



DECISION AND ORDER

EB-2026-0133

HYDRO ONE NETWORKS INC.

**Motion to Review and Vary the March 19, 2026, Decision
and Order on EB-2025-0254**

BEFORE: **Patrick Moran**
 Presiding Commissioner

Vinay Sharma
Commissioner

David Sword
Commissioner

October 8, 2026

TABLE OF CONTENTS

1	OVERVIEW	2
2	DECISION	3
2.1	BACKGROUND	3
2.2	THE THRESHOLD QUESTION AND DETERMINATIONS.....	3
3	ORDER	11

1 OVERVIEW

On April 8, 2026, Hydro One Networks Inc. filed a Notice of Motion to Review and Vary the Decision and Order in EB-2025-0254, issued on March 19, 2026.

On April 14, 2026, Wasaga Distribution Inc. filed a letter submitting that the issues raised by Hydro One in its motion do not pass the threshold question as provided under rule 43 of the OEB's [*Rules of Practice and Procedure*](#) and requested that the OEB allow for submissions on the threshold question prior to any consideration on the merits of the motion.

Under rule 43 of the OEB's *Rules of Practice and Procedure*, prior to proceeding to hear a motion to review on its merits, the Review Panel may determine a threshold question of whether the motion raises relevant issues material enough to warrant a review of the decision or order on the merits.

On May 12, 2026, the OEB issued its Notice of Hearing and Procedural Order No. 1 in which it determined that it would consider arguments, in writing, on the threshold question. Hydro One was required to file a written submission on the threshold question under rule 43 of the *Rules of Practice and Procedure* due May 27, 2026. All intervenors, including Wasaga Distribution were invited to file submissions on the threshold question by June 10, 2026, and Hydro One was requested to file its reply submissions on the threshold question by June 17, 2026.

For the reasons set out below, the OEB has determined that the Motion does not meet the threshold test – the Motion does not raise relevant issues material enough to warrant a review of the decision on the merits. The Motion is therefore dismissed.

2 DECISION

2.1 Background

Wasaga Distribution, a licensed electricity distributor, filed a service area amendment application requesting an amendment to its service area, as described in Schedule 1 of its electricity distribution licence, to include a property located at 400 45th Street South (Subject Property). Hydro One, as the incumbent distributor, contested the application.

The Subject Property currently consists of vacant 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 Customer) plan to develop the Subject Property into a 660-unit residential subdivision consisting of 329 single-detached dwellings, 139 townhouses, and 192 back-to-back townhouses. The application included a letter from the Customer dated January 30, 2024, documenting its request to have Wasaga Distribution as its electricity distributor and confirming local support from the Town of Wasaga Beach.

The OEB approved the application as filed because it was found to be economically efficient, had no adverse effect on reliability or upstream infrastructure and was supported by the Customer. The OEB also found that the service area amendment requested by the applicant to be in the public interest.

2.2 The threshold question and determinations

In the Motion, Hydro One states that the OEB made four material errors in the Decision:

- a. The Decision's findings related to filing requirements for an offer to connect.
- b. The Decision's findings related to the opportunity for the Developer to obtain an offer to connect.
- c. The Decision's findings related to the amount related to the capital contribution that Wasaga requires from the Developer.
- d. The Decision's findings related to civil work costs for premium service related to a new connection

Hydro One's Motion also includes a request for an order staying the implementation of the Decision as it relates to the amendment of Wasaga Distribution and Hydro One electricity distribution licenses until the completion of the review. Finally, Hydro One expressed a preference for the Motion to be heard in writing.

By letter dated April 14, 2026, Wasaga submitted that the issues raised by Hydro One in its motion do not pass the threshold question as provided under rule 43 of the OEB's *Rules of Practice and Procedure* and requested that the OEB allow for submissions on the threshold question prior to any consideration on the merits of the motion.

In Procedural Order No. 1, the OEB invited parties to make written submissions on the threshold question.

The following summarizes the positions of Wasaga Distribution and Hydro One as they relate to the threshold question.

Wasaga Distribution Inc.

Wasaga Distribution submitted that Hydro One has not identified a reviewable error that meets the threshold question.

Wasaga Distribution states that Hydro One did not provide evidence that is "supported by the record and fails to take account of the fact that the [Filing Requirements](#) are a discretionary instrument that the OEB can interpret and apply in a manner that is reasonable in all the circumstances"¹. Wasaga Distribution also stated that Hydro One identified "no new facts or evidence and instead relies on alternative interpretations of the existing record"² or demonstrates "that any alleged error would reasonably be expected to result in a material change to the Decision"³ to support Hydro One's argument that its "interests are materially harmed by the Decision"⁴.

Wasaga Distribution states that the OEB appropriately exercised its discretion when "it interpreted the Filing Requirements and preferred the wording of one provision of the Filing Requirements (section 7.5.2) over other provisions with potentially different interpretations". Wasaga Distribution also noted that Hydro One raised its concerns regarding the interpretation of the filing requirements during the proceeding and the

¹ Wasaga Distribution Inc. WDI Submission on Threshold Question. June 10, 2026. P. 3 of 8.

² *Ibid.* P. 3

³ *Ibid.* p. 3

⁴ Hydro One. Motion. April 8, 2026. P. 20 of 22

OEB stated that it was satisfied with the record as it stood and the necessary information was provided to allow the application to move forward⁵.

Wasaga Distribution submits that Hydro One's argument in its Motion that the Panel relied on "incorrect cost inputs in assessing economic efficiency, including with respect to capital contributions and the treatment of civil costs"⁶ when it made its Decision. Wasaga Distribution notes these issues were raised in Hydro One's submissions during the proceeding and the OEB was not persuaded by Hydro One's arguments and stated that the "issue will be examined and addressed in Wasaga Distribution's next rebasing application"⁷.

Wasaga Distribution states that Hydro One did not "identify evidence that was unavailable to the Panel, overlooked by the Panel, or inconsistent with the findings ultimately reached"⁸ in the Decision. Accordingly, Wasaga Distribution submits that Hydro One's arguments do not demonstrate a reviewable error warranting a review of the Decision. Further, Wasaga Distribution submits that Hydro One's Motion merely "seeks to revisit issues that were raised, considered, and decided by the Panel, and to substitute Hydro One's preferred conclusions for those reached in the Decision"⁹, which does not constitute a valid basis for review.

Hydro One Networks Inc.

In its reply submissions, Hydro One states that its intentions are not to "re-argu[e] the case that was already before the Original Panel or ask[ing] a Review Panel to reweigh the evidence considered by the Original Panel in the Decision"¹⁰. Instead, Hydro One states that its Motion "raises clearly identifiable errors of law, fact or mixed fact and law, which are reviewable errors under the Rules"¹¹. For instance, Hydro One notes that section 7.5 of the filing requirements specifically applies to a contested service area amendment application, which was the case in the proceeding. The offer to connect filing (OTC) requirements state that applicants are required to submit "(e)vidence that the customer, landowner, or developer had the opportunity to obtain an offer to connect from the applicant" and "[a]ctual copies of, as well as a summary of, the offer(s) to connect documentation", along with "a comparison of the competing offers to

⁵ OEB. Decision on Motion and Procedural Order No. 6. January 15, 2026. P. 6.

⁶ Wasaga Distribution Inc. WDI Submission on Threshold Question. June 10, 2026. P. 6 of 8

⁷ OEB. Decision and Order. EB-2025-0254. March 19, 2026. P. 17.

⁸ *Ibid.* P. 6

⁹ *Ibid.* P. 3

¹⁰ Hydro One Networks Inc. EB-2026-0133. Reply Submissions. June 17, 2026. P. 2 of 11.

¹¹ *Ibid.* P. 3.

connect”¹². While Hydro One states that the language in the filing requirements is “clear and prescriptive”¹³, the panel “concluded that Filing Requirements do not create a requirement that an OTC be filed in every application, only that a customer, landowner or developer has the opportunity to obtain an OTC.” Hydro One submits that the panel “made no distinction between contested and non-contested applications in making this finding”¹⁴, given that the application was contested, resulting in an “identifiable error of law”¹⁵.

Hydro One argues that the panel made reviewable errors by relying on cost figures that were inconsistent with the evidentiary record and miscalculated the costs relating to the developer’s connection costs. Hydro One states that the panel “found that the civil works should not be considered in the comparison of costs, and the issue of civil works costs should be addressed in the WDI’s next rebasing proceeding”¹⁶.

Hydro One further submits that the panel erred in its assessment of the civil work costs associated with the “premium underground solutions for its ratepayers”¹⁷ because the “proposed capital expenditures to connect the Developer would be in excess of \$2 million”, in which Hydro One states that it “exceeds the materiality requirements applicable to rate applications as set out in the Chapter 2 Filing Requirements.” Hydro One notes that according to Chapter 2 Filing Requirements, the materiality is set for a distributor “with a distribution base revenue requirement of more than \$200 million at \$1 million”¹⁸. Accordingly, Hydro One argues that the Decision relied on an inaccurate understanding of which civil costs would be incurred by the developer and how these costs compare to the alternatives available from Hydro One. Hydro One rejects Wasaga Distributions’ mischaracterization of Hydro One’s Motion as an attempt to revisit the matters already decided upon. Instead, Hydro One argues that its Motion identifies material errors in the evidentiary findings underlying the Decision that had an “inherently material impact on the incumbent distributor”¹⁹. Hydro One submits that the alleged errors justify a review of the merits because it focuses on the accuracy of the panel’s conclusions regarding the impact on the incumbent distributor and the relative costs faced by the developer. Hydro One is seeking to correct material factual errors that affected the Decision’s conclusions. Hydro One maintains that the panel’s findings

¹² *Ibid.* P. 3.

¹³ *Ibid.* P. 3.

¹⁴ *Ibid.* P. 3.

¹⁵ *Ibid.* P. 4.

¹⁶ *Ibid.* P. 6.

¹⁷ *Ibid.* P. 6.

¹⁸ *Ibid.* P. 9.

¹⁹ *Ibid.* P. 9.

regarding the amount of capital contribution and the comparison of connection cost options were based on incorrect amounts and that these errors were significant enough to satisfy the rule 43 threshold test.

Findings

In EB-2025-0254, the OEB approved an amendment to Wasaga Distribution's service area in respect of the property located at 400 45th Street South, in the Town of Wasaga Beach. Hydro One had contested the application. Hydro One has brought this motion to review that decision, seeking an order to set it aside, along with other relief.

The procedures for motions to review are governed under Part VII of the OEB's Rules of Practice and Procedure. Rule 43.01 provides that the reviewing panel may "consider a threshold question of whether the motion raises relevant issues material enough to warrant a review of the decision or order on the merits"²⁰.

The purpose of the threshold test is to ensure that a motion to review is not used simply as an opportunity to re-argue a case already decided by the OEB. Considerations that relate to whether the threshold test is met are set out in Rule 43.01.²¹ These add up to whether there is a material error in the original decision that requires a change to that decision.

The OEB finds that Hydro One's motion to review has not met the threshold test and is dismissed for the reasons that follow.

The Filing Requirements Issue

Regarding the first two grounds it raises in its motion, Hydro One relies heavily on an argument that Wasaga Distribution failed to comply with the OEB's filing requirements for service area amendment applications, and the OEB's decision to approve the

²⁰ OEB, [Rules of Practice and Procedure](#), November 13, 2025. Rule 43.01. P. 31

²¹ (a) whether any alleged errors are in fact errors (as opposed to a disagreement regarding the weight the Original Panel applied to particular facts or how it exercised its discretion);
(b) whether any new facts, if proven, could reasonably have been placed on the record in the proceeding to which the motion relates;
(c) whether any new facts relating to a change in circumstances were within the control of the moving party;
(d) whether any alleged errors, or new facts, if proven, could reasonably be expected to result in a material change to the decision or order;
(e) whether the moving party's interests are materially harmed by the decision and order sufficient to warrant a full review on the merits; and
(f) where the grounds of the motion relate to a question of law or jurisdiction that is subject to appeal to the Divisional Court under section 33 of the OEB Act, whether the question of law or jurisdiction that is raised as a ground for the motion was raised in the proceeding to which the motion relates and was considered in that proceeding.

service area amendment despite that, amounts to an error of law. This argument fails for two reasons and does not satisfy the threshold test.

First, the filing requirements represent guidance to applicants about information to be included in an application. This ensures that the record contains sufficient information to begin the decision-making process. However, it is ultimately up to the OEB to determine what evidence is required to make a decision on an application. In the course of any proceeding, information can be supplemented by the discovery process and any additional information the OEB may require to make its decision.

Second, Hydro One's interpretation of what the filing requirements are does not raise a new issue. Hydro One argued that section 7.5 of the filing requirements not only requires evidence that a customer, landowner, or developer "had the opportunity to obtain an offer to connect from the applicant" but also requires actual copies of the offer to connect. This was raised in the original proceeding and the OEB was satisfied that the opportunity to obtain an offer to connect had been provided to the developer, even though an actual offer to connect had not been provided:

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 Filing [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.²²

The OEB made its decision based on the totality of the extensive record before it, all of the factors it considered and the findings it made, including, among many others, the

²² EB-2025-0254 Decision and Order, at p.17

fact that while an offer to connect had not been filed, the developer was in support of Wasaga Distribution's proposed service area amendment:

Although customer support is not on its own determinative, the OEB notes the support of the developers and the Town of Wasaga for receiving service from Wasaga Distribution. The developer is the customer (the contractual counterparty) to sign an Offer to Connect and to pay for any contribution in aid of construction. This endorsement, in addition to the OEB's findings on economic efficiency and system reliability, provides additional support of the OEB's decision to grant the application.²³

In this Motion, Hydro One seeks to re-argue the filing requirement issue, already expressly argued and decided in the original proceeding, to obtain a different outcome. This issue, in isolation, is not determinative of the application either way, given the record in its totality. The threshold test is in place to prevent a party from having a second opportunity to advance an argument that was unsuccessful the first time, in the absence of a clearly identified material error made by the original panel.

The Capital Contribution and Civil Works Costs Issues

This section addresses the third and fourth grounds raised in the Motion. In the original decision, the OEB determined that the issue of civil works costs would be addressed in Wasaga Distribution's next cost of service application. Hydro One argues that if those costs are charged to the customer, this would render Wasaga Distribution's "cost to connect the Developer comparatively more costly than Hydro One's cost to connect the Developer but will be too late for the Original Panel to change the Decision to reflect that outcome."

This does not give rise to an error sufficient to meet the threshold test since the evidence before the OEB also showed that Hydro One would also charge premium work to the developer. The OEB expressly addressed this issue in determining it would not consider those costs in its cost comparison.

Hydro One seeks to make the same argument a second time. It has failed to identify a clear and material error in the Decision, and therefore fails to meet the threshold test on this issue.

²³ Ibid, at p.20

Conclusion

For the reasons provided above, the OEB finds that Hydro One's arguments in its Motion do not meet the threshold test. Accordingly, the Motion is dismissed, and the OEB's Decision is upheld.

3 ORDER

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. The Motion by Hydro One Networks Inc. is dismissed.

DATED at Toronto, October 8, 2026

ONTARIO ENERGY BOARD

Ritchie
Murray

 Digitally signed by Ritchie
Murray
Date: 2026.10.08
14:48:44 -04'00'

Ritchie Murray
Registrar