



**BY EMAIL and RESS**

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September 18, 2024  
Our File: EB20230195

**Attn: Nancy Marconi, Registrar**

Dear Ms. Marconi:

**Re: EB-2023-0195 – Toronto Hydro 2025-2029 – Innovation Fund Submission**

We are counsel to the School Energy Coalition (“SEC”). Pursuant to Procedural Order No. 7, these are SEC’s submissions on the unsettled issue of Toronto Hydro-Electric System Limited’s (“Toronto Hydro”) request, as part of its 2025-2029 Application, for approval of an Innovation Fund.

SEC is generally supportive of utility innovation, which may include funding pilot projects to evaluate new and innovative technologies that can benefit customers. The electricity sector is evolving, requiring utilities to explore new ways of delivering services to meet customers’ needs in a cost-effective manner. An Innovation Fund, as proposed by Toronto Hydro, is one way to achieve this within the context of a 5-year Custom IR term.

SEC can support Toronto Hydro’s proposal to establish an Innovation Fund, provided that several important changes are made to the budget, design, and selection process to ensure the fund serves the interests of ratepayers and achieves its stated goals. Without these changes, the proposal is unreasonable and should not be approved.

**Background and Context**

Toronto Hydro proposes to establish an Innovation Fund to “support the design and execution of innovative pilot projects over the 2025-2029 rate period” and “focus on testing new technologies, advanced capabilities, and alternative strategies.”<sup>1</sup> The Innovation Fund would be funded by customers through a separate rate rider that would amount to 0.3% of Toronto Hydro’s approved 2025-

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<sup>1</sup> Exhibit 1B-4-2, p.1

2029 base revenue requirement, which, if the Settlement Proposal is approved, would be approximately \$15.44M.<sup>2</sup>

The approved budget would not be a cap on the amount that could be spent or collected from ratepayers<sup>3</sup>, as Toronto Hydro proposes that the variance between actual costs and revenues would be captured in a new Innovation Fund Variance Account (“IFVA”).<sup>4</sup>

Even though Toronto Hydro has not detailed a single project it plans to undertake, under its proposal, there would never be a prudence review on the cost or benefits of the pilots it does undertake.<sup>5</sup>

While much of Toronto Hydro’s rate application is specific to its operations and needs, there is little that sets it apart from other large (and even most small or medium-sized) electricity distributors regarding its proposed Innovation Fund. Most of Toronto Hydro’s evidence on the rationale for an Innovation Fund relates to provincial and sector policy and trends. Many other utilities are interested in similar activities, and the OEB’s decision in this matter will almost certainly serve as a guide for every other electricity distributor when they bring forward their next cost of service or Custom IR application. SEC has taken this into consideration as it has formulated its position on the proposed Innovation Fund.

### **Budget**

SEC has two concerns with the proposed budget.

First, Toronto Hydro proposes an Innovation Fund budget of 0.3% of its approved 2025-2029 base revenue requirement, but calculated on a revenue requirement basis.<sup>6</sup> This means the actual amount spent will likely far exceed the \$15.44M, as a significant portion of the activities will likely be capital rather than operational expenditures. It proposes that once an amount is spent, any undepreciated capital costs in 2030 will simply be transferred to the company’s opening rate base, where the amount will be recovered over the remaining life of the assets (which may be lengthy).<sup>7</sup>

Toronto Hydro is effectively seeking approval now to potentially spend many times more than its stated budget, including potentially up to \$75M. This is neither appropriate nor reasonable, especially given that Toronto Hydro has not provided any evidence of specific projects it seeks to fund, only general information regarding the types of pilot projects it may undertake.

SEC submits that if the OEB is to approve an Innovation Fund, it must require that any capital costs be expensed entirely in the year the costs are incurred, and not capitalized. If not, then the amount which Toronto Hydro is seeking to spend in the context of an Innovation Fund is neither just nor reasonable.

Requiring the costs to be expensed also ensures that Toronto Hydro remains indifferent to the type of project, capital or operating, which is especially important in the context of DERs and other innovative

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<sup>2</sup> Total Base Revenue Requirement per the [Settlement Proposal \(filed August 16, 2024\)](#) Table 2 (2025-2029 RR of \$5,156.8M x 0.3%). This amount may change, as under the Settlement Proposal, that revenue requirement will be updated to reflect certain 2025 cost of capital parameters that the Board will issue later in the fall.

<sup>3</sup> Interrogatory Response 9-Staff-342

<sup>4</sup> Interrogatory Response 9-Staff-342

<sup>5</sup> Interrogatory Response 1B-CCC-46d

<sup>6</sup> Interrogatory Response 9-Staff-354e

<sup>7</sup> Interrogatory Response CQ-SEC-19

technologies. As the Framework for Energy Innovation has recognized, such projects may often be best undertaken by third parties as OM&A expenses.<sup>8</sup>

Second, Toronto Hydro proposes that, through its requested IFVA, it can record costs exceeding the 0.3% approved base revenue requirement for later recovery. SEC submits that the proposed budget should act as a cap on the amounts ratepayers are required to pay for Innovation Fund activities undertaken during the rate term. There is no reason why Toronto Hydro should not be expected to manage within an approved budget, especially when there are no specific projects it is seeking to undertake that may necessitate spending above a certain level. It would also provide an incentive for Toronto Hydro to be more efficient.

### **Project Selection Process and Oversight**

Toronto Hydro proposes that the company select projects for the Innovation Fund by setting up a steering committee of senior employees who will oversee a four-phase governance framework, from project selection through evaluation.

SEC does not support this process. Toronto Hydro should not be the entity with sole authority to approve projects to be funded by the Innovation Fund. In fact, Toronto Hydro would be an outlier if it were allowed to do so.

Toronto Hydro provided expert evidence from ScottMadden, which concluded that the Innovation Fund proposal was consistent with other jurisdictions that had approved similar separate cost recovery mechanisms to fund innovation projects. As part of its jurisdictional review, ScottMadden examined the United Kingdom (“UK”), New York, Nova Scotia, and California, all of which have these mechanisms.<sup>9</sup> Yet, in each jurisdiction, the entity that determines which projects get funded is different and independent from the utility. In both the UK and Nova Scotia, it is their respective regulators (Ofgem and the Nova Scotia Utility and Review Board)<sup>10</sup>, in New York, it’s the state government<sup>11</sup>, and in California, it’s a separate agency that administers 80% of the collected amounts.<sup>12</sup>

None of the jurisdictions reviewed have a model like the one proposed by Toronto Hydro, where a utility has sole authority to determine which projects are selected for funding. Ideally, an external entity would determine which projects are funded through the disbursement of amounts collected from all distributors. However, such a mechanism does not currently exist in Ontario.

Until such a mechanism exists, the best approach is to ensure that final approval of any projects is not determined by the utility. The OEB should require that Toronto Hydro establish a committee responsible for advising on and selecting projects for funding, made up of individuals with the requisite expertise who are entirely independent of Toronto Hydro. Toronto Hydro would solicit and manage the

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<sup>8</sup> [Framework for Energy Innovation: Setting a Path Forward for DER Integration \(January, 2023\)](#), p.28-30

<sup>9</sup> Interrogatory Response 1B-2-1, Appendix B, p.40-41

<sup>10</sup> Undertaking JT 3.36

<sup>11</sup> Undertaking JT 3.36

<sup>12</sup> Undertaking JT 3.36 references that the CPUC (California’s utility regulator) is the governing body for the EPIC (Electric Program Investment Charge) Program. SEC’s understanding is that while the CPUC approves the funding levy collected by the utilities, the California Energy Commission (CEC) administers 80% of program spending, and the three largest utilities administer the remaining amount. (See <https://www.energy.ca.gov/programs-and-topics/programs/electric-program-investment-charge-epic-program>)

process, including selecting the committee members and bringing proposed projects forward for consideration, but with input and approval by the committee.

The OEB must retain final oversight by conducting a prudence review of all costs that would flow through the proposed IFVA as part of the company's next rebasing application. Toronto Hydro's position that there should never be a prudence review of the actual costs is untenable, especially in the context of a proposal where it is being granted a funding envelope without any specific pilot projects proposed for consideration. Moreover, it would be wholly inconsistent with the OEB's statutory mandate to protect the interests of customers. Toronto Hydro must be required at its next rebasing application to bring forward for review its actual costs incurred through the Innovation Fund.

### **Selection Criteria**

Toronto Hydro's evidence remains unclear regarding the specific criteria for project funding eligibility. The evidence discusses Toronto Hydro's "intent to focus on areas of innovation that have the following characteristics"<sup>13</sup> and "key considerations"<sup>14</sup> for pilot project selection, but it does not provide a concrete set of criteria outlining what types of projects are eligible. In contrast, other jurisdictions reviewed by ScottMadden have a much more detailed set of criteria and rules for determining which projects can receive funding.<sup>15</sup>

SEC submits that Toronto Hydro should be required to submit a specific document outlining project eligibility and selection criteria for OEB approval, which would then serve as a condition of approval. This does not need to be a lengthy or complicated document, nor should it involve a lengthy approval process, but it is important that the OEB, customers, and the sector at large understand which types of innovation projects are appropriately funded in this way.

### **Reporting**

Toronto Hydro's evidence discusses three types of reports: a selection report, a milestone report, and a pilot evaluation and learning report. The only report that would be made available outside the company is the pilot evaluation and learning report, which would be shared with the OEB's Innovation Sandbox.<sup>16</sup> Key takeaways from that report "could then be shared with industry stakeholders."<sup>17</sup>

It does not appear that Toronto Hydro plans to make any information public, let alone meaningful information about the projects funded by the Innovation Fund, either for its customers or other interested entities. This lack of transparency is inappropriate, as it does not ensure proper accountability for ratepayer funds and, more importantly, it prevents the broader public from benefiting from the pilot learnings.

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<sup>13</sup> Exhibit 1B-4-2, p.6-7

<sup>14</sup> Exhibit 1B-4-2, p.9

<sup>15</sup> See Undertaking JT 3.36. Also see, [Ofgem Strategic Innovation Fund \(SIF\) Governance Document](#), [Ofgem Network Innovation Allowance \(NIA\) Governance Document](#), [California EPIC Program](#) has a number of different funding opportunities and detailed requirements for each one.

<sup>16</sup> Interrogatory Response 1B-CCC-46e

<sup>17</sup> Interrogatory Response 1B-CCC-46e

SEC submits that the OEB should require Toronto Hydro to publicly disclose on its website all three types of reports it intends to produce, subject to reasonable redactions for sensitive information.<sup>18</sup>

Public disclosure of the selection report is important as it ensures the public understands which projects are being undertaken and when. This is crucial, not only for transparency, but also so that other utilities and entities have insight into ongoing pilot projects, helping them avoid duplication.

Milestone reports are important so that customers and the public can understand how the pilots are progressing, and stakeholders can benefit from project learnings as soon as possible. The OEB recently required, as a condition of approval for a deferral account, that Essex Powerlines make milestone reports for its proposed PowerShare pilot project available on its website.<sup>19</sup>

Finally, the OEB should require that the full pilot evaluation and learning report be made available on its website. There is no reason why only the OEB's Innovation Sandbox Team should have access to this important information. In fact, Toronto Hydro should widely distribute the report so that the broader public and sector can fully understand the project learnings. Similar to the milestone reports, the OEB ordered Essex Powerlines to make "a more complete report on outcomes and learnings" publicly available on its website after pilot completion.<sup>20</sup>

### **Summary**

SEC can support Toronto Hydro's proposal to establish an Innovation Fund, with a maximum total funding of 0.3% of its approved 2025-2029 base revenue requirement. However, a number of changes are required to ensure that it is in the interest of customers and properly designed to achieve its stated objectives.

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

Mark Rubenstein

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

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<sup>18</sup> For example, it would be reasonable to redact information that would reveal customer information, or technical information that could be a security risk.

<sup>19</sup> [Decision and Order \(EB-2024-0096/2024-0022\), August 29, 2024](#), p.14-15

<sup>20</sup> [Decision and Order \(EB-2024-0096/2024-0022\), August 29, 2024](#), p.14-15