VIA RESS and EMAIL

August 23, 2026

Ritchie Murray
Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, Ontario M4P 1E4

Dear Ritchie Murray:

Re: Toronto Hydro-Electric System Limited (Toronto Hydro)
Non-Wires Solution Incentive Mechanism Application
Consumers Council of Canada (CCC) Submission
OEB File No. EB-2026-0129

In accordance with Procedural Order No. 2, dated June 22, 2026, please find attached CCC's submission with respect to Toronto Hydro's Non-Wires Solution (NWS) Incentive Mechanism application.

Yours truly,

Lawrie Gluck

Lawrie Gluck
Consultant for the Consumers Council of Canada

cc: All parties in EB-2026-0129

Toronto Hydro-Electric System Limited

Non-Wires Solution (NWS) Incentive Mechanism Application

EB-2026-0129

Consumers Council of Canada Submission

August 23, 2026

Background

Toronto Hydro-Electric System Limited (Toronto Hydro or the Company) filed an application, on April 10, 2026, seeking OEB approval for a Non-Wires Solution (NWS) incentive mechanism and the establishment of a deferral account to record the actual incentive amount. More specifically, Toronto Hydro requested approval to implement a Margin on Payment (MoP) incentive of 25% applicable to the third-party payments made to program participants as part of the Company's existing Local Demand Response (LDR) program.[1]

On a forecast basis, over the 2026-2029 period, Toronto Hydro expects to accrue a MoP incentive of approximately $1.2 million.[2]

For the reasons that follow, CCC submits that the OEB should reject Toronto Hydro's proposal to apply a 25% MoP incentive on payments made to LDR program participants and dismiss the application.

CCC Submission

Toronto Hydro's LDR program has been in operation since 2018, and the Company has never received a ratepayer-funded incentive related to this program.[3] CCC submits that the application of a MoP incentive to a long-standing NWS program is counter to the intent of the OEB's policy guidance with respect to NWS incentives.

The Company has, in our view, misinterpreted the OEB's policy guidance with respect to the fundamental purpose of incentive payments for NWS activities. The obvious purpose, which is easily understood when reading the policy in its appropriate context, is to incentivize the deployment of *new* NWSs.

As summarized in Toronto Hydro's Argument-in-Chief[4], the OEB's Framework for Energy Innovation (FEI) Report states:

> "…[T]he OEB expects distributors to consider third-party owned DER solutions as NWAs for meeting system needs. The OEB recognizes that, in deploying these

[1] Application, Schedule 3, pp. 1, 10.
[2] Ibid., p. 11. This is calculated as the forecast payments to program participants between 2026-2029 of $4.82 million * 25%.
[3] CCC-1, p. 1.
[4] Argument-in-Chief, p. 3.

> solutions, distributors will forgo an opportunity to earn a return by adding to their rate base, since "DERs will often, from a utility point of view, be non-capital in nature." This misalignment between utilities' interests (to earn profits by building assets) and customer interests (to have the most cost-effective delivery of reliable energy services) may be a barrier to DER solutions. Providing incentives for distributors to deploy third-party owned DERs as NWAs is a way of addressing this barrier in the near term, without revisiting the fundamental approach to how utilities are remunerated and the overall rate-setting framework."[5]

The above statement is set out in the chapter of the FEI Report titled "Utility Incentives for Third-Party Owned DERs as Non-Wires Alternatives" under the heading "Defining the Issue."[6] The entire issue that the OEB is attempting to resolve through the provision of these incentive opportunities is to remove barriers to utility implementation of NWSs. There clearly was no barrier to be addressed with respect to Toronto Hydro's implementation of the LDR program as it was in place 5 years before the OEB even issued the FEI Report. In fact, the FEI Report, as issued in 2023, directly references Toronto Hydro's LDR program as an already existing rate-funded DER solution.[7]

In addition, the OEB's apparent motivation for codifying the MoP incentive in the Distribution System Code (DSC) is as follows (also quoted in Toronto Hydro's Argument-in-Chief)[8]:

> "In the longer term, the proposed approach is expected to encourage distributors to make greater use of cost-effective NWSs in meeting system needs and increase distributor confidence in DER-based solutions that have the potential to reduce distribution system costs as the energy transition unfolds."[9]

The OEB's stated purpose for providing NWS incentives is forward looking. It is designed to incent new solutions (i.e., encourage distributors *to make* greater use of cost-effective NWSs…) not incent existing programs.

CCC submits that there can be no legitimate basis to incentivize activities that are already occurring. Toronto Hydro's LDR program has been in operation for nearly a decade. To now

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[5] OEB Framework for Energy Innovation, January 2023, p. 24.
[6] Ibid.
[7] Ibid., p. 15, Figure 6.
[8] Argument-in-Chief, p. 4.
[9] EB-2025-0083, OEB Notice of Proposal to Amend a Code, May 16, 2025, p. 7.

provide an incentive payment serves no valid purpose and provides no value to consumers.[10] On this basis, the OEB should dismiss Toronto Hydro's application.

For the reasons discussed above, we do not believe that the OEB should approve Toronto Hydro's proposed NWS incentive mechanism. However, to the extent that the OEB finds that it must approve Toronto Hydro's proposed incentive mechanism due to a strict interpretation of section 11 of the DSC, the OEB should set the effective date for the incentive term no earlier than the date of the OEB's decision in the current proceeding. It is unclear why Toronto Hydro should be earning an incentive retroactively starting on May 1, 2026[11] prior to OEB approval.

In addition, with respect to the MoP Incentive Deferral Account, the OEB should deny Toronto Hydro's request that it be granted "permission for the balance to be disposed of regardless of whether the materiality threshold is met..."[12] CCC submits that the disposition of any amounts recorded in the account are properly addressed at the time of disposition when the actual amounts are known. There is no basis for pre-approval to be granted in the current proceeding.

Finally, we submit that Toronto Hydro should never have filed this application. Toronto Hydro's filing of this application displays a disregard for the interests of its customers. The Company has operated the LDR program for nearly a decade in the absence of an incentive. Simply because the OEB introduced, through an ill-conceived policy decision[13], a potential avenue for Toronto Hydro to profit at its customers' expense, does not mean that the Company is obliged to take that opportunity. If the Company is granted the incentive payment, Toronto Hydro will take $1.2 million from its customers' pockets to fund its own windfall profit.

Further, Toronto Hydro's attempt to support its decision to seek an unwarranted incentive payment by describing the ratepayer impacts as "negligible"[14] entirely misses the point. The Company has decided to put its interests above those of its customers. There is no

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[10] CCC-1, p. 2. CCC notes that when asked why the Company requires an incentive payment to continue to operate the LDR program (CCC-1(c)), it was unable to identify any direct need for an incentive to support its existing program. Instead, the Company's response discusses generally the OEB's NWS incentive policy and the future need for incentives, stating that the availability of an incentive "will be important as Toronto Hydro and other utilities consider growing their non-wires programs."
[11] Application, Schedule 3, p. 10.
[12] Ibid., p. 13.
[13] See EB-2025-0083, CCC Comments, June 9, 2025, for a comprehensive explanation as to why we believe that the OEB's planned, at that time, codification of the MoP incentive was highly problematic.
[14] CCC-1, p. 2.

value to ratepayers associated with the proposed MoP incentive in the current circumstance. Toronto Hydro, which already has the opportunity to earn regulated profits of approximately $1 billion over the 2026-2029 period[15], has decided that this is not enough. It must also take an additional $1.2 million from its customers to continue to operate a program that has been in place since 2018.

~ All of which is respectfully submitted ~

[15] EB-2023-0195, Draft Rate Order, November 26, 2024, p. 4.