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BY EMAIL and RESS

August 28, 2026

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

Dear Mr. Murray:

EB-2026-0129 Toronto Hydro-Electric System Limited ("Toronto Hydro") Non-Wires Solution Incentive Mechanism Application - Building Owners and Managers Association of Toronto ("BOMA Toronto") Submission

In accordance with Procedural Order No. 2, issued June 22, 2026, please find attached BOMA Toronto's submission with respect to Toronto Hydro's Non-Wires Solution Incentive Mechanism Application.

Sincerely,

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EB-2026-0129 Toronto Hydro-Electric System Limited

Non-Wires Solution Incentive Mechanism Application

Building Owners and Managers Association Toronto Submission

BACKGROUND

Toronto Hydro-Electric System Limited ("Toronto Hydro") filed an application on April 10, 2026 seeking Ontario Energy Board ("OEB") approval of a Margin-on-Payment ("MoP") incentive mechanism, at the maximum permitted rate of 25%, applicable to third-party payments made to participants in its Local Demand Response ("LDR") program, together with a new deferral account (the Margin-on-Payment Incentive Deferral Account, or "MoPIDA") to record the resulting incentive amounts.[1] On a forecast basis, Toronto Hydro estimates it will accrue approximately $1.2 million in MoP incentive over the 2026-2029 rate period.[2]

BOMA TORONTO SUBMISSION

BOMA Toronto supports the use of non-wires solutions and does not oppose, in principle, the availability of incentive mechanisms designed to encourage electricity distributors to deploy cost-effective, third-party owned distributed energy resources in place of traditional infrastructure. BOMA Toronto's members — as owners and managers of the commercial, and multi-residential buildings, have a direct interest in seeing the OEB's non-wires solutions framework succeed, both because it can help defer or avoid costly infrastructure and because building owners are themselves participants in, and hosts of, the demand response and DER programs that the framework is meant to encourage.

At the same time, BOMA Toronto's members ultimately bear a share of any incentive amount that Toronto Hydro is permitted to recover from ratepayers. BOMA Toronto's interest in this proceeding, reflected in the interrogatories it put to Toronto Hydro,[3] is in ensuring that the incentive mechanism ultimately approved is fair: proportionate to what is actually needed to achieve the OEB's policy objective and supported by a properly tested evidentiary record.

For the reasons set out below, BOMA Toronto submits that the OEB should approve Toronto Hydro's request for a MoP incentive for the LDR program, subject to two changes to the application as filed. First, the incentive should be approved at a rate lower than the 25% maximum permitted under the Distribution

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[1] Application, Schedule 3, page 1; Toronto Hydro's Argument-in-Chief, page 1.

[2] Application, Schedule 3, page 11.

[3] Interrogatory Responses, BOMA-1 to BOMA-3.

System Code (DSC). Second, the standard materiality threshold applicable to disposition of the MoPIDA balance should not be waived in advance, and should instead be assessed by the OEB in the normal course at the time of disposition.

The OEB Should Approve a MoP Incentive at a Rate Lower Than the 25% Maximum

By interrogatory BOMA-1, BOMA Toronto asked Toronto Hydro to confirm whether it had considered requesting a MoP rate lower than the 25% maximum permitted under section 11.3.1 of the DSC, which the OEB itself has recognized may be sought "for some other reason, such as a lower rate impact on the distributor's customers."[4] In its response to BOMA-1, Toronto Hydro characterizes 25% as the default MoP rate under the DSC.[5] BOMA Toronto does not agree with that characterization. Section 11.3.1 of the DSC sets 25% as the maximum rate a distributor may request, not a default that applies unless a lower rate is affirmatively chosen; treating the maximum as a default would relieve a distributor of any onus to justify why the ceiling, rather than a lesser value, is warranted on the facts of a given case. Toronto Hydro's response does not identify any instance in which it considered a lower rate. Instead, Toronto Hydro moves directly from confirming that its proposal satisfies the DSC's eligibility ceiling to concluding that "there is no basis to propose a lesser value," on the further basis that the resulting bill impact is negligible.[6]

BOMA Toronto submits that the 50%-of-benefit test in section 11.3.3(b) of the DSC is an eligibility ceiling, not a substitute for an actual determination of what rate is appropriate. Toronto Hydro's response to BOMA-1 confirms that it undertook no such analysis (whether the rate is appropriate). A bill impact being small does not, on its own, establish that the specific quantum requested is fair, appropriate or necessary.

BOMA Toronto further notes that the LDR program is not a new or untested initiative for which Toronto Hydro is being asked to take on novel risk: it has been operating successfully, and expanding, since 2018, entirely without any ratepayer-funded incentive.[7] The policy rationale for a MoP incentive — compensating a distributor for forgoing the opportunity to earn a return through capital investment, so as to remove a disincentive to deploying non-wires solutions[8] — applies with less force to a program that has already been deployed at scale for close to a decade without that compensation than it might to an incentive intended to induce genuinely new NWS activity.

BOMA Toronto does not ask the OEB to deny an incentive on the LDR program altogether. BOMA Toronto recognizes that Toronto Hydro is entitled, under section 11.2 of the DSC, to bring a stand-alone MoP

[4]DSC, s. 11.3.1; EB-2025-0083, Notice of Proposal to Amend a Code (May 16, 2025), page 3, quoted in Interrogatory Response BOMA-1, page 2.

[5]Interrogatory Response BOMA-1.

[6]Interrogatory Response BOMA-1, page 3; see also Interrogatory Response EP-10, page 1.

[7]Interrogatory Response CCC-1, page 1.

[8]Framework for Energy Innovation Report (January 2023), page 24, quoted in Argument-in-Chief, page 3.

application in respect of an already-approved NWS,[9] and that an incentive can properly serve to encourage the continued and expanded use of NWS, not only its initial adoption. But BOMA Toronto submits that the record does not support approval of the maximum 25% rate: Toronto Hydro has identified no basis specific to the LDR program's risk profile or operating history for requesting the ceiling rather than a lesser value. BOMA Toronto accordingly recommends that the OEB approve a MoP incentive for the LDR program at a rate lower than the 25% maximum requested, having regard to the program's established, low-risk operating history since 2018. BOMA Toronto does not propose a specific alternative rate and defers to the OEB's judgment as to the appropriate quantum on the record before it.

The Materiality Threshold for Disposition of the MoPIDA Should Not Be Waived in Advance

By interrogatory BOMA-2, BOMA Toronto asked Toronto Hydro to explain why it considers it necessary for the OEB to waive, in advance, the standard $1 million materiality threshold that would otherwise apply to disposition of the MoPIDA balance, rather than have that determination made by the OEB in the normal course at the time of disposition.[10] Toronto Hydro's response offers only a general policy argument — that proactively waiving the threshold "creates an additional incentive for utilities to find and deliver customer value through DER solutions"[11] — and does not identify any specific reason why the ordinary, case-by-case materiality assessment the OEB conducts at disposition would be inadequate or unfair in this instance. When BOMA Toronto asked whether any other Toronto Hydro deferral or variance account had previously received a similar advance materiality waiver, Toronto Hydro confirmed it was aware of none.[12]

The materiality threshold exists to ensure the OEB retains meaningful discretion over amounts recovered from ratepayers, assessed against the actual balance and circumstances once they are known. Toronto Hydro has identified no feature of this case, and no precedent from among its own deferral and variance accounts, that would justify departing from the OEB's ordinary practice of assessing materiality at the time of disposition rather than waiving it years in advance. BOMA Toronto submits that the OEB should decline to grant an advance waiver of the materiality threshold and should instead direct that materiality, if relevant, be assessed in the normal course when Toronto Hydro applies to dispose of the MoPIDA balance, expected to be as part of its next rebasing application.[13]

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[9]DSC, s. 11.2, quoted in Argument-in-Chief, page 6.

[10]Interrogatory Response BOMA-2, page 1.

[11]Interrogatory Response BOMA-2, page 1.

[12]Interrogatory Response BOMA-2, page 2.

[13]Argument-in-Chief, page 8.

Conclusion

BOMA Toronto supports the OEB's non-wires solutions framework and recognizes the value the LDR program has delivered, and can continue to deliver, for Toronto Hydro's customers. BOMA Toronto does not ask the OEB to reject Toronto Hydro's application. It recommends that the OEB approve a MoP incentive for the LDR program, but at a rate lower than the maximum permitted 25% requested, and without an advance waiver of the materiality threshold applicable to disposition of the MoPIDA balance. BOMA Toronto submits that these two changes would result in an incentive mechanism that is properly justified on the facts of this case and that protects BOMA Toronto's members and other ratepayers against open-ended recovery.