



Toronto Hydro-Electric System Limited
Application for electricity distribution rates and other
charges beginning January 1, 2025

DECISION ON CONFIDENTIALITY AND

PROCEDURAL ORDER No. 8

September 26, 2024

Toronto Hydro-Electric System Limited (Toronto Hydro) filed an application with the Ontario Energy Board (OEB) on November 17, 2023, under section 78 of the *Ontario Energy Board Act, 1998*, seeking approval for changes to the rates that Toronto Hydro charges for electricity distribution, beginning January 1, 2025, and for each following year through to December 31, 2029. The OEB issued a decision on Toronto Hydro's confidentiality requests in this proceeding related to the initial application on February 5, 2024.¹

In the course of the proceeding, Toronto Hydro provided responses to both interrogatories and technical conference undertakings, which included attachments as necessary (collectively, "responsive documents"). In filing the responsive documents, Toronto Hydro made several requests for confidential treatment of portions of the responsive documents. These requests were made on March 11, March 21, March 26, April 4, April 22, and May 7, 2024. Appendix B of the May 7, 2024 correspondence is the table of concordance that summarizes all the confidentiality requests.

OEB staff filed expert evidence and requested confidential treatment for the working papers that underlie the report titled *Statistical Cost Research for THESL's New CIR Plan* filed on May 6, 2024. The report and working papers were prepared by Pacific Economics Group Research LLC (PEG).

There were no submissions regarding these confidentiality requests.

The OEB approves Toronto Hydro's requests for redactions from the evidentiary record due to non-relevance and solicitor-client privilege. In addition, the OEB approves Toronto Hydro's request of confidentiality treatment of redactions to certain interrogatory responses, except the request for 1B-SEC-5, Appendix E, p. 1 related to consultant branding.

¹ EB-2023-0195 Decision on Confidentiality, Issues List and Proposed Expert Evidence, and Procedural Order No. 3, February 5, 2024

The OEB approves OEB staff's request for confidential treatment of redactions to certain information in PEG's working papers.

CONFIDENTIALITY REQUESTS

Toronto Hydro made requests to redact the following information contained within the responsive documents from the public record. Toronto Hydro grouped its requests into the following categories:

1. Redactions for non-relevance
 - 1A-CCC-1, Appendix D, pp. 2-13, 28-32
 - 2B-Staff-237, Appendices B and D, p. 1
 - 1B-SEC-06, Appendix A, pp. 4-7, 9, 11, 15, 17
 - 1B-SEC-06 Appendix D, pp. 5-7, 9, 11, 13 and 16
2. Redactions for solicitor-client privileged information
 - 1A-CCC-1 Appendix A, pp. 5, 78, 80, 83
 - 1A-CCC-1, Appendix B, pp. 42, 44
 - 1A-CCC-1, Appendix C, p. 3
3. Third-party consultant pricing information
 - 1B-SEC-11, Appendix A, p. 14
 - 1B-SEC-11, Appendix B, p. 18
 - 1B-SEC-11, Appendix C, pp. 7, 17
 - 1B-SEC-11, Appendix D, p. 18
 - 1B-SEC-11, Appendix E, p. 17
 - 1B-SEC-11, Appendix F, pp. 17-18
 - 1B-SEC-11, Appendix G, pp. 6, 16
 - 1B-SEC-11, Appendix J, p. 21
 - 1B-SEC-11, Appendix K, pp. 3-4
 - 2B-Staff-156, Appendix B pp. 19-21, 34-35
4. Sensitive cyber-security information
 - 1B-SEC-11, Appendix E, pp. 22-36
 - 2B-Staff-156, Appendix B, p. 45
5. Confidential information provided to third-party consultants
 - 1B-SEC-5, Appendix G, pp. 6-7
 - 1B-SEC-5, Appendix H, pp. 4, 6, 7, 12, 14-22, 26-27, 30-31, 33, 35, 39, 41-47, 49, 52, 54
 - 1B-SEC-5, Appendix E, pp. 10, 11, 14
 - 1B-SEC-5, Appendix F, all pages
 - 1B-SEC-5, Appendix K, p. 11
 - 2B-SEC-64, Appendix B, pp. 18-24
6. Commercially sensitive and proprietary information of consultants
 - 1B-SEC-5, Appendix E, pp. 7-8
 - 1B-SEC-11 Appendix K, pp. 1-3
 - 2B-SEC-64 Appendix B, pp. 19-24
 - JT1.7 Appendix A, pp. 6-7, 9, 11, 13-14
 - JT3.1 Appendix A, pp. 26-31

- JT3.1 Appendix F, pp. 7-9, 11, 20-25
- JT3.12 Appendix A, all pages
- 7. Consultant branding
 - 1B-SEC-5, Appendix E, p. 1
- 8. Non-public forward looking financial information
 - 1A-CCC-1, Appendix A, pp. 25-27, 29-30, 53-55, 74
 - 1A-CCC-1, Appendix B, pp. 5, 9-10, 12-14, 37-39, 61
- 9. Financial information related to Toronto Hydro's affiliates and non-regulated business activities
 - 1A-CCC-1, Appendix A, pp. 22, 25-27, 29-30, 32, 48-51, 53-55, 74, 84
 - 1A-CCC-1, Appendix B, pp. 5, 9-10, 12-14, 16, 32-35, 37-39, 41, 61
 - 1B-SEC-5, Appendix J, all pages
- 10. Security risk
 - 2B-Staff-01, pp. 1-2
 - 2B-Staff-02, p. 1
 - 2B-Staff-237 Appendix A, pp. 2, 5-6, 11, 14, 43-45
- 11. Third-party proprietary data or models
 - 3-DRC-14, Appendices A-E, all pages
 - 1B-Staff-74, Appendix A, all Pages
 - JT5.37 Appendix A, all pages
- 12. Personal information
 - 1B-SEC-05, Appendix C, pp. 7, 10-11

If approved, Toronto Hydro's requests related to #1 for non-relevance and #2 for solicitor-client privileged information, would result in permanent redactions to the evidentiary record in this proceeding. Toronto Hydro's request confidential treatment, to redact the information in categories #3 to #13 from the public record. Individuals representing approved intervenors who execute the OEB's Declaration and Undertaking (D&U) would be provided copies of the redacted information, subject to Toronto Hydro's right to object to the D&U from any person.

OEB staff also made a request for confidential treatment, to redact the information from the public record, associated with the expert evidence of PEG, filed on behalf of OEB staff:

- 13. Commercially sensitive and propriety information of consultants
 - M1 PEG working papers, all pages

1.1 Redactions for Non-Relevance

Toronto Hydro requested redaction from the evidentiary record, not just the public record for information that Toronto Hydro claims is not relevant to this proceeding. The redacted information was provided only to the OEB. If approved, no intervenor would be able to see the redacted information including individuals who signed the D&U.

1A-CCC-1 requested all materials provided to Toronto Hydro's Board of Directors with respect to this application, the underlying budgets, and Toronto Hydro's most recent Business Plan. Appendix D is a presentation titled *Customer Engagement & Rate Application Update*. Toronto Hydro states that the redacted information is general in nature and provided as context to the update regarding the rate application.

On March 11, 2024, the OEB requested additional information regarding the nature of this information, which Toronto Hydro provided in a response dated March 28, 2024. In this response, Toronto Hydro confirmed that subject information is not causative to the proposals in the application, some redactions related to proprietary third-party information Toronto Hydro purchased, and the costs associated with preparing 1A-CCC-1 Appendix D are not proposed for recovery in this application.

2B-Staff-237 requested information relating to connection contribution agreements between Toronto Hydro and Hydro One, and any invoices and their calculations. Appendices B and D consist of invoices issued by Hydro One to Toronto Hydro, and the requested redactions relate to Hydro One's banking information.

1B-SEC-06 requested a copy of all budget guidance documents that were issued regarding the budgets that underlie the application. Appendix A is a presentation titled *2022 Investment Planning and Portfolio Reporting (IPPR) Kick-Off* and Appendix D is a presentation titled *2023-2029 Business Planning*. Toronto Hydro indicated that the redacted content does not contain guidance related to the development of budgets and the information was superseded, no longer reflecting the utility's business plan.

Findings

The OEB approves Toronto Hydro's requests for permanent redactions to the evidentiary record due to non-relevance.

Regarding 1A-CCC-1, Appendix D, the OEB is satisfied that the redactions are for information not relevant to the application. The OEB relies upon Toronto Hydro's assurance in its March 28, 2024 letter that the redacted materials were not, and are not, causative to the application requests or other evidence on the record in this proceeding. Additionally, Toronto Hydro has confirmed that ratepayers do not bear the costs of this redacted information.

Regarding 2B-Staff-237, Appendices B and D, the OEB is satisfied that banking information to process payments is not relevant to this application. The OEB notes the invoiced amounts correspond to amounts in the public version of the application.

Regarding 1B-SEC-06, Appendices A and D, the OEB is satisfied that the redacted information is not relevant.

1.2 Solicitor-Client Privileged Information

1A-CCC-1 requested all materials provided to Toronto Hydro's Board of Directors with respect to this application. Appendix A is a presentation titled *2025-2029 Regulatory Strategy and 2023-2025 Business Plan*, Appendix B is a presentation titled *2024-2026 Business Plan*, and Appendix C is a presentation titled *2025 Rate Application Strategy & Update*.

Given the nature of the information, the OEB was not provided with an unredacted version of 1A-CCC-1. The version provided to the OEB had these specific sections redacted or blacked out. Toronto Hydro indicated that these redactions pertain to privileged information and communications by Toronto Hydro's Chief Legal Officer, which were directly related to legal advice to the Toronto Hydro Board of Directors.

If approved, this information would be removed from the evidentiary record in the proceeding. The solicitor-client

Findings

The OEB approves Toronto Hydro's requests for permanent redactions to the evidentiary record due to solicitor-client privileged information. The OEB relies upon Toronto Hydro's statement that this information is subject to solicitor-client privilege.

The OEB notes that the solicitor-client privileged redactions are limited to specific sections within seven pages of Appendices A, B and C. Titles and headings such as governance, financial, compliance and enterprise risk are available on the public record to provide context for the redactions.

1.3 Third-Party Consultant Pricing Information

1B-SEC-11 requested a copy of the retainer and specific instructions/direction provided to each expert regarding third-party expert reports filed as part of this proceeding. Toronto Hydro requests confidential treatment for the pricing terms contained within the retainers. Toronto Hydro indicated that disclosing this information could prejudice the respective competitive position of consultants in terms of future negotiations to provide similar services. The following table summarizes the appendices of 1B-SEC-11 and applicable experts that are subject to this confidentiality requests.

Table 1: Expert Consultants and Relating 1B-SEC-11 Appendices

Appendix	Consultant
A	Innovative Research Group Inc.
B	Clearspring Energy Advisors, LLC

Appendix	Consultant
C	UMS Group Inc.
D	ScottMadden Inc.
E	Guidehouse Canada Ltd.
F	Concentric Advisors ULC.
G	EA Technology LLC
J	Stantec Consulting Ltd.
K	Mercer

2B-Staff-156 Appendix B includes pricing information regarding the Future Energy Scenarios study and its scope.

Findings

The OEB approves Toronto Hydro's request for confidential treatment of third-party consultant pricing information. The OEB finds that this redacted information is commercially sensitive and could prejudice the competitive position of these consultants if publicly disclosed. The OEB has afforded confidential treatment to comparable information filed in previous proceedings.

1.4 Sensitive Cyber-Security Information

Appendix E to 1B-SEC-11 is the retainer between Toronto Hydro and Guidehouse Canada Ltd. Appendix B to 2B-Staff-156 is the retainer between Toronto Hydro and Element Energy Ltd. Both of these retainers contain Toronto Hydro's cyber-security requirements with which the third parties were required to comply as a condition of their respective retainers.

Findings

The OEB approves Toronto Hydro's request for confidential treatment of the cyber-security information. This approval is consistent with the OEB's findings in the February 5, 2024, decision on confidentiality and in accordance with the *Practice Direction on Confidential Filings*, as the public disclosure of which could adversely impact the safety and security of the distribution system.

1.5 Confidential Information Provided to Third-Party Consultants

1B-SEC-5 requested copies of all third-party benchmarking analyses, studies, reports, and/or similar documents that are not already included in the application. Toronto Hydro indicated that several of these benchmarking exercises required the exchange of confidential information between Toronto Hydro and third-party consultants. The redactions relate to the identify of third-party utilities and utility specific information within the benchmarking reports. Toronto Hydro claimed that if the OEB compelled the disclosure of this information, it would disincentivize future exchange of such information between utilities. The following appendices and third-party consultants were the subject of this request:

Table 2: Third Party Consultants Relating to Appendices of 1B-SEC-5

1B-SEC-5 Appendix	Report Name or Title	Prepared by
E	<i>Toronto Hydro Sustainability Review: Data Report</i>	PricewaterhouseCoopers AG (PwC)
G and H	Auto-FLISR Assessment Executive Report and Toronto Hydro-Electric System Limited Auto-FLISR Assessment	TRC Consulting North America
F and H	Benchmarking Toronto Hydro's grid modernization	Accenture LLP

2B-SEC-64 part c requested Toronto Hydro's internal business plan for AMI 2.0. Toronto Hydro provided a strategic plan for AMI 2.0 prepared by EY. As with the preceding requests, Toronto Hydro indicated that this plan contains third-party utility-specific information that was provided to EY on a confidential basis.

Findings

The OEB approves the requests for confidential treatment of certain third-party utility information 1B-SEC-05. The OEB finds that the redactions enable the anonymity of the third-party utilities referenced in the benchmark studies. The benchmarking information is available on the public record.

The proposed redactions to 2B-SEC-64 are different in nature from the redactions in 1B-SEC-5 as utility specific information was redacted as well as the third-party utility names. The redactions relate to three global utilities profiled in short case studies. The redactions were utility specific revealing a level of granularity of errors made. OEB notes

that Toronto Hydro was a participant in this study, a study which was paid for by a global utility, not Toronto Hydro. For these reasons, the OEB approves the request for confidential treatment of the redactions to 2B-SEC-64 related to this third-party utility information.

It should also be noted that the OEB has ruled in previous decisions that arrangements made with external providers of evidence that assure non-availability outside the utility do not govern the decision whether the evidence goes on the record.

1.6 Commercially Sensitive and Proprietary Information of Consultants

Several responses to interrogatories and undertakings include third-party consultant reports. Toronto Hydro states that these reports reveal proprietary aspects of consultant's methodologies used to perform their analysis. Toronto Hydro states that public disclosure of this information could prejudice the commercial interests and competitive position of the consultants, likely causing significant loss. The following table summarizes the responses and consultants:

Table 3: Interrogatory and Undertaking Responses that are External Consultant Reports with Sensitive or Proprietary Information

Response	Consultant
1B-SEC-5, Appendix E	PwC report containing proprietary methodologies as part of its study
1B-SEC-11 Appendix K	Accenture report containing proprietary methodologies as part of its study
2B-SEC-64 Appendix B	EY report containing proprietary methodologies as part of its study
JT1.7 Appendix A	Report prepared by Hatch that would reveal methodologies related to research related to the provided analysis
JT3.1 Appendix A	Report prepared by Metsco that would reveal methodologies related to research related to the provided analysis
JT3.1 Appendix F	Report that includes audit checklists from AtkinsRealis that would reveal proprietary aspects of the consultant's audit process

JT3.12 Appendix A	Supplement to a previously filed report prepared by Gartner that defines IT maturity thresholds
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Findings

The OEB approves Toronto Hydro's confidentiality request due to commercially sensitive and proprietary information of consultants. If the redacted information were to be made public, the OEB agrees that this information would reveal methodologies and research related to the analysis provided and could prejudice commercial interests and competitive positions of the consultants.

The OEB regards the redactions proposed to be minimal, with most of information contained in the reports available on the public record. For example, the consultants' scope of work, management, organization, results and recommendations are available on the public record, yet specifics related to internal consultant research policies, strategy and monitoring are redacted on certain pages.

1.7 Consultant Branding

Appendix E to 1B-SEC-5 is a report prepared by PwC titled *Toronto Hydro Sustainability Review: Data Report*. Toronto Hydro states that the consultant has not consented to reproduce its branding as part of providing this report. PwC advised Toronto Hydro that it objects to the use of the firm's branding due to the dated nature of the report and its underlying data, and because PwC was not engaged in producing the interrogatory response.

Findings

The OEB denies Toronto Hydro's request for confidential treatment of consultant branding because of the dated nature. The report is dated, and this date time stamps the entire report - including the logo on page 1. The OEB is of the opinion this "dated" version of the logo is already in the public domain on Google images.

1.8 Non-Public Forward Looking Financial Information

Appendix A and Appendix B of 1A-CCC-1 are presentations to Toronto Hydro's Board of Directors. Toronto Hydro states that the business plan information in these presentations contains confidential forward-looking financial information. Toronto Hydro states that making this information public would contravene Toronto Hydro Corporation's disclosure obligations under the *Ontario Securities Act, 1990*.

Findings

The OEB approves Toronto Hydro's request for confidential treatment of the redacted information for financial information related to Toronto Hydro's affiliates and non-regulated business activities. The OEB finds the redactions appropriate and consistent with the OEB's Practice Direction on Confidential Filings, Appendix B, #9 where such disclosure could give rise to liability under Ontario securities.

1.9 Financial Information Related to Toronto Hydro Affiliates and non-regulated business activities

Appendix A and Appendix B of 1A-CCC-1 are presentations to Toronto Hydro's Board of Directors related to business plans, containing financial information related to Toronto Hydro's non-regulated affiliates. Toronto Hydro states that the public disclosure of this information could prejudice Toronto Hydro's and its affiliates' commercial interests and competitive position. Further, Toronto Hydro submits that this information does not provide probative value to any issues to be decided in this proceeding.

Appendix J to 1B-SEC-5 provides consolidated financial information that includes Toronto Hydro's affiliates and non-rate regulated activities. Similar to the above, Toronto Hydro states that the public disclosure of this information could prejudice Toronto Hydro's and its affiliates' commercial interests and competitive position.

Findings

The OEB approves Toronto Hydro's request for confidential treatment of the redacted information for financial information related to Toronto Hydro's affiliates and non-regulated business activities. The OEB agrees with Toronto Hydro that the redacted information does not provide probative value and is not relevant to the issues to be decided in this proceeding.

1.10 Security Risk

2B-Staff-01 and 2B-Staff-02 relate to certain capital work for certain Toronto Hydro buildings. Toronto Hydro states that certain information in these responses relates to the vulnerabilities and locations of Toronto Hydro's existing and proposed control centre and work centre. Toronto Hydro states that this information could be exploited by malicious actors and could adversely affect the safety and security of the distribution system.

Appendix A to 2B-Staff-237 is a connection and cost recovery agreement between Toronto Hydro and Hydro One Networks Inc. for Copeland MTS. It is Toronto Hydro's understanding that certain information from this appendix could be exploited by malicious actors and adversely affect Hydro One's transmission facilities.

Findings

The OEB approves Toronto Hydro's request for confidential treatment of the redacted information due to security risks. The OEB finds that information relates to vulnerability risk and location-specific information that could jeopardize the safety and security of the distribution system. The OEB granted confidential treatment of similar redactions to the initial application on February 5, 2024 for the same reasons.

1.11 Third-Party Proprietary Data of Models

3-DRC-14 requested any and all related analysis, working papers, and/or reports produced as part of Clearspring's integration model in relation to the integration of EVs and DERs. Appendices A through E of this interrogatory response are Clearspring's working papers. Similarly, 1B-Staff-74 sought clarification regarding Clearspring's reliability data, and an appendix was provided as part of the response. Additionally, JT5.37 requested details regarding the treatment of certain variables in Clearspring's power distributor model. An excel file was provided as part of the response.

Toronto Hydro states that these documents consist of data sets and models that are commercially sensitive, and the public disclosure of which could prejudice the commercial interests and competitive positions of Clearspring.

Findings

The OEB approves Toronto Hydro's confidentiality request of the redacted information related to third-party proprietary data and models. The OEB agrees that this request is similar to the approval of Toronto Hydro's redactions to the initial application.

1.12 Personal Information

1B-SEC-5 Appendix C is the executive compensation benchmarking study prepared by Mercer. Toronto Hydro claims the information is personal information related to three specific Toronto Hydro positions.

Findings

The OEB approves Toronto Hydro's request for confidential treatment of redacted information related to compensation of specific Toronto Hydro positions. The OEB is prohibited from releasing "personal information" as that phrase is defined in FIPPA, with notable exceptions. The redacted information discloses the current compensation within ranges of compensation provided for certain senior positions. These positions are not among those for which public disclosure has already provided by Toronto Hydro. The disclosure of the redacted information would allow anyone to ascertain, the actual compensation/salary for a specific employee holding that position. The OEB finds that the redactions qualify as "personal information" although the specific employees

currently in those roles are not named in 1B-SEC-05 Appendix C.

1.13 PEG Working Papers

The analyses documented in PEG's evidence are the result of proprietary econometric modelling of electricity distributor data. The working papers are underlying datasets and models of a consultant retained by OEB staff, a category of presumptively confidential material, as set out in Appendix B of the *OEB's Practice Direction on Confidential Filings*.

OEB staff also submitted that the working papers should be accorded confidential treatment for two reasons. First, PEG's working papers utilized some of Clearspring's working papers. As noted above, Toronto Hydro, has requested confidential treatment for Clearspring's working papers, and PEG's working papers should be afforded the same treatment. Second, PEG's working papers also contain additional data and program code that PEG has developed, or that PEG has acquired from third party vendors. The data and code may be under agreements for non-disclosure. This data and code would have commercial value to economic consultants who are competitors to PEG.

Findings

The OEB approves OEB staff's request for confidential treatment of PEG's working papers on the basis of third-party proprietary data or models. The OEB agrees that OEB staff's confidentiality request is similar to Toronto Hydro's request 1.11 relating to Clearspring's working papers, which the OEB approved in this decision. Both Clearspring and PEG filed expert evidence in this proceeding.

The OEB finds that a consultant's underlying datasets and models are presumptively confidential according to the OEB's Practice Direction on Confidential Filings Appendix B.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Toronto Hydro shall, in accordance with the findings above, file revised evidence by **October 11, 2024**.

Parties are responsible for ensuring that any documents they file with the OEB, such as applicant and intervenor evidence, interrogatories and responses to interrogatories or any other type of document, **do not include personal information** (as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*), unless filed in accordance with rule 9A of the OEB's [Rules of Practice and Procedure](#).

Please quote file number, **EB-2023-0195** for all materials filed and submit them in searchable/unrestricted PDF format with a digital signature through the [OEB's online filing portal](#).

- Filings should clearly state the sender's name, postal address, telephone number and e-mail address.
- Please use the document naming conventions and document submission standards outlined in the [Regulatory Electronic Submission System \(RESS\) Document Guidelines](#) found at the [File documents online page](#) on the OEB's website.
- Parties are encouraged to use RESS. Those who have not yet [set up an account](#), or require assistance using the online filing portal can contact registrar@oeb.ca for assistance.
- Cost claims are filed through the OEB's online filing portal. Please visit the [File documents online page](#) of the OEB's website for more information. All participants shall download a copy of their submitted cost claim and serve it on all required parties as per the [Practice Direction on Cost Awards](#).

All communications should be directed to the attention of the Registrar at the address below and be received by end of business, 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, Thomas Eminowicz at Thomas.Eminowicz@oeb.ca and OEB Counsel, Lawren Murray at Lawren.Murray@oeb.ca.

Email: registrar@oeb.ca
Tel: 1-877-632-2727 (Toll free)

DATED at Toronto, **September 26, 2024**

ONTARIO ENERGY BOARD

Nancy Marconi
Registrar