staff evidence as a standard/default procedural step in applications like Hydro Ottawa's, with an annual revenue requirement <\$500M. Moreover, in Hydro Ottawa's experience, it is unusual for OEB staff to file expert evidence on an issue for which the Applicant itself has not put forward expert evidence in the first instance. Furthermore, the OEB typically requires parties to identify early in a proceeding whether they intend to file evidence. In light of these circumstances, and as a matter of procedural fairness, it is Hydro Ottawa's view that it has not been provided sufficient or timely notice of OEB staff's intention to file expert evidence.

The lack of adequate notice puts Hydro Ottawa at a procedural disadvantage in terms of having a reasonable opportunity to engage its own expert to assist in its review and development of interrogatories on OEB staff's expert evidence (if necessary), and to develop and file expert reply evidence to address any issues raised in staff's evidence that could materially affect its interests in this proceeding. Should the OEB grant staff's request to file expert evidence, additional procedural steps will be required to enable appropriate discovery on and response to that evidence. These procedural steps will further impact the timelines of the proceeding but should be without prejudice to Hydro Ottawa's proposed effective date for setting rates in this proceeding.

Furthermore, Hydro Ottawa notes that, for applications with revenue requirements >\$500M, the Performance Standard contemplates that expert evidence be filed 10 days from the first day of the Technical Conference, which would be October 2. Staff has proposed to file its evidence October

14, reflecting a 12-day delay relative to the Performance Standard, not including the additional time that is required to enable appropriate discovery on and response to OEB staff's expert evidence if staff's request is granted.

In Hydro Ottawa's view, the lack of sufficient and timely notice, and the impacts to procedural timelines identified above, should be carefully considered by the OEB in evaluating staff's request for leave to file expert evidence at this stage of the proceeding.

C. Scheduling Considerations

Further to the above concerns arising from OEB staff's request to file expert evidence, Hydro Ottawa has broader concerns about the procedural timeline and delays in this proceeding. Specifically, delays of well over one month have been experienced to date. This has resulted largely from (a) scheduling the interrogatory process significantly later (relative to the prior procedural step) than contemplated in the Performance Standard, and (b) in addition to the downstream impact on the timing of the Technical Conference, scheduling the Technical Conference later (relative to the prior procedural step) than contemplated in the Performance Standard. As noted, further delays could occur if staff's request to file expert evidence is granted. Apart from an extension for filing some interrogatory responses due the very high volume of questions received relative to the time allotted for preparing responses, as noted in its letter dated August 11, 2025, Hydro Ottawa has complied with all procedural steps in a timely and constructive manner.

Material and unexpected deviations from the timelines established by the OEB's Performance Standards make it challenging for Hydro Ottawa to plan and prepare for its participation in each of the procedural steps required in this proceeding. This challenge impacts each of the witnesses and their supports, all of whom are balancing their application-related duties with their everyday job responsibilities of running critical aspects of the utility's business.

To enable the Applicant and the parties to efficiently plan and prepare for the remaining steps in this proceeding, Hydro Ottawa requests that the OEB promptly establish by procedural order the remaining steps, accounting for reasonable scenarios in relation to settlement and the need for an oral hearing. If the procedural timeline to be established by the OEB is likely to impact Hydro Ottawa's ability to implement its new rates as of the proposed effective date, Hydro Ottawa will follow up with a request for the OEB to declare Hydro Ottawa's current rates interim as of January 1, 2026 to preserve its ability to make the new rates effective as of such date.

Conclusions

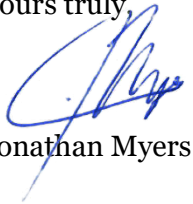
For the foregoing reasons, Hydro Ottawa reiterates its view that OEB staff has not met the requirement for obtaining leave to file its proposed expert evidence, and that the request should therefore be denied. Alternatively, Hydro Ottawa requests that OEB staff be required to further substantiate the need for filing expert evidence and provide further particulars as to the nature of evidence it intends to file.

Further, if the request to file expert evidence is granted, Hydro Ottawa requests that it be given a reasonable opportunity to engage an expert to assist with its review of staff's expert evidence and

that the OEB provide for the possibility of Hydro Ottawa filing reply evidence. As previously indicated, Hydro Ottawa has not retained an expert.

In addition, Hydro Ottawa requests that the OEB promptly issue a procedural order setting dates for the remainder of the proceeding, taking into account the foregoing considerations, in order to enable Hydro Ottawa to plan and prepare its resources accordingly. If the procedural timelines to be established by the OEB are likely to put the implementation date at risk, Hydro Ottawa will follow up with a request for the OEB to declare Hydro Ottawa's current rates interim as of January 1, 2026 to preserve its ability to make the new rates effective as of such date when issuing its final order.

Yours truly,



Jonathan Myers

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