

July 10, 2015

Mr. Scott Thompson
Deputy Minister, Ministry of Finance
7th Floor, Frost Building South
7 Queen's Park Crescent
Toronto, ON
M7A 1Y7

Mr. Serge Imbrogno
Deputy Minister, Ministry of Energy
4th Floor, Hearst Block
900 Bay Street
Toronto, ON M7A 2E1

Dear Mr. Thompson and Mr. Imbrogno:

Thank you for your letters dated June 1 and June 17, 2015 regarding my May 15, 2015 letter requesting that you provide me with information relating to the valuation and fiscal impact of the proposed Hydro One initial public offering (IPO).

I note that since I sent my initial information request, the *Building Ontario Up Act (Budget Measures), 2015*, which provides the legislative framework for the Hydro One IPO, has received royal assent. The government seems set to proceed with the proposed IPO starting in the fall. I hope to be able to provide MPPs with timely and relevant analysis of the valuation and impact of the proposed IPO on the "state of the Province's finances, including the budget" under paragraph 10(1)(a) of the *Financial Accountability Officer Act, 2013* (the Act) in the fall.

I therefore appreciate your response informing me of the results of your review of the relevant documents and the offer to arrange briefings with my Office to provide background on Hydro One and discuss the principles and methodologies for a valuation of Hydro One.

I understand that you are unable to provide some of the information that I requested because it falls under the Cabinet records exception provided in subsection 12(2) of the Act. However, I note that paragraph 12(1)(c) of the *Freedom of Information and Protection of Privacy Act* (FIPPA) provides that a record that "contain[s] background explanations or analyses of problems submitted" to the Cabinet and Treasury Board "for their consideration in making decisions" may be disclosed once "*those decisions are made and implemented*" (emphasis added). I also note that the Act does not prevent you from providing me with "advice or recommendations of a public servant, any other person employed in the service of an institution or a consultant retained by an institution" defined for the purposes of section 13 of FIPPA.

Since the Premier's Council on Government Assets' report, *Striking the Right Balance: Improving Performance and Value in the Electricity Sector in Ontario*, has been made public and the government announced in the 2015 budget that it plans to implement the Council's recommendations by proceeding with the proposed IPO, it would be helpful to understand in more detail the basis for your decision to refuse my request to access to information. I expect that at least some of the information that I requested can be considered "advice to government" under section 13 of FIPPA and therefore, is not subject to the Cabinet records exception in the Act.



Financial
Accountability
Office of Ontario

Whitney Block
Rm 1601
99 Wellesley St. West
Toronto ON . M7A 1A2

416-325-7470
fao-on.org
info@fao-on.org

Providing me with a better understanding of your interpretation of the scope of the Cabinet records exception and its relationship with advice to government for the purposes of section 13 of FIPPA will help my office prepare future information requests. Doing so will better allow me to serve the Assembly by providing it with timely and relevant analysis based on the information that your ministries have in their custody or under their control.

Although you did not refer to it in the June 17, 2015 letter, I will take this opportunity to comment on the issue of “quiet period” which you raised in the June 1, 2015 letter. I appreciate that there are restrictions on information that can be disclosed to the public during the “quiet period” under applicable securities law, however, there is no such exception to your duty to provide me with information under section 12 of the Act.

My ability to fulfill my responsibilities to the Legislative Assembly can be strengthened by support from your ministries and the rest of the Ontario Public Service. Any clarification you can offer concerning the questions I raise in this letter will help my office craft future information requests. I also appreciate your efforts to provide my staff with foundational briefings on the structure of the provincial budget and facilitate the sharing of information with my office and for arranging a follow-up up briefing on the Hydro One valuation and the fiscal impact of the transaction.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'SLC', followed by two dots.

Stephen LeClair

Financial Accountability Officer