

HYDRO ONE LIMITED
RESPONSE TO REQUEST FOR INFORMATION

JURISDICTION:	WASHINGTON	DATE PREPARED:	September 21, 2018
CASE NO.:	U-170970	WITNESS:	James Scarlett
REQUESTER:	TEP	RESPONDER:	Adele Pantusa
TYPE:	Data Request	DEPT:	Law
REQUEST NO.:	TEP – 040(H1)	TELEPHONE:	416-345-6310
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REQUEST:**RE: Supplemental Testimony of James D. Scarlett, Exh. JDS-1T at 3: 1-14.**

Mr. Scarlett testifies, in summary that Premier Ford had two options to implement certain goals for Hydro One announced during the election campaign, either by means of the Governance Agreement, or by means of legislation. Please state:

- a) Whether these two options remain available to the Provincial government for implementing future political, policy, operational, management, or financial changes of any kind for Hydro One and any of its subsidiaries?
- b) Whether the Province, under the Governance Agreement or through legislation, retains the right to replace the entire Hydro One Board of Directors? If so, please explain with specificity.
- c) What options are available to the Province or Provincial government to reduce electric rates through legislation?
- d) Describe any limitations on the legislative authority of the Province to modify or abrogate contracts entered into by Hydro One or any of its subsidiaries, including any contractual obligations under the Settlement Stipulation in this case.
- e) Whether and to what extent the Province or Provincial government has authority in any respect to direct, control, require, or influence the compliance by Hydro One with any of the Commitments under the Settlement Stipulation.

RESPONSE:

- a) Yes, these two options remain available to the Provincial government for implementing future political, policy, operational, management, or financial changes of any kind for Hydro One and any of its subsidiaries, other than Avista (assuming the merger is consummated). The Province will not have jurisdiction to directly affect, interact with, or directly interfere with the management and strategic direction of Avista if the merger is consummated. The Province cannot pass laws that apply to Avista.
- b) The Province continues to have the authority through Section 4.7 of the Governance Agreement to call for the replacement of Hydro One's entire Board, with the exception of the CEO, and at the Province's discretion, the Chair.
- c) The Ontario Energy Board ("OEB") is an agent of the Province which regulates natural gas and electricity utilities in Ontario. Among other things, the OEB sets rates and licenses all participants in the Province's electricity and natural gas sectors as set out in

the *Ontario Energy Board Act, 1998*. While the OEB is an independent agency, it is still subject to provincial legislation and government directives.

- d) The Province's legislative authority to modify or abrogate contracts entered into by Hydro One or any of its subsidiaries is limited to those matters over which it has jurisdiction. The Province has no legislative jurisdiction outside the Province of Ontario.
- e) The Governance Agreement (the "Governance Agreement") between Hydro One and Her Majesty The Queen in Right of Ontario (the "Province") dated November 5, 2015, which continues to be of force and effect, requires that the Province act as an investor and not a manager of Hydro One, and the Province's decision-making authority in respect of Hydro One is restricted to that of any other investor with respect to voting its shares in any decisions that are brought forward for shareholder approval. The Province also has the right to nominate 40 percent of the Board of Directors (other than the CEO), but all directors remain subject to an annual vote by all shareholders of Hydro One.

If the merger is consummated, the Province will not have jurisdiction to modify or nullify the Stipulated Commitments and any commitments included in the Commission's order approving the merger. Hydro One is bound by these contractual obligations. Even though the Province is a shareholder of Hydro One, Hydro One is the entity that bears the full legal responsibility for the Stipulated Commitments and any commitments included in the Commission's order approving the merger if the merger is consummated. The Province is not a party to Hydro One's contracts and commitments in this proceeding and no action on the part of the Province is required for Hydro One to fulfill its obligations.