**BY EMAIL and RESS**

**Mark Rubenstein**
mark@shepherdrubenstein.com
Dir. 647-483-0113

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

October 29, 2026
Our File: EB20260057

**Attn: Ritchie Murray, Registrar**

Dear Mr. Murray:

**Re: EB-2026-0057 – Milton Hydro 2027 ICM – SEC Submissions**

We are counsel to the School Energy Coalition ("SEC"). Pursuant to Procedural Order No. 1, these are SEC's submissions regarding the application by Milton Hydro Distribution Inc. ("Milton Hydro"), for an Incremental Capital Module ("ICM") for its Palermo Transformer Station ("TS") Upgrade and Feeder Expansion Project ("Palermo Project").

## Background and Summary of Position

Milton Hydro seeks approval for ICM funding for approximately $965,769 per year to fund the approximately $13.2M capital cost of the Palermo Project.[1] The Palermo Project has four components: a) capital contribution to Hydro One for the upsizing of the Palermo TS transformers ($3.4M), b) a new feeder egress ($2.7M), c) feeder line extension ($7M), and d) the acquisition of certain Hydro One poles and conductors ($0.1M).[2]

The project centers around Hydro One's plan to replace its end-of-life Palermo TS transformers and Milton Hydro's future capacity needs.[3] Milton Hydro and Oakville Hydro are able to upsize the replacement Palermo TS transformers to create an additional 70 MW of capacity to be shared equally.[4] Additionally, and as part of the broader arrangement, Oakville Hydro will make permanent Milton Hydro's existing 40 MW of capacity at the Glenorchy MTS.[5] To serve the incremental load, Milton Hydro proposes a feeder line extension to connect two new Palermo TS feeders to its distribution system.[6]

[1] Application, p.29; Appendix D, p.7
[2] Application, p.18,23; Appendix D, p.6-7
[3] Application, p.18; Appendix D, p.1,18
[4] Application, p.18-19, Appendix D, p.2
[5] Application, p.19; Appendix D, p.2,16
[6] Application, p.18

SEC does not oppose the Palermo Project, although it has concerns about the amount of funding that should be available through the ICM. Milton Hydro can recover the full cost of the Palermo Project through the ICM, only because its forecast of all non-ICM 2027 capital spending is 79% above the forecast included in its Distribution System Plan ("DSP"). SEC submits, that the evidence raises questions about the reasonableness of that level of spending that warrants further consideration at rebasing, and so the maximum eligible amount should remain open to adjustment as part of the ICM true-up. In addition, Milton Hydro has not quantified the incremental distribution revenue from the load the project will serve, and that revenue should be tracked in a deferral account and also considered as part of the ICM true-up.

**ICM Criteria**

The OEB applies a three-part test of need, materiality, and prudence when assessing an ICM request.[7]

***Materiality***

The maximum eligible incremental capital is the difference between the distributor's forecast total capital expenditures for the year and the materiality threshold. Milton Hydro's 2027 threshold is $11,435,607, and its forecast 2027 net capital expenditures are $26,923,187, which gives a maximum eligible amount of $15,487,580[8]. This allows Milton Hydro to recover the entire cost of the Palermo Project through the ICM.

The maximum eligible incremental capital is a function of the 2027 forecast net capital expenditures, which include both the 2027 spending on the ICM project and all other capital expenditures. As a result, the level of capital spending included in the rest of Milton Hydro's capital plan is important to determining the amount of incremental funding approved through the ICM.

Milton Hydro's non-ICM capital expenditures for 2027 are forecast to be $16,561,031.[9] This represents a 37% increase over its 2026 forecast[10], and is a staggering 79% higher than the $9,241,724 included in its last DSP for 2027.[11] If Milton Hydro's other capital spending were at its DSP level, the maximum eligible amount would be $8,168,273, resulting in a 38% reduction to the amount that could be recovered through the ICM.

The difference between the DSP and the forecast raises a number of questions and concerns, especially considering the sheer size of the variance. The interrogatory responses show, among other things, meter replacements deferred from earlier years into 2027[12], connection costs rising[13] even though the number of new connections has fallen[14], and forecast road authority work whose timing is uncertain.[15]

---

[7] Report of the Board New Policy Options for the Funding of Capital Investments: The Advanced Capital Module (EB-2014-0219), September 18, 2014, p.17

[8] Interrogatory Response, 5(c)Updated ICM Model (A3_MILTON_HYDRO_2027_ACM_ICM_MODEL_1.0_10152026)

[9] $26,923,187 total current 2027 forecast net capital expenditures (Application, p.26, Table 9) minus $10,362,156 related to the Palermo Project (Application, p.26, Table 8).

[10] Application, p.25, Table 7

[11] Application, p.26, Table 9

[12] Interrogatory Response VECC-8(a)-(c)

[13] Interrogatory Response VECC-6(a), VECC-7(a)

[14] Interrogatory Response VECC-7(b)

[15] Interrogatory Response VECC-7(a), (c)

The evidentiary record is not sufficient for SEC to argue that the amounts are necessarily unreasonable on an individual project level and should be removed from the calculation of the maximum eligible amount. SEC submits that the OEB should approve the ICM, but explicitly require that, at Milton Hydro's next rebasing, not just the Palermo Project's capital costs and the amounts recovered be trued up, but also the maximum eligible amount. The OEB should allow a potential downward adjustment to the maximum eligible amount if a more thorough review shows that some of the other capital expenditures were unreasonable. ICM applications, understandably, are imperfect venues to review the entire capital plan, particularly here, where such a major increase is driven by several factors. This approach allows Milton Hydro to recover the full amount now, subject to adjustment when the OEB reviews the capital expenditures for inclusion in rate base at rebasing.

***Need***

The Filing Requirements require an application for an ICM to show that the incremental revenue requested will not be recovered through other means, including the expansion of service to new customers and other load growth.[16] It also requires that an applicant quantify all incremental revenue associated with completion of the project. Milton Hydro's evidence only addresses customer contributions, of which there are none.[17] Yet, the purpose of the feeder line extension and the Palermo Project is to serve incremental load.[18] There is no information regarding the amount of incremental distribution revenue driven by load growth that will be served by the Palermo Project before rebasing.

The OEB's approach to incremental revenue in ICM applications is not clear. In Enbridge Gas's 2019 ICM application, the OEB declined to require that incremental revenue be tracked or included in the rate rider.[19] It did so, on the basis that in its view the growth factor in the materiality threshold accounts for it.[20] Yet, in a subsequent Enbridge ICM application, the OEB noted that the threshold formula does not include incremental revenues, but found that they must be considered in assessing project-specific materiality, and denied ICM funding on that basis.[21] In a third Enbridge ICM decision, the OEB emphasized that "the inclusion of incremental revenues when assessing ICM funding for any project is imperative."[22]

The ICM materiality threshold does not capture that incremental revenue. The formula's growth factor is based on the change in distribution demand between the 2023 rebasing and 2025 actual results. Incremental load connected to the new Palermo TS feeders, after they are energized in late 2027, is not captured.

SEC is not suggesting that incremental revenue from that load would eliminate the need for the ICM. Based on Milton Hydro's own forecast[23], which is likely overstated, load on the new feeders is modest in the early years. Even so, it should be considered, otherwise Milton Hydro will be over-collecting.

---

[16] Filing Requirements For Electricity Distribution Rate Applications - Chapter 3 Incentive Rate-Setting Applications (July 14, 2026), s.3.3.2.1, p.24
[17] Application, p.31
[18] Application, p.24, 32; Appendix D, p.19, 20, 22
[19] *Decision and Order* (EB-2018-0305), September 12, 2019, p.26
[20] *Decision and Order* (EB-2018-0305), September 12, 2019, p.26
[21] *Decision and Order* (EB-2020-0181), May 6, 2021, p.15-16
[22] *Decision and Order* (EB-2021-0148), April 12, 2022 (revised April 20, 2022), p.19
[23] Interrogatory SEC-7(d)

SEC submits that the OEB should require Milton Hydro to quantify the incremental distribution revenue from load connected to the new Palermo TS feeders, and that this amount be recorded in a deferral account to be dealt with at rebasing as part of the true-up process discussed above.

***Prudence***

SEC accepts that undertaking the Palermo Project during Hydro One's planned end-for-life transformer replacement is prudent, since adding the capacity later would cost significantly more.[24] However, the evidence does not establish that Milton Hydro requires the additional capacity in 2027.

First, no customer or capacity constraint requires the new feeders to be in service in 2027. Milton Hydro has said that the September 30, 2027 in-service date is not tied to any specific customer or capacity need.[25] Load on the new feeders is forecast at 1 MW in 2027 and 5 MW in 2028 under the low scenario, which Milton Hydro uses as its forecast in much of the evidence, and 5 MW and 11 MW under the reference scenario.[26]

Second, at the system level, Milton Hydro's existing available capacity will be sufficient into the 2030s. Milton Hydro's evidence, is that even without the Palermo TS upgrade, if its Glenorchy MTS capacity were retained (discussed below), its available capacity would be sufficient until approximately 2032 under the reference scenario, and 2036 under the low scenario.[27]

Third, the risk of losing the Glenorchy MTS capacity is overstated. Milton Hydro places significant emphasis on Oakville Hydro's ability to effectively recall the capacity on two years' notice.[28] Yet, there is no evidence that Oakville Hydro would be in a position to do so, or would even want to. For example, the June 2025 draft regional forecast used in Milton Hydro's 2026 assessment shows demand at Glenorchy MTS through 2042, that leaves what Milton Hydro's own consultant describes as "substantial spare capacity."[29] Oakville Hydro's need for Palermo TS capacity arose only in late 2025, after Milton Hydro had already committed to the project.[30]

The evidence demonstrates that Milton Hydro could defer the project, including the feeder line extension, the timing of which Milton Hydro controls. Notwithstanding that, SEC recognizes that the Palermo TS upsizing can occur only now, and that, given how the Transmission System Code works, the value of deferring the line extension does not outweigh the increased capital contribution that would otherwise be payable to Hydro One.[31] On this basis, SEC does not object to the Palermo Project.

**Summary**

SEC does not object to the OEB approving ICM funding for the Palermo Project. However, SEC submits that the OEB should require that, at Milton Hydro's next rebasing, as part of the ICM true-up

[24] Application, Appendix D, p.9, p.23-24; Interrogatory Response SEC-12(b); Interrogatory Response Staff-6(d); Interrogatory Response Staff-14(c)
[25] Interrogatory Response SEC-9(b); Interrogatory Response SEC-7(d)
[26] Interrogatory Response SEC-7(c); Application, Appendix D, p.12-13, Figure 1; Interrogatory Response Staff-14(c)
[27] Interrogatory Response SEC-7(c); Application, Appendix D, p.12, Figure 1
[28] Application, Appendix D, p.12; Interrogatory Response SEC-7(c), Interrogatory Response Staff-14(b)
[29] Application, Appendix F, p.23
[30] Interrogatory Response Staff-14(b); Interrogatory Response Staff-17(b)
[31] Interrogatory Response SEC-9(c); Interrogatory Response Staff-6(d); Interrogatory Response Staff-7(c); Interrogatory Response Staff-14

process, the maximum eligible amount be open to adjustment after a full review of the reasonableness of the 2027 capital spending. Additionally, the incremental distribution revenue from load on the new Palermo TS feeders should be quantified and recorded in a deferral account to be considered as part of the ICM true-up.

Yours very truly,
**Shepherd Rubenstein P.C.**



Mark Rubenstein

cc: Brian McKay, SEC (by email)
Applicant and intervenors (by email)