TORYS LLP

79 Wellington St. W., 30th Floor
Box 270, TD South Tower
Toronto, Ontario M5K 1N2
P. 416.865.0040| F. 416.865.7380

www.torys.com

Jonathan Myers
jmyers@torys.com
P. 416.865.7532

RESS & EMAIL

April 8, 2026

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

Attention: Ritchie Murray, Acting Registrar

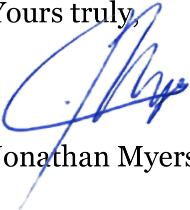
Dear Mr. Murray:

Re: Notice of Motion by Hydro One Networks Inc. to Review and Vary the OEB's Decision and Order in EB-2025-0254

We are legal counsel to Hydro One Networks Inc. ("Hydro One"), Intervenor in the application filed by Wasaga Distribution Inc. ("WDI") for a service area amendment in respect of 400 45th Street South, Town of Wasaga Beach (EB-2025-0254). The OEB issued a Decision and Order on WDI's application on March 19, 2026. Enclosed is Hydro One's Notice of Motion to Review and Vary the OEB's Decision.

To mitigate potential impacts on the developer of the subject property from the delay in having a final resolution on WDI's application, Hydro One requests that the OEB consider this Motion on an expedited basis.

Yours truly,



Jonathan Myers

/JM

cc: Kathleen Burke, Hydro One
Pasquale Catalano, Hydro One
All Parties in EB-2025-0254

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B, as amended (the "OEB Act");

AND IN THE MATTER OF an Application by Wasaga Distribution Inc. for a service area amendment in respect of 400 45th Street South, Town of Wasaga Beach;

AND IN THE MATTER OF the OEB's Decision and Order dated March 19, 2026 and its Decision and Order dated March 31, 2026;

AND IN THE MATTER OF Rules 8, 40, 42 and 43 of the Ontario Energy Board's *Rules of Practice and Procedure*.

NOTICE OF MOTION

Hydro One Networks Inc. ("Hydro One") will make a motion to the Ontario Energy Board (the "OEB" or the "Board") on a date and at a time to be determined by the OEB.

THE MOTION IS FOR:

1. An Order that Hydro One has met the "threshold test" described in Rule 43.01 of the OEB's *Rules of Practice and Procedure*;

2. An Order for a hearing of the Motion on its merits in such manner as the OEB deems appropriate, having regard for Hydro One's preference that the Motion be heard in writing;

3. An Order staying the implementation of the OEB's March 19, 2026 Decision and Order in EB-2025-0254 (the "Decision"), specifically by staying the OEB's approval of Wasaga Distribution Inc.'s ("WDI") proposed service area amendment in respect of the property located at 400 45th Street South, Town of Wasaga Beach (the "Subject Property"), as well as the OEB's March 31, 2026 Decision and Order in the same proceeding regarding the

amendment of WDI's electricity distribution licence to reflect the Decision (the "Licence Amendment Decision");

4. An Order reviewing the Decision in respect of:

    a) The finding that WDI's application met the Filing Requirements for Service Area Amendment Applications, March 12, 2007 (the "Filing Requirements"), including in particular the finding that the Filing Requirements do not create a requirement for an Offer to Connect ("OTC") to be filed by WDI but, rather, that the Filing Requirements only create a requirement for the applicant to provide evidence that the relevant customer, landowner or developer have the opportunity to obtain an OTC (the "OTC Requirement Findings");

    b) Having found that the Filing Requirements create a requirement for an applicant to provide evidence that the relevant customer, landowner or developer had an opportunity to obtain an OTC from the applicant, the failure to make a finding of fact as to whether or not WDI provided an opportunity for the developer of the Subject Property to obtain an OTC (the "Opportunity to Obtain an OTC Findings");

    c) The failure to consider the correct amounts, including the capital contribution, that WDI will require from the developer, based on evidence in the proceeding, in performing its comparison of the economic efficiency of the WDI and Hydro One proposals, contrary to the Filing Requirements (the "Incorrect Amounts Findings"); and

    d) The finding that the issue of ratepayer exposure to the cost of civil works for any new premium (underground) service related to the new connection should be examined and addressed in WDI's next rebasing application but should not be considered in the comparison of costs between WDI's proposal and Hydro One's proposal to supply the Subject Property in the service area amendment proceeding (the "Civil Cost Findings").

5. An Order varying the Decision:

a) By substituting the Original Panel's findings with a finding that the application is denied on the basis that WDI has not demonstrated that its proposal is the more economically efficient option for serving the new development; or

b) By substituting the Original Panel's findings with a finding that the OEB is not able to determine the more economically efficient option for serving the new development in the absence of a complete OTC from WDI, and directing WDI to file an OTC within a reasonable period, or if WDI is not able to do so then to put the proceeding in abeyance until such time that it is so able; and

   i. Upon receiving WDI's complete OTC for the developer of the Subject Property, to provide an opportunity for discovery and submissions of the parties in respect of same, and to undertake a fresh comparison of the options for serving the new development at the Subject Property based on WDI's OTC and Hydro One's OTC;

   ii. Directing the Original Panel, when undertaking the fresh comparison of the options, to take into account the best evidence on the record in the proceeding regarding all relevant capital costs, including any capital contribution or other amounts to be charged to the Developer, and amounts to be charged to ratepayers, in either case including any costs of civil works for any new premium (underground) service related to the new connection; and

   iii. Directing the Original Panel to include, when preparing its new decision, a more balanced account of the evidence in the proceeding by including a summary of Hydro One's intervenor evidence.

6. An Order revoking the Licence Amendment Decision or putting the Licence Amendment Decision in abeyance pending the outcome of the OEB's review of the Decision on the basis described in paragraph 5(b), above.

A. THE GROUNDS FOR THE MOTION ARE:

1. The Proceeding

1. WDI filed a service area amendment ("SAA") application with the OEB on August 19, 2025, under section 74(1) of the *Ontario Energy Board Act, 1998* (the "OEB Act"). WDI requested an amendment to its service area as described in Schedule 1 of its electricity distribution licence (ED-2002-0544) to include a property located at 400 45th Street South (the "Subject Property"). The Subject Property is currently part of Hydro One's service area as described in Schedule 1 of its electricity distribution licence (ED-2003-0043), but is within the municipal boundary of the Town of Wasaga Beach. Hydro One was granted intervenor status and filed intervenor evidence to contest WDI's application.

2. The Subject Property currently consists of unoccupied agricultural land and is the subject of a proposed Official Plan Amendment, Zoning Bylaw Amendment, and Draft Plan of Subdivision with the Town of Wasaga Beach. Primont (Wasaga 2) Inc. and Sterling Group of Companies (collectively, the "Developer") plan to develop the Subject Property into a 660-unit residential subdivision with a mix of single-detached dwellings and townhouses. The application included a letter from Sterling Group of Companies documenting its request to have WDI as its electricity distributor, and Primont (Wasaga 2) Inc. made a similar request in its intervention request.

2. The Decision

3. The OEB issued the Decision on March 19, 2026. The Decision provided (i) an overview of the process; (ii) context and background, including the legislative basis for licence amendments, the OEB's February 27, 2004 Decision in the Combined Service Area Amendment Decision (RP-2003-0044) where the OEB articulated general principles for dealing with SAA applications including the primary consideration of economic efficiency, and the history of the Subject Property which was previously the subject of a load transfer elimination proceeding; (iii) a summary of WDI's application and evidence; (iv) summaries of

the submissions of the parties and OEB staff; and (v) the OEB's findings on the issues of Economic Efficiency, System Reliability and Impacts on Distributors and Their Customers, and Customer Preference.

4. Notably missing from the Decision were (a) any reference in the overview of the process to Hydro One having filed intervenor evidence on October 17, 2025, and (b) any summary of Hydro One's intervenor evidence. As such, the Decision does not provide a balanced account of the evidence on the record in the proceeding and should not be relied upon in that regard for purposes of this review.

5. Following the Decision, in the Licence Amendment Decision, the OEB approved an amended Schedule 1 for WDI's distribution licence to reflect the Decision. The OEB also confirmed that Hydro One's distribution licence did not require an amendment to reflect the Decision.

3. The Review Motion Standard

6. Rule 40.01 of the OEB's Rules of Practice and Procedure allows any person to bring a motion requesting the OEB to review all or part of a final order or decision, and to vary, suspend or cancel the order or decision of the Original Panel.

7. Rule 42.01(a) of the OEB's Rules of Practice and Procedure requires that a notice of motion set out the grounds for the motion, which must be one or more of the following:

    a. the Original Panel made a material and clearly identifiable error of fact, law or jurisdiction;

    b. new facts that have arisen since the decision or order was issued that, had they been available at the time of the proceeding to which the motion relates, could if proven reasonably be expected to have resulted in a material change to the decision or order; or

c. facts that existed prior to the Decision but were unknown during the proceeding and could not have been discovered at the time by reasonable diligence, and if proven could reasonably be expected to result in a material change to the Decision.

8. The OEB has recognized that the above list of grounds is "not an exhaustive list", and that what is required is that grounds supporting a motion to review must raise a question as to the correctness of the order or decision.[1]

9. The OEB has also explained that "(i)n demonstrating that there is an error, the (motion) applicant must be able to show that the findings are contrary to the evidence that was before the panel, that the panel failed to address a material issue, that the panel made inconsistent findings, or something of a similar nature. It is not enough to argue that conflicting evidence should have been interpreted differently. The applicant must also be able to demonstrate that the alleged error is material and relevant to the outcome of the decision, and that if the error is corrected, the reviewing panel would change the outcome of the decision".[2]

4. The Errors in the Decision

10. The OEB panel in the SAA proceeding (the "Original Panel") made four material errors in the Decision, as follows.

(a) The OTC Requirement Findings

11. The OEB incorrectly found that the Filing Requirements do not create a requirement for WDI to have filed an Offer to Connect ("OTC"), but only that WDI file evidence that the Developer has the opportunity to obtain an OTC.

12. The Introduction to the OEB's Filing Requirements for SAA applications states:

---

[1] OEB, Decision on Motion to Review and Vary by the City of Hamilton, EB-2016-0005, March 3, 2016, p. 4.
[2] OEB, Decision with Reasons, Motions to Review the Natural Gas Electricity Interface Review Decision, EB-2006-0322/0338/0340, May 22, 2007, p. 18.

> The information in sections 7.1 to 7.4 must be provided for all SAA applications. The information requested under section 7.5 must be provided for contested SAA applications (i.e., applications where the applicant has not been able to obtain the consent of all affected parties).
>
> . . . the Board will not determine the SAA application until all of the required information is filed during the course of the proceeding regardless of whether the information is provided by the applicant, the incumbent distributor (i.e., the distributor that currently has the region that is the subject of the SAA application in its service area), the customer, or other relevant third party.[3]

13. Section 7.5 of the Filing Requirements states:

> If there is no agreement among affected persons regarding the proposed SAA, the applicant must file the additional information set out below.
>
> 7.5.2 Evidence that the customer, landowner, or developer had the opportunity to obtain an offer to connect from the applicant and any alternate distributor bordering on the area that is the subject of the SAA application.
>
> 7.5.3 Actual copies of, as well as a summary of, the offer(s) to connect documentation (including any associated financial evaluations carried out in accordance with Appendix B of the Distribution System Code). The financial evaluations should indicate costs associated with the connection including, but not limited to, on-site capital, capital required to extend the distribution system to the customer location, incremental up-stream capital investment required to serve the load, the present value of incremental OM&A costs and incremental taxes as well as the expected incremental revenue, the amount of revenue shortfall, and the capital contribution requested.
>
> 7.5.4 If there are competing offers to connect, a comparison of the competing offers to connect the customer, landowner, or developer.[4]

14. In Hydro One's submissions, which were noted in the Decision, Hydro One argued that the application did not meet the OEB's Filing Requirements because WDI had not provided the Developer with an OTC, and that this was a material deficiency that impacted the cost

[3] Filing Requirements, pp. 3-4 (emphasis added).
[4] Filing Requirements, s. 7.5 (emphasis added).

comparisons between the two distributors.[5] As such, the question of whether an OTC needed to be filed by WDI was squarely before the Original Panel.

15. In the Decision, the Original Panel noted that WDI's application acknowledged that it had not yet provided the Developer with an OTC.[6] The OEB also noted WDI's disagreement with Hydro One regarding the need for an OTC, and WDI's view that it met the Filing Requirements.[7] The OEB's findings on this issue are as follows:

> The OEB finds that the application met the Filing Requirements. Section 7.5 of the Filing Requirements outlines certain information requirements for contested applications.
>
> Section 7.5.2 requires:
>
> > Evidence that the customer, landowner, or developer had the opportunity to obtain an offer to connect from the applicant and any alternate distributor bordering on the area that is the subject of the SAA application.
>
> The OEB finds that the Fling (sic) Requirements do not create a requirement that an Offer to Connect be filed in every application, but only that the customer, landowner or developer have the opportunity to obtain such an Offer to Connect.

16. The OEB's finding, as set out above, is incorrect for two main reasons.

17. First, by focusing entirely on subsection 7.5.2 to reach its conclusion, the Original Panel's finding that WDI's application met the Filing Requirements, notwithstanding that WDI did not file an OTC at any time during the proceeding, is flawed. The Original Panel reached its incorrect finding on the need for an OTC because it looked at subsection 7.5.2 in a vacuum, without due consideration for other provisions in, or the overall scheme of, the Filing Requirements.

---

[5] Decision, p. 10.
[6] Decision, p. 9.
[7] Decision, p. 12.

18. While Hydro One concedes that it would not be unreasonable to conclude that subsection 7.5.2 on its own does not require the applicant in a contested SAA application to file an OTC, but only that they file evidence that the customer had the opportunity to obtain an OTC from the applicant, the broader context of section 7.5 makes it clear that the overall scheme does require the applicant in a contested SAA application to file an actual copy of its OTC and along with a comparison of its OTC against any competing OTC.

19. There is no indication in the Decision that the Original Panel considered the introductory language or other subsections within section 7.5, nor that the Original Panel made any attempt to reconcile its finding with the requirements set out in subsections 7.5.3 or 7.5.4, which expressly contemplate the need for the applicant to file an OTC. Not only did this impact the outcome of the proceeding, but it will create significant confusion in future contested SAA proceedings and is likely to encourage applicants in such proceedings to strategically delay their development of or otherwise withhold their OTCs so as to avoid the need to file them for comparison against competing OTCs where advantageous to do so.

20. Second, by modifying the tense used in subsection 7.5.2, from past to future, the Original Panel's interpretation of the requirements under section 7.5 of the Filing Requirements with respect to the need for an OTC is flawed.

21. Subsection 7.5.2 says that the applicant in a contested SAA application must file "evidence that the customer, landowner or developer <u>had</u> the opportunity to obtain an offer to connect from the applicant". By using the past tense, the Filing Requirements are clear that by the time the SAA application is before the OEB, the applicant must have already provided the customer, landowner or developer with an opportunity to obtain an OTC from the applicant.

22. However, in the Decision, the Original Panel instead finds that the requirement is "only that the customer, landowner or developer <u>have</u> the opportunity to obtain such an Offer to Connect". The Original Panel provides no commentary regarding this shift away from the past tense, so it is not clear whether it is intentional or unintentional. However, the effect is to find that as long as an applicant in a contested SAA application provides an opportunity for the

customer to obtain an OTC at some point in time, including subsequent to the conclusion of the SAA proceeding, it will have met the Filing Requirements.

23. The OEB's finding is incorrect because (i) it is clearly inconsistent with the language in subsection 7.5.2, (ii) a panel in a SAA application cannot determine that an application meets the Filing Requirements where such compliance depends on a future event occurring after the conclusion of the proceeding, and (iii) because it does not align with subsections 7.5.3 or 7.5.4, which clearly indicate that an OTC is a required component in a contested SAA application, and where the purposes of those subsections would be frustrated if the OTC could be filed after the conclusion of the SAA proceeding. Moreover, it is contrary to the expectation that where a customer expresses a preference in an SAA proceeding for one distributor over the other, that the customer has done so on an informed basis with the benefit of having received and reviewed the competing OTCs, rather than on the basis of the applicant having actively solicited the support of the customer or developer well in advance of giving them any substantive information, let alone an OTC, as was the case with WDI.[8]

24. The correct and harmonious interpretation of section 7.5 of the Filing Requirements, with respect to the need for an OTC, is that the purpose of sections 7.5.1 and 7.5.2 is to ensure that the applicant and incumbent distributor provided an opportunity for the customer to obtain a copy of their respective OTCs prior to or during the SAA proceeding. This is consistent with the expectation that any customer preference expressed in the SAA proceeding is informed by the competing offers. This aligns with the separate but related obligation that arises under section 7.5.3, which specifically requires the applicant to file as part of their SAA application actual copies of, and a summary of, the OTCs. At the very least, the applicant must provide an actual copy and a summary of its OTC. If the application was initiated due to an interest in service by a customer, then an actual copy and a summary of the incumbent distributor's OTC must also be provided. Where there are competing OTCs, section 7.5.4 requires the application

[8] See Appendix A of WDI Response to HONI Request Under PO#4, filed December 4, 2025, which includes a September 8, 2022 solicitation by WDI for support from the developer for WDI's SAA application.

to include a comparison of the competing OTCs. Also notable is that if the obligation to provide the OTC in 7.5.3 was not accompanied by the requirements of 7.5.1 and 7.5.2, there would be a risk of parties filing OTCs in the SAA proceeding without having provided or offered to provide the OTCs to the affected customers or developer. To conclude that an OTC does not actually need to be filed in the SAA proceeding solely on the basis of section 7.5.2 is incorrect.

(b) The Opportunity to Obtain an OTC Findings

25. Having found (incorrectly as we submit in part (a) above) that the Filing Requirements do not create a requirement that an Offer to Connect be filed in every application, but only that the customer, landowner or developer have (or "had" as discussed in part (a) above) the opportunity to obtain such an Offer to Connect, the Original Panel made a separate and additional error by concluding that WDI met the Filing Requirements without making a finding as to whether or not WDI in fact provided an opportunity for the developer of the Subject Property to obtain an OTC from WDI.

26. The foregoing error is significant because the Original Panel recognized in the Decision that WDI's application acknowledged that it had not yet provided the Developer with an Offer to Connect ("OTC").[9] Moreover, as summarized in WDI's Reply Submissions:

> WDI filed the SAA application in advance of issuing an OTC in order to obtain regulatory certainty regarding the appropriate electricity distributor before detailed distribution system design is finalized and integrated into the municipal planning approval process. No OTC has been prepared because WDI does not yet have detailed subdivision design information that will be finalized through the municipal planning process.[10]

27. As such, the Original Panel knew or ought to have known that WDI did not believe it had sufficient information to prepare an OTC, with the logical conclusion being that WDI could not reasonably have provided the Developer with an opportunity to obtain an OTC.

---

[9] Decision, p. 9.
[10] WDI, Reply Submission, EB-2025-0254, February 12, 2026, p. 5.

28. Based on WDI's evidence and submissions, it is very likely that had the Original Panel turned its mind to the question of whether or not WDI in fact provided an opportunity for the developer of the Subject Property to obtain an OTC from WDI prior to bringing the SAA application or during the proceeding, its conclusion could only have been that WDI had not provided such an opportunity. On the basis of such a finding, unless the Original Panel intended to change the tense of "had" to "have" (rather than doing so inadvertently) so as to conclude that an applicant in a contested SAA application must only provide an opportunity to obtain an OTC at some point in time including subsequent to the SAA proceeding (which is flawed as discussed in (a) above), the Original Panel would have had to conclude that the Filing Requirements had not been met.

29. Furthermore, it is notable that in accepting WDI's reasons for not having prepared or filed an OTC, the OEB failed to consider or attempt to reconcile those reasons with the fact that Hydro One was able to file a copy of the OTC that it prepared and provided to the developer of the Subject Property on April 2, 2025. If Hydro One was able to prepare and provide an OTC to the developer in April 2025 after becoming aware of the developer's desire to connect at the Subject Property on January 31, 2024[11], the Original Panel's implicit acceptance of WDI's reasons for not having prepared or filed an OTC, either prior to filing the SAA application on August 19, 2025 or at any other point during the proceeding after first becoming aware of the developer's desire to connect at the Subject Property in August 2022, is not reasonable.

(c) The Incorrect Amounts Findings

30. The Original Panel erred in its consideration of the capital contribution that WDI will charge to the Developer, as well as more generally in its reliance on amounts that were highly uncertain and contrary to the evidence. This is evident from a comparison of the cost information in the Decision to the cost information on the record in the proceeding, as follows.

[11] HONI, Submission, EB-2025-0254, January 29, 2026, p. 4.

The deficient review of capital contribution and other cost information is contrary to the Filing Requirements.

31. In the Filing Requirements, section 7.2.1 says that an SAA application must include a comparison of the economic and engineering efficiency for the applicant and the incumbent distributor to serve the area that is the subject of the application, and that the comparison must include . . . (d) the amount of any capital contribution required from the customer. Section 7.5.3, which requires actual copies of the OTCs including any associated financial evaluations, indicates that these evaluations should include, among other things, the capital contribution requested. These requirements made it necessary for WDI to provide further information about the capital contribution, and for the Original Panel, in performing its comparison of the economic efficiency of the WDI and Hydro One proposals, to consider as part of that comparison any capital contributions that would be required from the Developer.

32. At p. 15 of the Decision, the Original Panel largely reproduced a connection cost comparison table that WDI provided in response to Hydro One Interrogatory 5(a) ("Table 1"). The only reference in the Decision to any capital contribution is the row included in Table 1 referring to a capital contribution of $1.13M. Table 1 differed in two key respects from the table provided in response to HONI-5(a) – it did not include the "Inspection" costs row, and it titled the last column "Wasaga Distribution" rather than "WDI aligned with HONI's Option A costing practice". The table in response to HONI-5(a), on which Table 1 of the Decision is based, was provided by WDI in an attempt to depict WDI's costs for connecting the Developer using Hydro One's costing practices, as it was asked to do in that interrogatory. In the language immediately before the table, WDI's response indicated that the amounts in the table reflected only a preliminary estimate prepared for cost comparison purposes.

33. Table 1 of the Decision indicates that WDI's connection would include non-contestable work, contestable work and design costs totaling $2.17M. Table 1, as we read it, also indicates that these WDI connection costs would be offset by $1.13M of "Capital Contributions". As no OTC was provided by WDI, it is not clear how the capital contribution indicated in Table 1

was calculated or could be relied upon, or how the other elements of Table 1 were determined in the absence of an OTC, such as the values attributed to Contestable Work and the Capital Contribution. Moreover, the capital contribution in Table 1 is inconsistent with other evidence showing a different amount, as discussed below.

34. In finding that WDI's proposal is more economically efficient than Hydro One's proposal for serving the new development, the Original Panel relies on the amounts set out in Table 1. stating: "The OEB finds that Wasaga Distribution's proposal has the lowest incremental cost to connect the proposed subdivision at $2,167,773.07, does not result in unnecessary duplication or investment in distribution assets and results in the most effective use of existing distribution infrastructure".[12]

35. The Original Panel in the Decision does not discuss the capital contribution or give any consideration to the evidence on the record which indicates that the figures relied upon from Table 1 of the Decision were prepared for the specific purpose of responding to the request in HONI-5(a), based only on preliminary or indicative data. Moreover, the Original Panel did not consider that the figures relied upon from Table 1 could only be a reliable basis for comparison if WDI ultimately applies Hydro One's interpretation of the "beneficiary pays" principle by charging the requesting customer, rather than ratepayers, for civil costs associated with a premium service such as undergrounding.[13] However, WDI made no commitment to apply this approach in the proceeding.

36. When asked directly whether civil costs associated with undergrounding will be recovered from ratepayers, WDI's response was that it will act in accordance guidance and direction from the OEB regarding the allocation and recovery of undergrounding costs arising from this connection.[14] However, the Original Panel provided no such guidance or direction, and instead

[12] Decision, p. 16.
[13] WDI Responses to OEB Staff 11 part 4
[14] WDI responses to HONI-5(e)

deferred consideration of the treatment of undergrounding costs to a future OEB panel as discussed in part (d), below.

37. An essential component of assessing a capital contribution in a SAA application is considering the inputs and methodology for calculation. The evidence from WDI is that if it follows its standard process to connect the Developer, which includes civil costs for undergrounding as described in response to HONI-11(1), the capital cost of the connection that WDI would run through its discounted cash flow (DCF) analysis would be $3.68M, with a capital contribution of $2.26M.[15] Given that the Original Panel relied on WDI's response to HONI-5(a) for Table 1 of the Decision, which did not reflect this information, the Original Panel erred by not correctly considering the cost consequences arising from WDI's standard connection process when assessing the WDI proposal and its associated capital contribution.

38. The OEB erred by utilizing WDI's interrogatory response to HONI-5(a) as a reliable depiction of WDI's connection costs, including capital contribution, without due consideration for WDI's normal connection process and the costs and capital contribution that would result therefrom, which WDI itself highlighted as a distinction in their response to HONI5(a) and OEB Staff-11(1) and (4). These error in accurately considering the capital contribution and connection costs are contrary to the expectations arising from the Filing Requirements.

(d) The Civil Costs Findings

39. In the proceeding, the evidence was that Hydro One's connection proposals were strictly for overhead connection on the basis of its policy that if a customer wants an underground connection, then any incremental costs for undergrounding would be considered premium costs chargeable to the requesting customer rather than to ratepayers.[16] This Hydro One policy

---

[15] WDI Responses to OEB Staff 11(4). Note that the option described as "WDI Beneficiary Pay – Alternative" is actually describing WDI's normal approach. It is referred to as an alternative to Hydro One's standard beneficiary pays principles. As such, the "Alternative" is WDI standard practice and the "Standard" is to align with Hydro One's standard practice.
[16] WDI Application, p. 22.

is aligned with the "beneficiary pays" cost recovery principle, which says that costs should not be allocated to consumers that will not benefit from the investment, and with notion, supported by OEB staff, that where a premium solution (i.e. undergrounding) is desired, the incremental cost of the investment should not be funded through rates.[17] In contrast, WDI's connection proposal was for an underground connection that included $1.52M in civil works, such as trenching, duct banks, vaults and road crossings.[18] Upon meeting with Hydro One in March 2025, and in an effort to get to a more comparable cost estimate aligned with Hydro One's policy of excluding civil costs for undergrounding from its estimates, WDI provided an adjusted cost estimate that excluded the $1.52M in civil works.[19] However, the evidence suggested that despite removing the $1.52M from its estimate for comparability to Hydro One, WDI still intends to recover that amount from its ratepayers rather than exclusively from the Developer of the Subject Property.[20]

40. In the Decision, the $1.52M cost of WDI's civil works is not reflected in Table 1 and the Original Panel makes the following findings:

> The OEB considered Hydro One's caution about the potential for rate payer exposure to the cost of civil works for any new premium service related to the new connection. The OEB is not persuaded by this argument because the issue will be examined and addressed in Wasaga Distribution's next rebasing application when the underlying assets, net of any contribution in aid of construction, are proposed to be added to rate base. As a result, the OEB disagrees with Hydro One's submission.
>
> In summary, the OEB finds that the civil works . . . should not be considered in the comparison of costs.
>
> The OEB acknowledges that an Offer to Connect from Wasaga Distribution would address civil work considerations including any contribution in aid of construction required from the developer. Any contribution from the developer (the new customer) would reduce any risk of costs being recovered from existing customers

[17] See HONI, Intervenor Evidence, October 17, 2025, p. 13.
[18] WDI Application, p. 22.
[19] WDI Application, p. 22.
[20] WDI Application, p. 22 and WDI responses to HONI-5(e), HONI-1(g and k)

or from Wasaga Distribution's shareholders. In either case, it would be a decision of the OEB based on the evidence and submissions filed in that proceeding.[21]

41. By finding that the issue of ratepayer exposure to WDI's cost of civil works for new underground service connection should be examined and addressed in WDI's next rebasing application, the Original Panel made an error. In effect, the Original Panel found that it is appropriate in the SAA proceeding to determine which is the more economically efficient proposal, despite deferring to a future OEB panel the question of how the $1.52M of WDI civil costs should be treated, where the outcome of that future decision should be a key input into the comparison being made in the SAA proceeding. However, by deferring the issue to the future OEB panel, the Original Panel has deprived itself of the ability to consider the $1.52M of WDI civil costs in its comparison of the economic efficiency of WDI's proposal to Hydro One's proposal. In the event the future OEB panel concludes that WDI may recover those costs from its ratepayers rather than from the developer of the Subject Property, WDI's connection cost would effectively grow from $2.16M to $3.68M, which would be $1.42M more costly than the Hydro One proposal. However, that future panel would not be able to reverse the decision of the Original Panel in the SAA proceeding regarding which distributor can provide the more economically efficient connection.

5. The Errors are Material

42. Each of the errors described above is material because, if corrected, they would have the effect either of changing the calculus that led the Original Panel to determine that WDI's connection proposal was more economically efficient than Hydro One's connection proposal, or of leading to the conclusion that it was premature for the OEB to determine WDI's application on a final basis and thereby that some of Hydro One's service area would be lost to WDI.

43. Regarding the OTC Requirement Findings, the error led the Original Panel to conclude that the Filing Requirements were met without the need for WDI to file an OTC. Without this

[21] Decision, p. 17.

error, the application would either have been denied or put into abeyance on the basis that it was incomplete and failed to meet the Filing Requirements. Alternatively, the Original Panel might have directed WDI to file an OTC, which would enable a more informed and reasonable comparison against Hydro One's OTC that could have a different outcome than the Decision. Moreover, this error will cause confusion in future SAA proceedings and potentially impact the extent to which applicants in contested applications will be forthcoming in filing OTCs.

44. Regarding the Opportunity to Obtain an OTC Findings, the error in failing to make a finding of fact as to whether or not WDI provided an opportunity for the developer of the Subject Property to obtain an LTC has a similar impact as above in that without the error, the application would either have been denied or put into abeyance on the basis that it was incomplete and failed to meet the Filing Requirements.

45. Regarding the Incorrect Amounts Findings, the error in failing to consider, in the comparison of the economic efficiency of the competing proposals, the appropriate cost information from the evidence on record, including with respect to the capital contribution that WDI will require from the developer, significantly impacted the calculus that led the Original Panel to conclude that WDI's connection proposal was more economically efficient than Hydro One's connection proposal.

46. Regarding the Civil Cost Findings, the error in deferring consideration of the treatment of civil costs to a future OEB panel and excluding such costs from consideration in the comparison of costs between WDI's connection proposal and Hydro One's connection proposal had the potential (depending on the outcome of the future proceeding) to significantly impact the calculus that led the Original Panel to conclude that WDI's connection proposal was more economically efficient than Hydro One's connection proposal.

B. THE STAY REQUEST

47. As the outcome of the Decision is that the WDI and Hydro One distribution licenses would need to be amended to reflect the removal of the Subject Property from Hydro One's service

area and its addition to WDI's service area, to avoid confusion and reduce regulatory burden it would be prudent to stay the Decision until this motion is determined on a final basis. A stay of the Decision might also avoid WDI entering any agreements or commitments with the developer, suppliers or other parties which might ultimately be premature depending on the outcome of this motion. Given the potential implications for the developer of the Subject Property of any delay arising from this motion, including a stay of the Decision, Hydro One requests that this motion be considered on an expedited basis.

C. THE THRESHOLD TEST IS MET

48. Rule 42.01(e) of the OEB's Rules of Practice and Procedure requires a clear explanation of why a motion should pass the threshold described in Rule 43.01. Rule 43.01 states that the Review Panel may consider a threshold question of whether the motion raises relevant issues that are material enough to warrant a review of the decision or order on the merits.

49. Each of the grounds set out in this Notice of Motion is a material and clearly identifiable error of fact, of law, or of mixed fact and law, that could reasonably be expected to result in a material change to the Decision, as explained in Part B, Section 5 above (under the heading "The Errors Are Material"). As the Decision has the effect of transferring a portion of Hydro One's service area to WDI, and the opportunity to serve that Subject Property, Hydro One's interests are materially harmed by the Decision sufficient to warrant a review on the merits.

D. RULES AND OTHER GROUNDS

50. Rules 8, 40, 42 and 43 of the OEB's Rules of Practice and Procedure.

51. Such further grounds and material as counsel may advise and the OEB may permit.

E. DOCUMENTARY EVIDENCE

52. The following documentary evidence will be used at the hearing of the motion:

    a) The OEB's Decision and Order in EB-2025-0254, dated March 19, 2026;

b) The OEB's Decision and Order in EB-2025-0254, dated March 31, 2026;

c) Materials from the record of the EB-2025-0254 proceeding, including but not limited to pre-filed evidence, intervenor evidence, supplemental evidence, interrogatories, correspondence and submissions;

d) The OEB's Filing Requirements for SAA Applications (March 12, 2007), and any relevant OEB Reports, guidelines or prior decisions, including but not limited to:

   i. the OEB's February 27, 2004 Decision in the Combined Service Area Amendment Decision (RP-2003-0044)

e) Hydro One's submissions and Motion Record on this Motion, which will be delivered in accordance with the OEB's procedural order(s) in regard to this Motion; and

f) Such further and other documentary evidence as counsel may advise, and the OEB may permit.

April 8, 2026

TORYS LLP
79 Wellington St. W., 30th Floor
Box 270, TD South Tower
Toronto, Ontario M5K 1N2
Fax: 416.865.7380

Jonathan Myers
Tel: 416.865.7532

Counsel for the Applicant,
Hydro One Networks Inc.

TO: **ONTARIO ENERGY BOARD**
2300 Yonge Street, 27th Floor
P.O. Box 2319
Toronto, Ontario M4P 1E4

AND TO: All Intervenors in EB-2025-0254