



August 2, 2024

To: All Parties in the Tillsonburg Hydro 2024 Cost of Service Proceeding

**Re: Settlement Conference Facilitator
Ontario Energy Board File No. EB-2023-0053**

In response to the Office of the Auditor General of Ontario's Report on the [Value-for Money Audit: Ontario Energy Board: Electricity Oversight and Consumer Protection](#), the OEB established a Working Group to evaluate opportunities to reduce the regulatory burden for very small utilities (i.e., electricity distributors with fewer than 5,000 customers) in relation to major rate applications.

On March 28, 2024, the OEB issued a [letter](#) responding to recommendations of the Working Group and outlining changes being made or considered to reduce the regulatory burden on these utilities. In addition to the Working Group recommendations accepted by the OEB, the OEB noted that it would consider the use of an OEB staff member or an OEB Commissioner as a substitute for an external facilitator in settlement conferences.

The OEB has decided to pilot this approach by having a Commissioner act as facilitator in the settlement conference for the Tillsonburg Hydro 2024 Cost of Service application where the OEB is using the same streamlined application process that is being piloted with very small utilities.¹ While Rule 29.04 of the OEB's *Rules of Practice and Procedure* states that Commissioners shall not participate in a settlement conference, Rule 1.03 states that the OEB may dispense with a Rule if it is in the public interest to do so. This pilot is intended to determine if there are more efficient and cost effective ways to set the rates for small electricity distributors. The OEB concludes this is in the public interest.

In the event of a full settlement, with the consent of the parties, the Commissioner who acts as the facilitator will be the panel before whom the settlement proposal will be brought forward for approval. The procedural steps following the settlement conference will remain the same for this proceeding, yet the timelines could be expedited.

¹ EB-2023-0053, [Procedural Order No. 1](#), June 20, 2024.

As outlined in the March 28th letter, the OEB will evaluate the results of the pilot before deciding whether this approach could be extended to other small electricity distributors, or whether amendments to the approach are required.

Section 9 of the *Practice Direction on Settlement Conferences*² (Practice Direction) sets out the role of a settlement conference facilitator. Those expectations will apply equally to a Commissioner who acts as the facilitator in this proceeding. At the beginning of the settlement conference, the Commissioner will provide an overview of the process and can address any preliminary questions. Over the course of discussions, the Commissioner may identify areas where a potential settlement may not, in their view, be in the public interest. That Commissioner will also be bound by the same privilege and confidentiality standards that apply to the settlement conference participants, which are outlined in sections 10-10.2 of the Practice Direction.

The fact that a Commissioner is facilitating a settlement conference is not expected to affect the role of OEB staff as described in section 11 of the Practice Direction.³

In the event of a partial settlement or no settlement, the Commissioner who acts as the settlement conference facilitator will have no further involvement in this proceeding after the settlement process. Rather, the application will be adjudicated by a different panel of one or more OEB Commissioner(s). That panel will be responsible for all aspects of the proceeding following the settlement conference including deciding whether to approve any partial settlement, determining the procedural steps for all unresolved issues, and issuing a decision on all unresolved issues.

Yours truly,

Nancy Marconi
Registrar

² [Ontario Energy Board Practice Direction on Settlement Conferences](#), Section 9, p. 3

³ Under section 11 of the Practice Direction, OEB staff will file a submission on a settlement proposal except where the OEB directed OEB staff to be a party to a settlement conference and to any resulting settlement proposal.