



McCarthy Tétrault LLP
Suite 4000
421-7th Avenue S.W.
Calgary AB T2P 4K9
Canada
Tel: 403-260-3500
Fax: 403-260-3501

Ljuba Djurdjevic
Counsel | Conseil
Direct Line: 416-601-8852 (548852)
Direct Fax: 416-868-0673
Email: LDjurdjevic@mccarthy.ca

Assistant: Gabriela Cabral
Direct Line: 416-601-8200 (542189)
Email: gcabral@mccarthy.ca

March 23, 2026

Mr. Ritchie Murray, Acting Registrar
ONTARIO ENERGY BOARD
P.O. Box 2319, 27th Floor
2300 Yonge Street
Toronto, ON, M4P 1E4

Dear Mr. Ritchie:

Re: EB-2024-0115 – Hydro Ottawa – Submission re: Gartner Benchmark Report

We are counsel to Gartner, Inc. (“**Gartner**”) which produced a report titled “*Hydro Ottawa – Enterprise IT Spending & Staffing Benchmark*”¹ (“**Gartner Report**”) that was filed by Hydro Ottawa in its current rate application before the Ontario Energy Board (“**OEB**”) in EB File No. EB-2024-0115 (“**Application**”). The Gartner Report compared Hydro Ottawa to a custom peer group of nine electric utility organizations and Gartner’s IT Key Metrics Data (“**ITKMD**”) for the broader Utilities industry. One of the intervenors in the proceeding, School Energy Coalition (“**SEC**”), submitted its final argument (“**SEC Argument**”) ² where, among other things, it questioned the methodology underlying the Gartner Report and challenged its reliability on the basis that it did not list the names of the peer group companies used as comparators.

Gartner submits this letter in response to the SEC Argument. At the outset, SEC’s Argument is procedurally improper as it seeks to undermine the evidentiary weight of the Gartner Report at the final argument stage when it did not bring a motion compelling disclosure of confidential information earlier in the proceeding and there were no evidentiary determinations by the OEB with respect to the Gartner Report. Additionally, Gartner emphasizes that strict confidentiality and participant anonymity are not only legal and contractual requirements, but also fundamental to the integrity of the benchmarking process. Moreover, Gartner’s approach ultimately benefits the regulatory process by enabling robust, objective comparisons across the industry.

SEC’s attempt to undermine the evidentiary weight of the Gartner Report is procedurally improper and untimely. We are at the final argument stage, well past the point for raising

¹ Filed with Hydro Ottawa’s [Application](#) as Exhibit1-3-3 (Attachment E), pages 431-498

² School Energy Coalition [Revised Final Argument](#), filed February 26, 2026, pages 24-26

evidentiary challenges or disrupting foundations of the record. In response to SEC's interrogatory request to provide the names of the peer group companies and the ITKMD utilities, Hydro Ottawa responded, on behalf of Gartner, that Gartner cannot release the requested information due to client confidentiality agreements. Instead, Gartner provided anonymized distribution of the nine custom peer group utilities.³ Neither SEC nor any other party sought further responses to interrogatories on this issue, nor was there any motion brought or determination by the OEB. SEC cannot now, at this late stage, seek to completely invalidate the Gartner Report's reliability, as such issues should have been raised, if at all, earlier in the proceeding.⁴

Further, SEC's request that the OEB impose a forward-looking requirement mandating disclosure of underlying data in all third-party consultant reports, and to disregard such reports absent disclosure⁵ is both overly broad and inappropriate. It seeks to introduce sweeping procedural changes for the first time at the final argument stage, without proper notice or evidentiary foundation. As explained below, anonymity of peer group companies is advantageous to the benchmarking process. At a minimum, any consideration of disclosure obligations for third-party benchmarking data should instead be addressed, if at all, on a case-by-case basis, with input from affected parties and regard to confidentiality constraints.

The submissions below confirm that anonymity of peer group companies is required due to the binding confidentiality obligations to third parties, that anonymity strengthens the integrity and usefulness of the benchmarking analysis, and that the Gartner Report's methodology is objective and reliable.

Disclosure of Third-Party Information is Contrary to Consultants' Confidentiality Obligations

Disclosure of third-party consultants' information could breach confidentiality obligations to other clients and harm both the consultants' and their clients' commercial interests. The OEB's [Practice Direction on Confidential Filings](#)⁶ ("**Practice Direction**") sets out factors that the OEB may consider in addressing confidentiality, which includes, consideration of whether the disclosure would "diminish the capacity of a party to fulfill existing contractual obligations"⁷ and result in "significant loss or gain to any person."⁸

Gartner is legally precluded by strict client confidentiality agreements from disclosing the identities of the organizations within Gartner's ITKMD database or custom peer groups. Gartner's corporate [Privacy Policy](#) requires that any information provided to Gartner for research and benchmarking purposes *will be disclosed in the aggregate and presented in anonymous form and will not include (directly or by inference) any information identifying participating*

³ Response to Interrogatory 1-SEC-22 in [HOL_IRR_SEC_20250815](#), pages 117 - 118

⁴ SEC Argument, paragraph 2.9.15, page 26 states, "*In light of the absence of any legitimate IT spending benchmarking, a further reduction of 10% of the total IT spending of \$16.8M (amounting to \$1.7M) would be reasonable.*" (emphasis added)

⁵ SEC Argument, paragraph 2.9.9, page 25

⁶ Ontario Energy Board [Practice Direction on Confidential Filings](#), revised December 17, 2021, Appendix A (Considerations in Determining Requests for Confidentiality)

⁷ Practice Direction, Appendix A, section (a)(ii)

⁸ Practice Direction, Appendix A, section (a)(iv)

organizations. Gathering highly sensitive operational information is central to Gartner's business, and Gartner explicitly guarantees to its clients that their data will be shared with others only in aggregate.

Gartner's strict non-disclosure policy is not simply a preference, but a structural necessity driven by three key factors. First, data integrity and accuracy depend on organizations' willingness to provide detailed and honest data, including information that may reveal inefficiencies. Anonymity ensures psychological safety, encouraging candor and preventing the "sanitizing" of data that would undermine benchmark reliability. Second, anonymity is essential for antitrust and legal compliance. Benchmarking involves sharing sensitive performance data among competitors, and without strict anonymity and third-party aggregation, such exchanges could be misconstrued as collusive or anticompetitive behavior. Third, protecting trade secrets and organizational reputation requires confidentiality. Benchmarking data often includes proprietary information, and anonymity safeguards participants' competitive advantages and shields them from potential reputation risks or negative market reactions.

We disagree with the submission in SEC's Argument that, "*Hydro Ottawa has a legal obligation as a matter of fairness to produce foundational information underlying its expert evidence, which almost certainly includes the identity of the peer companies.*"⁹ (emphasis added.) Hydro Ottawa cannot have a "legal obligation" to disclose third party consultant information where doing so would be a breach of Gartner's legal obligations to its other clients. We respectfully submit that the OEB should not issue any decision or direction requiring disclosure of confidential information about third parties, where doing so would cause Gartner to be in breach of its contractual obligations, applicable law and its own corporate policy.

We acknowledge that the OEB has, in prior cases, decided that a confidentiality agreement between a regulated utility and a service provider does not preclude disclosure on the public record.¹⁰ However, that principle is not applicable here. In this case, the relevant confidentiality obligations are owed by Gartner to third parties who are not involved in this proceeding, and who have independent legal rights. Requiring disclosure in these circumstances would place Gartner in direct breach of its contractual obligations, applicable law and corporate policies.

SEC's reliance on the *Hydro One* decision¹¹ is misplaced. That case involved a customer satisfaction survey conducted by the Canadian Electricity Association (CEA), an industry body comprised of utility members operating within comparable regulatory regimes, not an independent third-party consultant. As the OEB recognized, the CEA is "not truly a third-party service provider."¹² By contrast, Gartner is a bona fide third-party consultant bound by strict confidentiality obligations to its external clients. This distinction is fundamental and determinative.

⁹ SEC Argument, paragraph

¹⁰ For example, EB-2013-0416 (Hydro One Networks), [Decision and Order on Confidentiality and Motion](#), August 25, 2014, page 5

¹¹ *Ibid*

¹² *Ibid*, pages 28 (line 25) -29

The OEB should therefore decline to make broad generalizations about whether third-party consultant information should be disclosed in future proceedings. Determinations regarding third party information of a bona fide third-party consultant call for a higher standard and careful consideration on a case-by-case basis as to whether information should be disclosed.

A more recent and directly applicable OEB decision is Toronto Hydro's rate application, where SEC made a similar request for third party benchmarking studies that involved other utilities.¹³ Toronto Hydro produced the benchmarking studies but redacted the identity of third-party utilities and utility-specific information. Toronto Hydro demonstrated that the benchmarking exercises required the exchange of confidential information between Toronto Hydro and third-party consultants, and that if the OEB compelled disclosure, it would disincentivize future exchange of such information between utilities. The OEB accepted this position, approved the confidentiality for certain third-party utility information, and allowed redactions to enable the anonymity of the third-party utilities referenced in the benchmark studies.

This recent authority squarely supports Gartner's approach and underscores that protecting third-party confidentiality is essential to maintaining the integrity, availability, and reliability of benchmarking studies.

Regulatory Process Benefits from Anonymous Peer Benchmarking

The value of the Gartner Report lies precisely in its aggregated, proprietary data. Because Gartner provides a confidentiality guarantee to clients and participants in its studies, it is able to maintain one of the most comprehensive repositories of quantitative IT performance data in the market. This is proprietary information that has been developed by Gartner, has significant value to Gartner, and is a benefit to the regulatory process. If confidentiality were not assured, utilities would not be willing to participate in such studies with the result that this information would not be available to the utility sector or regulators.

If the OEB makes a finding in this Application that, going forward, third-party consultants must disclose client-specific data or have their work disqualified (i.e., "given no weight"), such a policy statement would deter Ontario utilities from using the most sophisticated global IT data and would force reliance on smaller, less accurate, and potentially biased local samples, simply because there are not enough Ontario local distribution companies that match Hydro Ottawa's characteristics.

Gartner Report's Objective Criteria and Standardized Metrics Ensure Robust and Meaningful Benchmarking Results

Gartner respectfully submits that the SEC's criticisms of the benchmarking methodology are unfounded and reflect a misunderstanding of both statistical best practices and the operational realities. The inclusion of vertically integrated utilities alongside distribution-only

¹³ EB-2023-0195 Toronto Hydro, [Decision on Confidentiality and Procedural Order No.8](#), September 26, 2024, page 7

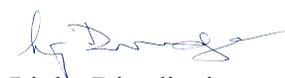
utilities in the peer group is essential for statistical validity. There are simply not enough distribution-only utilities of comparable size and scale to Hydro Ottawa to form a meaningful benchmark. Gartner's methodology relies on objective criteria such as total revenue, operating expenses, and employee count—to ensure the peer group reflects comparable operational complexity. The core drivers of IT spending are dictated by enterprise scale, not by asset type, and standardized metrics ensure that comparisons remain robust and relevant across diverse business models.

SEC's concern about international peers is misplaced. The inclusion of utilities from the United States, Europe, and New Zealand is necessary to achieve a statistically valid sample, given the lack of local comparators. While regulatory environments differ, Gartner's use of universally standardized metrics—total revenue and total operating expenses—bridges these differences and enables true comparisons. IT costs are driven by the volume of financial throughput and data, not by geography, and Gartner's normalization process ensures consistency and fairness in the benchmarking results.

Furthermore, Gartner's benchmarking process normalizes data across all participants and applies consistent measurement standards, ensuring that the comparison remains meaningful and fair regardless of differences in accounting treatments or jurisdiction. By safeguarding participant anonymity, Gartner is able to maintain a comprehensive and unbiased data repository, which ultimately strengthens the integrity of the benchmarking study. The reliability of the report rests on the rigor of its methodology and the objectivity of its metrics not on the disclosure of individual peer identities.

For all the reasons set out above, Gartner respectfully submits that the OEB should not discount the value and reliability of the Gartner Report based on peer group anonymity, as the objective methodology and standardized metrics ensure the integrity and usefulness of the analysis. We also submit that the OEB should not impose any a forward-looking requirement that mandates the disclosure of underlying data in third-party consultant reports in future proceedings. Such a requirement could have significant implications for other utilities and third-party consultants, which should be evaluated carefully on a case-by-case basis rather than determined in a single proceeding.

Yours truly,



Ljuba Djurdjevic
Counsel | Conseil