June 23, 2026 **VIA E-MAIL**

Ritchie Murray
Registrar (registrar@oeb.ca)
Ontario Energy Board
Toronto, ON

Dear Mr. Murray:

Re: EB-2024-0115 Hydro Ottawa Limited (HOL)
Response to Cost Objections

We have reviewed the objections of Hydro Ottawa Limited (HOL or Hydro Ottawa) to VECC's cost claim in the above noted proceeding. This is our response.

Like HOL, we have noted the rising costs of processing the more recent cost of service applications. The driver of that trend we suggest, is that the proposals being put forward by utilities today are much increased and by orders of magnitude than those of the past. In that sense we agree in part with HOL that comparing its current proceeding to its last – EB-2019-0261, can be instructive. The difference is that we submit that they have done so in a selective manner.

In the prior application EB-2019-0261 HOL sought an increase in OM&A from its last approved cost of service (2016) of **13**% ($83.1M to $93.9M). In this application the equivalent initial proposal was **55%** ($90.6M to $140M). Actual capital expenditures in 2016 were $118.5M and what was sought in the EB-2019-0261 test year was $163M or a **38%** increase. Compare that capital plan with this application. In 2021 the actual capital spend was $138.6M and a **123%** increase in capital spending was sought for the test year.

All of the issues in this application have been considered and the decision rendered. The point is the efforts expended analysing and arguing an application that ask for an inflationary increase with one which ask for much more is unlikely to yield meaningful insight. This is also evident n by what Hydro Ottawa itself sought for compensation of these different applications. In EB-2019-0261 it budgeted $2.2M for the one- time applications costs including $150,000 in legal cost. The equivalent initial budget in this proceeding was $5.4M with estimated legal costs of $862,400. We do not know the actual costs, especially outside legal costs, since HOL is not as transparent as, for example they ask of Board Staff with respect to costs (which in passing we note they conflate with the Board's own costs). What we do know is that on a budgetary basis HOL expected its own legal costs in this proceeding to be almost six times more than its last.

It can hardly be surprising that intervenors (and Staff's) costs escalated as compared to its last of service application. Perhaps the better comparisons are the costs of HOL defending its applications with those challenging it. Maybe the Board should seek the type of clarification HOL seeks from Board Staff? Perhaps their invoices from outside legal counsel and other consultants they have employed defending the interests of shareholders would provide comparability insight?

The second form of analysis employed by HOL is to compare the time frames and activities of parties and to then make conclusions as to the merit of each one's contributions. HOL compares the time VECC's consultants recorded specifically for interrogatory review and technical conference preparation with that reported by SEC and recommends that VECC's hours be reduced by 12 so as to align the two. However, this analysis is fundamentally flawed in that it relies on a narrow subset of the accounting categories the Board has established for pre-Settlement Conference activities. While the Board has a specific cost category for "Settlement Conference Preparation", preparation for the settlement conference can also take place in conjunction with activities that would be assigned to other pre-settlement cost categories. As a result, the classification of costs includes some discretionary judgement. Evidence of this can be found in Mr. Harper's invoice showing detailed work dockets where it is noted that much of time recorded as "Technical Conference Preparation" was jointly spent preparing notes for the Settlement Conference. Furthermore, each intervenor (and indeed each counsel/consultant) has their own way of approaching a case including when and how they arrive at positions for the settlement conference. This also impacts how hours are assigned to the Board's various pre-settlement cost categories.

To recognize these differences, it is important that any attempt to compare the time spent by intervenors on the application consider a broader set of cost categories that are likely to include similar activities. Indeed, if one combines the time recorded for the cost categories Review Interrogatory Responses, Technical Conference Preparation, Technical Conference Follow-up and Settlement Conference Preparation the Board will see the hours reported by VECC (105) are less than reported by SEC (119.3). In conclusion, the analysis of HOL does not provide justification for the proposed reduction to VECC's hours and cost claim.

We also note this statement in HOL's submission: "*Although SEC assumed a primary leadership role and covered most aspects of the application's scope, each consultant for VECC independently claimed more hours in their time claim submissions than SEC's counsel in the combined category of interrogatory response review and Technical Conference preparation*." We would be the first to agree that no cost reduction should be made to SEC's claim as they are a particularly effective (even when we disagree with them) intervenor. And it might be noted that their detailed analysis can be counted upon to reduce the amount of effort of other intervenors.

We are also critical of HOL's comparison of the number of interrogatories as between the last two cost of service applications. It seems to us inconsistent to encourage parties to find ways of reducing the number interrogatories and then subsequently penalize them when they do. The number of interrogatories is not always (if ever) a good indication of the amount of time one must spend reading, analysing and summarizing an application. A very well composed application might in fact leave no questions to be asked but still require an inordinate amount of time to wade through - especially if its authors have expanded extra effort in trying to anticipate intervenor interests and questions.

Ultimately all of HOL's analysis leads to relatively modest decreases in sought costs, but that does not make them just or reasonable.

Finally, we take particular issue with Hydro Ottawa's submission with respect to VECC's argument in this proceeding. The proper place to make objections to argument are in reply argument and not in submission on costs. However, having raised the issue we feel obligated to respond.

"*While Hydro Ottawa acknowledges the important role of intervenors in the regulatory process and supports their participation, it submits that the OEB should consider the signed reply by Mr. Garner and the deliberate choice of demeaning language in the written argument when determining cost awards. The use of terms such as "oxymoronic" to describe the company's corporate structure, and the reference to a witness as an "underling" serves no analytical purpose and does not align with the professional decorum expected in these proceedings."*

It is unfortunate the Applicant takes offense and in particular to the word "oxymoronic" as used in that argument. We are not sure why they would. Perhaps it is a misunderstanding of the language. We rely on the Cambridge Dictionary which defines oxymoronic as:" *two words used together having, or seeming to have, opposite meanings*." The word was used in the context of an employee of an affiliate company purporting to make cost allocation decisions that could be of simultaneous financial benefit to both HOL and its affiliate providing costly services. Perhaps HOL has confused this word with a different one? If so, they might consider that, as with the words "famous" and "infamous", in English the root of a word is not necessarily definitive of its meaning. Similarly, our use of "underlying" is not particularly offensive. That word describes a person, as we argued with respect to corporate cost allocations, who may be in the difficult position of challenging the allocation decisions of another who is their direct supervisor and who is employed by an affiliate with different financial interests. Our language was meant to be clear and direct, but if it caused offense we did not mean so. In any event the Board has ruled on the matter and we respect that decision.

"*Accordingly, Hydro Ottawa requests that the OEB consider a reduction in the cost award for this intervenor to signal that the OEB does not condone the use of such language and tactics. Hydro Ottawa proposes that any reduction in this instance be redirected to the Hydro Ottawa 2026 Low-income Energy Assistance Program (LEAP) fund."*

While we do not agree that VECC should receive any reduction in sought costs and certainly not as a "penalty" for the argument we submitted, we appreciate the sentiment with respect to the redirection of funds. If the Board makes no adjustment to our cost claim, as we submit should be the case, we invite the shareholders of HOL to, in any event, add to available LEAP funding.

These are our submissions on the cost objections of Hydro Ottawa.

Yours truly,

Mark C. Garner Digitally signed by Mark C. Garner
Date: 2026.06.23 11:38:44 -04'00'

Mark Garner
Consultants for VECC/PIAC