



London Hydro Inc.

**Application for electricity distribution rates beginning
May 1, 2022**

**DECISION ON CONFIDENTIALITY
February 22, 2022**

London Hydro Inc. (London Hydro) filed a cost of service application with the Ontario Energy Board (OEB) on August 30, 2021 under section 78 of the *Ontario Energy Board Act, 1998* seeking approval for changes to its electricity distribution rates to be effective May 1, 2022.

On November 22, 2021, London Hydro filed interrogatory responses pursuant to Procedural Order #1. London Hydro kept some portions of the interrogatory responses redacted for reasons of confidentiality. London Hydro filed unredacted copies of the interrogatory responses with the OEB on November 26, 2021 along with a cover letter that set out the reasons why those portions of its interrogatory responses should be afforded confidential treatment pursuant to the OEB's *Practice Direction on Confidential Filings* (Practice Direction) and the OEB's *Rules of Practice and Procedure*.

In Procedural Order 2, the OEB determined that the redacted information in 1-CCC-2 did not constitute personal information as defined under the *Freedom of Information and Protection of Privacy Act*, and directed London Hydro to file an unredacted version on the public record. This decision deals with the remaining requests.

The OEB provided the parties an opportunity to make submissions on the remainder of the confidentiality requests. Submissions were received from SEC and OEB Staff on January 10, 2022. London Hydro filed a reply submission on January 17, 2022.

Findings

- **1-Staff-4; 1-CCC-6:** These interrogatories pertained to London Hydro's savings in conducting certain metering activities in-house, as opposed to engaging a third party for such activities. London Hydro noted that the calculation of the savings is based on quoted costs of a third-party vendor and submitted that the public disclosure of such information could impair the third-party vendor's competitive position in the marketplace.

The OEB finds that while the interrogatory response provides a calculation based on a commercial quote from a smart meter vendor, the vendor is not identified and none of the documentation relating to the request for a quote and the response from the vendor has been provided. There is an insufficient basis to support the assertion that the interrogatory response contains commercially sensitive information. The OEB directs London Hydro to file an unredacted copy of the interrogatory response on the public record.

- **2-Staff-32 b); 2-SEC-11 a) and d):** These interrogatories related to the details of London Hydro’s planned Customer Information System (CIS) refresh project. London Hydro redacted its cost breakdown forecasts and requested that three documents filed as attachments to these interrogatories be kept confidential. The three documents are: 1) “Dec 2019 Board of Directors Package”; 2) “April 2021 Board of Directors Package”; and 3) “CIS Refresh – Planning and Business Requirements.” London Hydro submitted that this information constitutes commercially sensitive information with respect to its new CIS system and could materially impair London Hydro’s ability to obtain competitive bids and negotiate effectively with RFP¹ respondents to its CIS project.

While OEB Staff and SEC agreed that there was commercially sensitive information contained in 2-Staff-32 b), they argued that the request for confidential treatment of 2-SEC-11 a) and d) relating to the Customer Information System refresh project was too broad and only the document entitled CIS Refresh – Planning and Business Requirements should be treated confidentially. In its reply, London Hydro agreed.

The OEB is satisfied that of the three documents in question, only the document “CIS Refresh – Planning and Business Requirements” contains commercially sensitive information that, if disclosed publicly, could materially impair London Hydro’s procurement process for the project. London Hydro is directed to:

- (a) provide individuals that have signed and filed a Declaration and Undertaking with a non-redacted, confidential version of the document “CIS Refresh – Planning and Business Requirements”; and
 - (b) file an unredacted copy of the other two documents on the public record.
- **3-Staff-51 a):** London Hydro noted that the load information requested as part of this interrogatory pertains to a single, specific customer expected in 2022. It has therefore redacted the information as it relates to a specific customer.

¹ RFP refers to “request for proposal”, which is a solicitation for bids from contractors or suppliers for the project.

OEB Staff submitted that as set out in the Practice Direction, “Information that would disclose load profiles, energy usage and billing information of a specific customer that is not personal information” is a category of information that is presumptively considered confidential.

The OEB is satisfied that that the redacted information relates to the load profile and energy usage of a specific customer. London Hydro is directed to provide individuals that have signed and filed a Declaration and Undertaking with a non-redacted, confidential version of the interrogatory response.

- **1-CCC-4:** London Hydro filed a number of documents in response to this interrogatory. The confidential request pertains to a report containing analysis on non-distribution related business opportunities with respect to electric vehicles. London Hydro submitted that public disclosure of this report could negatively impact its ability, or that of an affiliate of London Hydro, to engage in unregulated electric vehicle related business opportunities. London Hydro also noted that there are no electric vehicle related business opportunities included in its proposed revenue requirement underpinning its new rates and therefore the report has minimal relevance.
- OEB Staff submitted that there was insufficient information provided by London Hydro to identify what part of the report contained commercially sensitive information. However, OEB Staff did not object to its redaction since it deals with non-distribution related business opportunities and there are no costs related to electric vehicle business opportunities included in revenue requirement.

Having reviewed the report, the OEB agrees with OEB Staff that London Hydro has not established a basis for confidential treatment of the report. London Hydro is directed to file an unredacted copy for the public record.

- **1-SEC-1:** London Hydro filed seven employee compensation benchmarking reports in response to this interrogatory that it is requesting be kept confidential:
 1. 2021 Board of Directors Compensations Report
 2. 2017 MEARIE Management Compensation Survey Report
 3. 2018 MEARIE Management Compensation Survey Report
 4. 2019 Board of Directors Compensation Report
 5. 2019 Management Compensation Survey Report
 6. 2020 Management Compensation Survey Report
 7. 2021 Management Compensation Survey Report

London Hydro submitted that these documents are the products of a third party, which only have value in the marketplace insofar as the document is not available publicly. To disclose these documents on the public record would cause the reports to lose their value and would disincentivize third parties from producing such documents in the future. Furthermore, London Hydro submitted that it was provided a copy of these reports on the condition that it maintain confidentiality for the documents and is permitted only to provide the documents to a regulatory body (such as the OEB) if compelled to do so.

SEC and OEB Staff noted previous OEB decisions in which the OEB required similar reports to be placed on the public record and submitted that London Hydro had not provided any new basis upon which to deviate from those precedents.

The OEB finds that London Hydro has not established a basis upon which to deviate from the approach taken to similar reports in other proceedings and directs London Hydro to file unredacted copies of the reports on the public record.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. London Hydro shall, in accordance with the findings above:
 - a. file unredacted copies of documents on the public record; and
 - b. provide individuals that have signed and filed a Declaration and Undertaking with the non-redacted, confidential versions of interrogatory responses.

DATED at Toronto, **February 22, 2022**

ONTARIO ENERGY BOARD

Nancy Marconi
Registrar