



EB-2017-0049

Hydro One Networks Inc.

**Application for electricity distribution rates beginning
January 1, 2018 until December 31, 2022**

**PROCEDURAL ORDER NO. 1
August 30, 2017
(Revised August 31, 2017)**

Hydro One Networks Inc. (Hydro One) filed a 5 year Custom Incentive Regulation application with the Ontario Energy Board (OEB) on March 31, 2016 under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B), seeking approval for changes to its distribution rates, to be effective January 1, 2018 to December 31, 2022.

A Notice of Hearing (Notice) was issued on May 24, 2017.

OEB Consumer Engagement

The OEB held nine in-person community meetings throughout Hydro One's service territory in the locations listed below and one province-wide teleconference/webinar. The goals of the meetings were to provide customers with information both on the OEB's rate hearing process and on the specific application filed by Hydro One and to hear directly from customers about the requested rate increases sought in the current application. The OEB received customer presentations and took questions and comments from participants which were recorded.

OEB community meetings were held on the following dates and in the following locations:

June 15, 2017	Leamington, Ontario
June 19, 2017	Napanee, Ontario

June 20, 2017	Rockland (Ottawa), Ontario
June 21, 2017	Owen Sound, Ontario
June 22, 2017	Ancaster, Ontario
June 26, 2017	Stouffville, Ontario
June 27, 2017	Dryden, Ontario
June 28, 2017	Sudbury, Ontario
July 12, 2017	Province-wide Webinar
July 13, 2017	Bracebridge, Ontario

The OEB also received more than 3,000 letters of comment from Hydro One customers. The letters have been placed on the record of the case and are publically available on the OEB's website. The applicant is required to address the themes raised in letters of comment.

Provision is being made for a number of steps in the proceeding that address comments made by customers in relation to the application both by way of letters of comment and at the ten OEB meetings held following the filing of the application.

In particular, OEB staff will file a report that summarizes the consumer presentations, questions, comments and concerns raised at community meetings. The OEB will require Hydro One to make a presentation of its application to the OEB decisions-makers. As part of the presentation, Hydro One must address the themes raised by customers during the OEB community meetings and in letters of comments received by the OEB since the application was filed. Once the oral hearing portion of the case begins, which is currently scheduled for February of 2018, the OEB will be inviting customers to make presentations directly to the OEB decision-makers in the case. This session will be webcast to allow broad participation.

Intervention and Cost Eligibility Requests

The following organizations applied for intervenor status:

- Anwaatin Inc. (Anwaatin)
- Arbourbrook Estates Homeowners Group (Arbourbrook)
- Association of Major Power Consumers in Ontario (AMPCO)
- Balsam Lake Coalition (Balsam Lake)
- Bragg Communications Inc. and Persona Communications Inc., both operating as EastLink (EastLink)
- Building Owners and Managers Association, Greater Toronto (BOMA)
- Cable Cable Inc. (Cable Cable)
- Canadian Cable Systems Alliance Inc. (CCSA)
- Canadian Manufacturers & Exporters (CME)

- City of Hamilton
- Cogeco Connexion Inc. (Cogeco)
- Consumers Council of Canada (CCC)
- Doyle Salewski Inc. (Doyle Salewski)
- Energy Probe Research Foundation (Energy Probe)
- Energy Storage Canada (ESC)
- Independent Electricity System Operator (IESO)
- Independent Telecommunications Providers Association (ITPA)
- Mowat Centre (Mowat)
- OnPhaze Inc. (OnPhaze)
- Ontario Power Generation Inc. (OPG)
- Power Workers' Union (PWU)
- Quebecor Media Inc. (Quebecor)
- Quinte Manufacturers Association (Quinte)
- Rice Lake Tourist Association (Rice Lake)
- Rogers Communications Canada Inc. (Rogers)
- School Energy Coalition (SEC)
- Shaw Communications Inc. (Shaw)
- Society of Energy Professionals (SEP)
- Sunset Bay Road Cottagers, as represented by Eva Haralabidis (Sunset Bay)
- Sustainable Infrastructure Alliance of Ontario (SIA)
- Union Gas Limited (Union Gas)
- Vulnerable Energy Consumers Coalition (VECC)

Each of Anwaatin, Arbourbrook, AMPCO, Balsam Lake, BOMA, CME, City of Hamilton, CCC, Energy Probe, ESC, Mowat, OnPhaze, Quinte, Rice Lake, SEC, Sunset Bay, SIA and VECC also applied for cost award eligibility.

On July 6, 2017 the OEB received a late intervention request from the Ontario Sustainable Energy Association (OSEA). OSEA also applied for cost award eligibility.

Hydro One did not file an objection.

The intervenor requests fall into 5 general categories:

- Fifteen requests from groups claiming to be customers or to represent the direct interests of Hydro One customers (Anwaatin, Arbourbrook, AMPCO, Balsam Lake, BOMA, CME, City of Hamilton, CCC, Doyle Salewski, Quinte, Rice Lake, SEC, Sunset Bay, Union Gas, VECC)
- Eight requests from companies involved in the cable and telecommunications sector (EastLink, Cable Cable, CCSA, Cogeco, ITPA, Quebecor, Rogers, Shaw)

- Six requests from entities that have a policy interest and/or are research based (EnergyProbe, ESC, Mowat, OnPhaze, OSEA, SIA)
- Two labour unions (PWU, SEP) representing the unionized employees of the applicant
- Two other sector participants (IESO, OPG)

The intervention and cost eligibility requests will be addressed by category below.

(a) Customer Groups

Within the category of intervenor requests from those claiming to be customers or to represent the direct interests of customers, all parties' intervention requests are granted. In addition, each of Anwaatin, Arbourbrook, AMPCO, Balsam Lake, BOMA, CME, CCC, Doyle Salewski, Quinte, Rice Lake, SEC, Sunset Bay and VECC are eligible to apply for an award of costs under the OEB's *Practice Direction on Cost Awards (Practice Direction)*.

Union Gas did not apply for cost award eligibility.

The City of Hamilton's request for cost eligibility is denied. The OEB notes that the burden of establishing eligibility for a cost award is on the party applying for such eligibility, in this case, the City of Hamilton. The request for cost eligibility must include the reasons the party believes that it is eligible for an award of costs and address the OEB's cost eligibility criteria. Section 3.03 of the *Practice Direction* states that a party is eligible to apply for a cost award where the party: (a) primarily represents the direct interests of consumers (i.e., ratepayers in relation to services that are regulated by the Board); (b) primarily represents an interest or policy perspective relevant to the Board's mandate and to the proceeding for which cost award eligibility is sought; or (c) is a person with an interest in land that is affected by the process. Section 3.05 (i) of the *Practice Direction* states that despite section 3.03, a municipality in Ontario, individually or in a group, is not eligible for a cost award. The City of Hamilton's intervention request is made in its capacity as a street lighting customer of Hydro One. The City of Hamilton has therefore addressed section 3.03 of the *Practice Direction*; however, it has not provided any persuasive information as to why section 3.05(i) of the *Practice Direction* should not apply. While section 3.06 of the *Practice Direction* states "...a party which falls into one of the categories listed in section 3.05 may be eligible for a cost award if it is a customer of the applicant", since every municipality is a customer of the utility that serves that municipality, the OEB must ensure that the application of section 3.06 does not render section 3.05(i) ineffective.

Hydro One delivers electricity to dozens of municipalities in Ontario, each of which has access to a revenue stream from its own constituent taxpayers. The OEB considers carefully under what circumstances it should exercise its discretion to allow an exception to the general rule prohibiting cost eligibility for municipalities because the effect of doing so is to move the burden of paying eligible costs associated with an intervention from the taxpayers of the municipality in question to ratepayers of the utility that has filed an application with the OEB. The OEB acknowledges that the City of Hamilton has a substantial interest in the current case and has therefore determined that it may actively participate in the proceeding in relation to street lighting rates; however, the costs it incurs to do so should not be borne by Hydro One's customers.

The OEB has considered whether, under section 3.07 of the *Practice Direction*, special circumstances exist that would make the City of Hamilton eligible for a cost award in this case even though it falls into a category of ineligible party under section 3.05 and concludes that no circumstances exist that are special or unique in this particular case. The City of Hamilton cites in its intervention request previous OEB proceedings in which it has intervened and for which it has been found eligible for an award of costs. The OEB considers applications for cost eligibility on a case-by-case basis. The previous decisions to which the City of Hamilton refers were made in the context of those proceedings and have no precedential value in the current proceeding.

The OEB notes there are 13 cost eligible intervenors in this category. The OEB will be carefully monitoring intervenor participation for unnecessary duplication and overlap in the production of any evidence, the conduct of discovery and the filing of argument in this proceeding. The OEB draws the attention of intervenors to sections 4.03 and 5.01 (d), (e) and (f) of the *Practice Direction*. The OEB directs parties to determine at the outset of this proceeding where there is duplication and overlap of the consumer interests represented by each of the cost eligible intervenors in this category (e.g. representatives of seasonal customers) and that such intervenors make best efforts to avoid duplication and to maximize cost efficiencies that can be gained by combining interventions.

(b) Cable and Telecommunications Companies

Within the category of intervenor requests from those claiming to represent cable and telecommunications companies, all parties' intervention requests are granted. Given the commonality of interests expressed by these participants in their intervention requests which related specifically to the rates for attachment of telecommunications infrastructure to electricity distribution poles, the OEB directs that the parties shall select one representative to speak on behalf of all intervenors on all common issues. Any

outstanding issues that will not be addressed by the selected representative of all parties in this category may be raised by individual intervenors.

(c) Policy or Research-Based Representatives

Within the category of intervenor requests from those claiming to represent an interest or policy perspective relevant to the OEB's mandate and to the current proceeding, the intervention requests of Energy Probe and SIA are granted. In addition, each of Energy Probe and SIA are eligible to apply for an award of costs under the *Practice Direction*.

For the reasons provided below, the intervention requests of each of ESC, Mowat, OnPhaze and OSEA are denied.

ESC's notice of intervention indicates that it will provide the OEB with the perspective of energy storage industry stakeholders, which are customers and suppliers of energy storage technologies and services. The notice further states that ESC members will be directly and materially affected by the outcome of the current Hydro One proceeding. It is not clear to the OEB how the perspective of the members of the ESC, made up largely of commercial interests in the energy storage business, will assist the OEB in the current proceeding, which is intended to set just and reasonable rates for electricity distribution. It is also unclear how ESC members will be directly and materially affected by the outcome of this hearing, except potentially with respect to commercial interests, which are not part of the mandate of the OEB to consider.

The Mowat Centre indicates in its notice of intervention that it is a research hub and is "uniquely equipped to provide an international and national perspective". The purpose of the intervention is said to be the provision of policy analysis "to ensure that the policy implications of the proceeding are fully and fairly represented". Other than the integration of distributed energy resources, the creation of new customer classes, and inter-rate class issues, all of which will be thoroughly canvassed by OEB staff and by other intervenors more directly affected by the application and more narrowly focussed on the rate-making implications of the current case, Mowat does not cite any specific issues that would be of particular interest to the OEB in fulfilling its mandate to set just and reasonable rates, nor does Mowat provide any support for the proposition that it would provide a relevant perspective that is not already available to the OEB. While the OEB appreciates Mowat's research function, a distribution utility's rate case is not a research forum and it is important for the OEB to ensure that the time and resources allocated to a rate case are as time and cost efficient as possible.

The intervenor request of OnPhaze makes reference to being an “advocate for consumers and the greater public good” but does not provide any specific information as to whether it represents any consumers at all and if so, what consumers it does represent. Nor does OnPhaze describe how its stated priority areas of focus relate specifically to the Hydro One proceeding. Ms. Niles is listed as the principal of OnPhaze, with a Toronto address and there is therefore no clear nexus to the customer base of Hydro One or to the interests arising in the Hydro One application. Although the OnPhaze intervenor request claims a number of high level areas of focus, there are no specific areas related to the Hydro One application provided. OnPhaze has therefore not established that it has a substantial interest in the current proceeding.

OSEA’s application for intervenor status provides high level statements about the meaning of sustainability and the topics included within the concept of sustainable energy, but it does not provide any indication of the specific issues within the current Hydro One application that are of interest, on which it intends to focus or that will provide value to the OEB in respect of its mandate in this proceeding. OSEA has therefore not established that it has a substantial interest in the current proceeding.

(d) Labour Unions

The intervention requests of each of PWU and SEP are granted.

(e) Other Sector Participants

The intervention request of the IESO is granted in relation to its stated interest with respect to regional planning.

The intervenor request of OPG does not outline any specific interest of OPG in the current matter and appears to be more in the nature of a request to monitor the proceeding. The OEB therefore denies OPG’s intervention request but notes that OPG may choose to monitor the proceeding by sending a request to follow the proceeding to the OEB in order to receive all OEB-issued documents in the case.

Cost eligible intervenors should be aware that the OEB will not generally allow the recovery of costs for the attendance of more than one representative of any party, unless a compelling reason is provided when cost claims are filed.

Individual intervenors are advised to review the *Practice Direction* for further information about what categories of costs and disbursements may be eligible for recovery. It should also be noted that being eligible to apply for recovery of costs is not a guarantee of

recovery of any costs claimed. Cost awards are made by way of an OEB order, typically at the end of a hearing.

The list of parties in this proceeding is attached as Schedule A to this Procedural Order.

Staff Report of Community Meetings

The OEB is making provision for the filing of an OEB staff report on Community Meetings. This report shall include a summary of comments, questions and concerns raised during the community meeting by customers who attended the meeting.

Issues List

OEB staff will issue a draft issues list after Hydro One has made its presentation to the OEB panel, as provided below. The OEB is making provision for Hydro One, intervenors and OEB staff to provide submissions on the draft issues list.

Application Presentation

The OEB is making provision for a transcribed presentation of the application to the OEB panel, prior to interrogatories as set out in the order below. In its presentation Hydro One must include the following: an overview of the key strategic and technical aspects of its application; and a detailed response to the customer issues identified in the OEB staff report on Community Meetings and in the letters of comment filed on the record of this case. While members of the public, parties to this proceeding and OEB staff may attend the presentation, the purpose of the presentation is not to provide an opportunity for cross-examination, but rather for Hydro One to present an overview of its application to the OEB panel and to respond to any questions of clarification by the OEB Panel.

Interrogatories

At this time, provision is being made for written interrogatories.

Parties should examine the value presented by the proposed investments as opposed to focussing only on the costs. Parties should also assess the fit between the applicant's plans and its stated objectives, and consider how the plans contribute to positive outcomes for customers, in particular those outcomes that arise from the asset management decisions reflected in the applicant's distribution system plan. The OEB will consider the entire distribution system plan to assess the planning and pacing proposals of the applicant and whether the requests are appropriately aligned with the distribution system plan. The OEB will also consider productivity and benchmarking results in assessing cost forecasts, bill impacts and distributor performance.

Parties should not engage in detailed exploration of items that do not appear to be material. Parties should use the materiality thresholds documented in Chapter 2 of the Distribution Filing Requirements as a guide. In making its decision on cost awards, the OEB will consider whether intervenors made reasonable efforts to ensure that their participation in the hearing was focused on material issues.

Parties should consult sections 26 and 27 of the OEB's *Rules of Practice and Procedure* regarding required naming and numbering conventions and other matters related to interrogatories.

Expert Evidence

If either OEB staff or any cost eligible intervenor plans to file expert evidence in this proceeding, the proponents of such evidence shall first file a letter with the OEB describing the nature of the evidence, whether the expert evidence will be commissioned jointly with other parties, how those customers represented by the intervenors are affected by the subject matter of the evidence, and the anticipated date for the filing of any such evidence. In addition, the expert's prior experience testifying on the subject before a regulator and the estimated cost should be included.

The estimated cost should include an explanation of any assumptions regarding the purpose and scope of the participation of the expert in the proceeding, and should include an estimate of any incremental time that will be spent by the intervenor's counsel or any other consultant(s) in relation to the expert evidence.

After reviewing this material, the OEB will provide guidance on whether and to what extent any costs associated with the participation of any expert(s) or the preparation of any expert report(s) will be eligible for cost recovery in accordance with the OEB's *Practice Direction*.

The OEB sets out below a number of matters related to the proceeding. Parties should note that the schedule may be adjusted subject to the OEB's consideration of any expert evidence proposals or to accommodate any other required changes to the proceeding.

IT IS THEREFORE ORDERED THAT:**OEB Staff Report on Community Meetings**

1. OEB staff shall file a report summarizing the comments, questions and concerns raised during the community meeting by customers who attended the meetings. The OEB staff report on Community Meetings shall be filed with the OEB by **September 7, 2017**.

Issues List

2. OEB staff will issue a draft issues list by **September 8, 2017**.
3. Hydro One and intervenors may make submissions on the draft issues list and shall file any submissions with the OEB and deliver them to all parties by **September 15, 2017**.
4. If OEB staff or a party wishes to respond to any of the submissions on the draft issues list, the submissions shall be filed with the OEB and copied to all intervenors by **September 20, 2017**.

Application Presentation

5. A transcribed presentation of the application, of Hydro One's response to the OEB staff report on Community Meetings and to the themes raised in the letters of comment filed with the OEB will be held on **September 26, 2017**, in the OEB's Hearing Room, 2300 Yonge Street, 25th Floor, Toronto, Ontario, beginning at 1:00 pm.

Interrogatories

6. OEB staff shall request any relevant information and documentation from Hydro One that is in addition to the evidence already filed, by written interrogatories filed with the OEB and served on all parties by **October 10, 2017**.
7. Intervenors shall request any relevant information and documentation from Hydro One that is in addition to the evidence already filed, by written interrogatories filed with the OEB and served on all parties by **October 12, 2017**.
8. Hydro One shall file with the OEB complete written responses to all interrogatories and serve them on all intervenors and OEB staff by **November 2, 2017**.

Technical Conference

9. Following its review of Hydro One's responses to interrogatories, the OEB will determine if a technical conference is required and the scope of the technical conference. If required, a transcribed technical conference will be held **November 16, 2017** starting at 9:30 a.m. in the OEB's Offices at 2300 Yonge Street, 25th floor, Toronto, Ontario to clarify any matters arising from the interrogatories only. If required, the technical conference will continue on **November 17, 2017**. Parties intending to participate are to notify Hydro One, and copy all parties, of the topic areas for questioning by **November 10, 2017**.

Expert Evidence

10. OEB staff shall inform the OEB if it plans to file expert evidence no later than **November 1, 2017** and provide estimated costs including assumptions regarding the participation of the expert in the proceeding and incremental time that will be spent by counsel for the proponents of such evidence and any other consultants in relation to the opinion testimony. The anticipated date for filing any expert evidence should also be noted. If the OEB determines that OEB staff and/or intervenor evidence is appropriate, the dates set below for the oral hearing may be amended.
11. Cost eligible intervenors that plan to file expert evidence shall inform the OEB of those plans no later than **November 10, 2017** and provide the information detailed in step 10 above.
12. OEB staff and any intervenors permitted to file expert evidence shall file such evidence with the OEB, and provide a copy to Hydro One and intervenors by **December 14, 2017**.
13. OEB staff, intervenors or the applicant shall request any relevant information and documentation regarding filed OEB staff and intervenor evidence by written interrogatories filed with the OEB and served on all parties by **January 5, 2018**.
14. Intervenors and OEB staff that filed evidence shall file with the OEB complete written responses to the interrogatories and serve them on the applicant, all intervenors and OEB staff by **January 19, 2018**.
15. An oral hearing will begin on **February 5, 2018** at 9:30 am at 2300 Yonge Street, 25th floor, Toronto.

16. On the first hearing day, residential and small business customers of Hydro One that are not intervenors in the case are invited to make an oral presentation to the OEB Panel either in person, by telephone or by webcast. Presentations will be limited to five minutes in length per customer. Any residential or small business customers that wishes to make a presentation is invited to pre-register with the OEB at Registrar@oeb.ca or by calling 1-888-632-6273 by **January 26, 2018**. The first hearing day, including any consumer presentations will be webcast.

All filings to the OEB must quote the file number, **EB-2017-0049**, be made in searchable /unrestricted PDF format electronically through the OEB's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>. Two paper copies must also be filed at the OEB's address provided below. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <http://www.oeb.ca/OEB/Industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Harold Thiessen at harold.thiessen@oeb.ca and OEB Counsel, James Sidlofsky at james.sidlofsky@oeb.ca.

ADDRESS

Ontario Energy Board
P.O. Box 2319
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Attention: Registrar

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DATED at Toronto, August 30, 2017 (Revised August 31, 2017)

ONTARIO ENERGY BOARD

By delegation, before: Kristi Sebalj

Original signed by

Kristi Sebalj
Registrar

SCHEDULE A
PROCEDURAL ORDER NO.1
HYDRO ONE NETWORKS INC.
EB-2017-0049
AUGUST 30, 2017
(REVISED AUGUST 31, 2017)
LIST OF PARTIES

**Hydro One Networks Inc.
EB-2017-0049**

APPLICANT & LIST OF INTERVENORS

August 31, 2017

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**Hydro One Networks Inc.
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APPLICANT & LIST OF INTERVENORS

August 31, 2017

INTERVENORS

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**Hydro One Networks Inc.
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**Hydro One Networks Inc.
EB-2017-0049**

APPLICANT & LIST OF INTERVENORS

August 31, 2017

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**Hydro One Networks Inc.
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