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File No. 17164.16

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BY RESS

Mr. Ritchie Murray
Ontario Energy Board
2300 Yonge Street, 27th floor
P.O. Box 2319
Toronto, ON M4P 1E4

Dear Mr. Murray:

Re: London Hydro Inc. ("London Hydro") – 2027 Cost of Service Application – EB-2026-0056
Confidentiality Request Reply

Pursuant to Procedural Order No. 1, Ontario Energy Board ("**OEB**") Staff, the School Energy Coalition ("**SEC**"), and the Consumers Council of Canada ("**CCC**") filed submissions in response to London Hydro's August 28, 2026, confidentiality request (the "**Confidentiality Request**"). OEB Staff did not object to London Hydro's requested redactions based on the supporting rationale and explanations provided.

SEC opposed London Hydro's confidentiality request. CCC supported SEC's position but made no independent submissions. Enclosed are London Hydro's reply submissions, including Appendix A, which is provided **in confidence** because disclosure of certain grounds supporting London Hydro's request would itself reveal the information for which confidential treatment is sought. London Hydro limited the scope of its requests for confidentiality to an extent commensurate with the commercial sensitivity of the information.

1. Strategic Labour Information

SEC objects to the redaction of confidential information in the Willis Towers Watson ("**WTW**") Compensation Benchmarking Review ("**WTW Report**") primarily on the basis that compensation benchmarking has been disclosed by other utilities in full and that the benchmarking evidence against 2025 market rates is sufficiently aggregated so as not to identify individual employee compensation. This submission overlooks the distinct harm that disclosure would cause London Hydro.

a. London Hydro's Unique Circumstances

Understanding the nature and depth of the analysis performed in the WTW Report, particularly when compared with the examples cited by SEC, is important to assessing the potential harm from disclosure. The WTW analysis was not limited to high-level or generalized compensation information. Rather, WTW considered London Hydro's entire non-union salary grid and assessed London Hydro's compensation positioning against relevant market benchmarks, unlike more limited benchmarking disclosed by other LDCs.[1]

As noted in the Confidentiality Request and Appendix A, the redacted information mitigates the ability of London Hydro's competitors using that information to target employees and calibrate recruitment offers.

The examples cited by SEC are also distinguishable because of London Hydro's geographic location. Located in Southwestern Ontario, London Hydro draws from a smaller pool of skilled workers and has more limited access to replacement talent than the GTA utilities cited by SEC, which operate within a large, interconnected labour market. London Hydro is therefore particularly vulnerable to targeted recruitment by those utilities, and disclosure of its compensation positioning would unfairly prejudice its competitive position in accordance with Appendix A, parts (a)(i) and (b) of the OEB's *Practice Direction on Confidential Filings* (the "**Practice Direction**").[2]

London Hydro also wishes to emphasize that it is engaged in ongoing collective bargaining, as the current collective agreement expires on December 31, 2026. [3] Disclosure of the WTW Report's compensation benchmarks and market adjustment assumptions could permit inferences about London Hydro's historical and/or anticipated compensation growth and inform bargaining demands or expectations, prejudicing London Hydro's bargaining position and limiting its negotiating flexibility. These concerns support confidential treatment under Appendix A, part (a)(iii) and Appendix B, part (8) of the Practice Direction.

b. Case Law

Information and Privacy Commissioner of Ontario ("**IPC**") decisions recognize the sensitivity of individual employment compensation packages and information that exposes an employer's internal compensation structure and positioning, including under section 7 of the *Municipal Freedom of Information and Protection of Privacy Act*. In *Order MO-3898*, the IPC protected job-evaluation scores and corresponding pay-band information used to establish employee compensation, while *Orders MO-1264* and *MO-1735* protected consultant analyses concerning compensation levels benchmarked to other municipalities, salary structures and compensation-plan design.[4] Similarly, in

[1] The OEB's Decision on Confidentiality in EB-2024-0022/EB-2024-0096 is distinguishable because the OEB ordered the disclosure of aggregated salary ranges for multiple employees within each job classification that did not raise the same concerns regarding inferences of individual compensation. Similarly, the information ordered disclosed in the decisions cited by SEC was materially more limited or higher-level, including "blended information and target compensation positions for management employees." (EB-2020-0007, Decision and Rate Order, p. 9) By contrast, London Hydro's request extends to level-specific data across its compensation grid that, as detailed in Appendix A, may permit inferences regarding individual employee compensation.

[2] OEB, Practice Direction on Confidential Filings (Revised December 17, 2021).

[3] See Exhibit 4, p. 113.

[4] *Order MO-3898* (City of Thunder Bay), paras. 24, 33-42; *Order MO-1264* (City of Barrie); *Order MO-1735* (Toronto Transit Commission).

Order MO-3470, the IPC upheld the withholding of records relating to Hay compensation reviews, which evaluated employee compensation and classification and were used in the employer's consideration of its compensation structure.[5] In Order M-5, the IPC held that an individual's salary was personal information pursuant to section 2(1) of the *Municipal Freedom of Information and Protection of Privacy Act*.[6] These decisions recognize the particular sensitivity of individual employee compensation data and consultant benchmarking and evaluation materials used by an employer to assess and determine employee compensation.

The Burlington Hydro decision cited by SEC is distinguishable. The WTW report in that proceeding assessed the reasonableness of an incentive compensation variable pay plan, and the OEB found that the information at issue was high level and did not identify specific positions or groups of positions.[7] Indeed, the public version of that report continued to redact information by job level. By contrast, the WTW Report contains London Hydro-specific salary midpoints, average salaries and market positioning by compensation level. As explained in Appendix A, disclosure of that information, when combined with available role information and London Hydro's compensation practices, could permit individual compensation to be inferred.

The Alectra decision cited by SEC is not comparable. Alectra sought confidential treatment of Korn Ferry's methodology and general table headings, which the OEB found were already publicly available or did not themselves contain confidential information.[8] The underlying analysis was also limited to the CEO and EVP levels, a materially different scope from the WTW Report.[9] London Hydro, by contrast, is not seeking confidential treatment of WTW's general methodology or table headings. The Alectra decision therefore does not address the type of London Hydro-specific compensation and market-positioning information for which confidential treatment is sought here.

The Toronto Hydro decision cited by SEC is not comparable. In that proceeding, Toronto Hydro sought confidential treatment of compensation cost forecasts (i.e., Appendix 2-K), labour capitalization forecasts (i.e., Appendix 2-D), and year-over-year wage growth and other economic assumptions. Toronto Hydro requested redaction of this information on the basis that it would be engaging in multiple rounds of collective bargaining with its unions covering the years in question and that the forecast figures represented its assumptions and expectations regarding bargaining outcomes in those rounds.[10] The OEB denied the request because the information did not reveal labour relations strategy or provide sufficient detail for unions to derive information useful in negotiations.[11] The information for which London Hydro seeks confidential treatment is materially different. Unlike the information at issue in the Toronto Hydro decision, the WTW Report provides level-specific compensation positioning against market benchmarks. As detailed in Appendix A, that information

[5] *Order MO-3470* (Durham District School Board).

[6] *Order M-5* (Town of Listowel).

[7] EB-2020-0007, Decision and Rate Order, April 15, 2021, p. 11.

[8] EB-2025-0252, Decision and Order on Confidentiality, May 6, 2026, p. 5.

[9] EB-2025-0252 Interrogatory Responses 4-SEC-90, Attachment 1 and 2.

[10] EB-2023-0195, Toronto Hydro Confidentiality Reply, January 29, 2024, at p. 1.

[11] EB-2023-0195, Decision on Confidentiality, Issues List, and Proposed Expert Evidence and Procedural Order No. 3, February 5, 2024, p. 8.

could directly inform compensation and incentive demands in London Hydro's ongoing collective bargaining in accordance with Appendix B, part (8) of the Practice Direction.

Finally, the WTW Report also falls within section 7 of the *Municipal Freedom of Information and Protection of Privacy Act*, which exempts advice or recommendations of a consultant retained by an institution.

2. Data by Level

SEC accepts that information should not be placed on the public record where a level includes only three or fewer incumbents, but submits that London Hydro has not identified the number of incumbents within each of the 13 levels in the WTW Report. SEC therefore proposes combining any level with three or fewer incumbents with an adjacent level and placing the resulting information on the public record. As explained in the confidential submissions in Appendix A, disclosure could reveal identifiable employee compensation. We also note that the OEB has permitted redaction of compensation benchmarking results in *Wataynikaneyap Power LP* where internal compensation data relative to market median "may not sufficiently protect the identity of individual employees in some job levels."[12] Similarly, in accordance with Appendix A, part (d) of the Practice Direction, Order M-5 upheld the non-disclosure of individual salary information as it was protected personal information under the *Municipal Freedom of Information and Protection of Privacy Act*.[13]

SEC's proposed approach is also not feasible for the following reasons: (i) the original engagement with WTW did not include combining levels in the manner proposed by SEC; (ii) London Hydro does not have the technical skills or expertise to undertake such a revision of the WTW Report and would require a new engagement with WTW that is not feasible within the procedural timelines set out in Procedural Order No. 1; and (iii) combining levels would not address the grounds for confidential treatment of this data identified in the Confidentiality Request and further explained in Appendix A.

3. Average Rows

SEC questions how averages across incumbent employees could reveal specific employee compensation information. Respectfully, that misses another key purpose of London Hydro's redactions.

Harm is not avoided simply because the information is expressed as an average. As further discussed in Appendix A, the redacted figures could reveal individual employee compensation relative to the market. As noted above, the OEB has permitted the redaction of internal compensation data relative to the market median where the data may not sufficiently protect the identity of individual employees in some job levels.[14]

[12] *Wataynikaneyap Power LP*, EB-2022-0149, Procedural Order No. 2 and Decision on Confidentiality (Sept. 2, 2022), pp. 2–3.

[13] *Order M-5* (Town of Listowel).

[14] *Wataynikaneyap Power LP*, EB-2022-0149, Procedural Order No. 2 and Decision on Confidentiality (Sept. 2, 2022), pp. 2–3.

It remains unclear what probative value would be gained by placing competitive compensation information on the public record when the evidence can be fully tested without public disclosure. The OEB has approved intervenors representing a broad range of affected interests, including commercial property customers through BOMA Toronto, residential and other consumers generally through CCC, vulnerable residential consumers through VECC, publicly funded school boards through SEC, environmental interests through Environmental Defence, and other interests through Pollution Probe.

Their counsel and consultants may obtain and scrutinize the unredacted WTW Report upon the OEB's acceptance of a Declaration and Undertaking. Those representatives can therefore fairly and adequately protect their constituents' interests by meaningfully testing London Hydro's evidence, while the Declaration and Undertaking process protects London Hydro's legitimate confidentiality interests. Public disclosure is unnecessary and would very likely cause the harm identified by London Hydro, ultimately resulting in higher electricity rates across Ontario.

Public disclosure would therefore provide little additional benefit to the OEB's scrutiny of the evidence or decision making, while undermining the balance achieved through the Declaration and Undertaking process. As further explained in Appendix A, disclosure would also prejudice London Hydro's competitive position with its competitors.

4. WTW Market Data

SEC argues that WTW market data comparable to that on pages 4 to 6 of the WTW Report has been publicly disclosed by OPG and other utilities and, on that basis, submits that London Hydro's market data should also be disclosed. For the reasons below, none of these cases address the circumstances of the present case.

The redactions of WTW's market data are necessary to protect (i) London Hydro's confidential compensation information, (ii) individual compensation, and (iii) the commercial interests of WTW. Although the benchmarking results are presented separately from London Hydro's salary ranges, the underlying salary information could be readily derived through the reported dollar and percentage differentials, effectively rendering the redaction of London Hydro's compensation data meaningless. Further, disclosure of the detailed benchmarking results would make commercially valuable market compensation information available to other electricity distributors, particularly those with comparable organizational characteristics or geographic proximity, without the need to independently commission such work, prejudicing London Hydro's competitive position with other distributors. Accordingly, the redactions protect both London Hydro's commercially sensitive and private compensation information and the independent commercial value of the WTW's benchmarking services.

a. Case Law

The Ontario Power Generation ("**OPG**") decision cited by SEC is not comparable. OPG is subject to a materially different statutory disclosure regime under the *Public Sector Salary Disclosure Act, 1996*, which requires public disclosure through the Ontario Sunshine List of the names, positions, salaries and benefits of employees above the statutory threshold of $100,000 in annual salary. The WTW

benchmarking and salary information disclosed by OPG must be considered in that context.[15] London Hydro employees are not subject to that disclosure regime and have a materially different expectation that their individual compensation will remain confidential.

The other examples provided by SEC are all distinguishable from the WTW market data and benchmarking. Although the information disclosed in the Mercer reports prepared for Elexicon, [16] Alectra[17] and Hydro Ottawa[18] (the "**Mercer Reports**") appears similar to the information in the WTW Report, those reports are materially distinguishable in both the type of utility benchmarking information and the protection afforded to individual employee information. It is also not apparent that the Mercer Reports are comparable to the WTW Report, given the different benchmarking methodologies employed. For example, Mercer's report prepared for Elexicon benchmarked compensation against a "General Industry Peer Group" that "reflect[s] all industries and organization types in Canada." [19]

A principal distinction between the Mercer Reports and the WTW Report, however, is that the WTW Report does not adequately protect individual employee compensation information from disclosure. The WTW Report provides both salary midpoints and average actual compensation by level, together with their positioning against market benchmarks. As explained in the confidential submissions in Appendix A, that information cannot be treated as anonymized data merely because they relate to multiple incumbents. Instead, disclosure would permit the compensation information of identifiable employees to be ascertained, even where a level includes more than three incumbents.

Further, the WTW market data is not comparable to the aggregated and averaged information in the Mercer Reports as that data could be disclosed without revealing individual employee compensation unlike the WTW market data. Accordingly, confidential treatment of the WTW market data is consistent with the OEB's decision in *Wataynikaneyap Power LP* and *Order M-5* to protect the identity of individual employee salaries at each comparable job level and *Order MO-3898*, *Order MO-1264*, *Order MO-1735*, and *Order MO-3470* to protect uniquely sensitive benchmarking and evaluation materials used by London Hydro to assess employee compensation.

5. Market Adjustment Factor

London Hydro submits that the market adjustment factor should remain confidential given its ongoing collective bargaining negotiations pursuant to Appendix B, part (8) of the Practice Direction. Disclosure could permit inferences about London Hydro's expectations regarding historical compensation and/or growth and be relied upon to frame bargaining demands or expectations. Maintaining confidentiality would protect against that harm while allowing the information to be tested in this proceeding through the Declaration and Undertaking process.

[15] SEC, Confidentiality Objection Letter, p. 2; see also EB-2025-0297, Exhibit F4-3-1, Attachment 3.

[16] EB-2025-0312, Elexicon, Ex.4-2-1, Attachment A.

[17] EB-2025-0252, Alectra, Ex.4-3-5, Attachment 4-7.

[18] EB-2024-0115, Hydro Ottawa, Ex.1-3-3, Attachment F.

[19] EB-2025-0312, Elexicon, Ex.4-2-1, Attachment A, p.4.

London Hydro distinguishes the disclosure of the aging adjustment factor in both the Korn Ferry report prepared for Wataynikaneyap Power LP[20] ("**WPLP**") and the Mercer report prepared for Hydro Ottawa.[21] Neither WPLP nor Hydro Ottawa requested confidential treatment of the respective adjustment factors and the OEB therefore did not make a determination of this issue in either of the proceedings. In addition, neither applicant was in active labour negotiations, and as explained in Appendix A, disclosure would permit inferences about London Hydro's expectations regarding historical compensation and/or growth that could be relied upon to frame bargaining demands or expectations. This will prejudice London Hydro's bargaining position and constrain its flexibility in ongoing negotiations pursuant to Appendix B, part (8) of the Practice Direction.

6. Modifications to Confidentiality Request

a. Confidentiality Request Withdrawal

London Hydro takes note of SEC's submissions that WTW's definition of competitive market positioning in the WTW Report that was redacted in Exhibit 4, Appendix 4-3, Page 3 has already been disclosed by WTW in another proceeding.[22] As such, London Hydro withdraws its request for confidential treatment of WTW's definition of competitive market positioning as "**+/-10%** of the target market position". However, all other information requested for redaction in the WTW Report should remain confidential because it reveals London Hydro's actual compensation positioning relative to the competitive market, including the relative position of its base salary and target total annual compensation with the 25th, 50th and 75th market percentiles. The WTW Report was prepared specifically to assess London Hydro's compensation and make recommendations concerning its compensation structure.

b. Additional Confidentiality Requests

London Hydro confirms OEB Staff's observation that the redacted information in Exhibit 6, Appendix 6-3 (Corporate Tax Return Filing) is not relevant to the proceeding and contains personal information that is presumptively confidential.

London Hydro also appreciates the identification of information inadvertently left unredacted in the public version of Exhibit 4, Appendix 4-3, p. 4 by SEC. London Hydro hereby requests confidential treatment of the following information, identified in green boxes in Appendix A, for the reasons set out in the table below:

Reference	**Justification**
Exhibit 4, Appendix 4-3, Page 3 – as indicated in the green box in Appendix A.	**Strategic Labour Information and Disclosure of Job Specific Compensation** London Hydro requests confidential treatment of both rows on the right side of the table providing the [REDACTED] in addition to the already redacted left side of the table providing the [REDACTED] for the same reasons set

[20] EB-2022-0149, WPLP, Request for Confidential Treatment of Information in Pre-Filed Evidence, April 28, 2022.

[21] EB-2024-0115, Hydro Ottawa, Confidentiality Request, April 15, 2026.

[22] See SEC Submissions at p. 2 citing EB-2025-0297 (OPG), Ex.F4-3-1, p.12.

	out in the Confidentiality Request and in Appendix A related to how disclosure would permit the actual compensation of identifiable employees to be ascertained.
Exhibit 4, Appendix 4-3, p. 4– as indicated in the green box in Appendix A.	**Strategic Labour Information and Disclosure of Job Specific Compensation** London Hydro acknowledges the omitted redactions identified in SEC's submissions and notes that related average positioning was redacted on Exhibit 4, Appendix 4-3, p. 6 and that OEB Staff did not object to confidential treatment of such information. London Hydro requests confidential treatment of both rows providing the [REDACTED] and [REDACTED] for the same reasons set out in the Confidentiality Request and in Appendix A related to how disclosure would permit the actual compensation of identifiable employees to be ascertained.

London Hydro respectfully requests that the OEB remove the current public version of Exhibit 4 from the public record and replace it with a newly redacted public version incorporating the requested modifications.

Yours truly,

BORDEN LADNER GERVAIS LLP

J Vellone

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JV/CB

Appendix A – Confidential Submissions