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Ontario Energy Board  
27<sup>th</sup> Floor  
2300 Yonge Street  
Toronto, ON  
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December 18, 2009

Dear Ms. Walli,

RE: EB-2009-0259  
2010 Electricity Distribution Rate Application for Burlington Hydro Inc.  
Request for Treatment of Confidentiality

In Procedural Order No. 1 in this proceeding, issued on October 19, 2009, the Board provided for written interrogatories. Burlington Hydro Inc (“BHI”) received interrogatories from Board Staff, Energy Probe Research Foundation (“Energy Probe”), the School Energy Coalition (“SEC”) and the Vulnerable Energy Consumers Coalition (“VECC”). On November 20, 2009, BHI delivered responses to those interrogatories. This letter is being delivered in response to Procedural Order No. 2, issued December 4, 2009.

Of the approximately 130 questions contained in the interrogatories, BHI requested that documents that were being filed in respect of two of the SEC questions – SEC #8(c) and SEC #15(c) – be kept in confidence in their entirety in accordance with the Board’s *Practice Direction on Confidential Filings* the (“Practice Direction”). In our letter of November 20, 2009 related to the confidential filings, BHI explained the nature of the documents in respect of which the request was being made, and the basis for the confidentiality request. That letter was non-confidential, and I have enclosed a copy of that letter for your reference. The documents in respect of which the confidentiality request was made were:

- A report prepared by AESI Acumen Engineered Solutions International Inc. (“AESI”) containing recommendations on a new GIS system [SEC #8(c)]. The report summarizes all bids received from companies responding to a BHI Request for Information (the “RFI”) regarding the GIS system. The RFI itself was included in the public record in response to SEC Interrogatory #8. As mentioned in our letter of November 20, the disclosure of this report could reasonably be expected to prejudice the economic interest of, significantly prejudice the competitive position of, cause undue financial loss to, and be injurious to the financial interest of AESI, and all parties responding to the RFI. Public disclosure would enable AESI’s competitors to ascertain its approach to



the analysis of the proposals, and would allow the competitors of individual proponents to ascertain particulars related to the scope and pricing of services provided by them;

- The successful agreement of Angus GeoSolutions Inc. (“AGSI”) and arising out of that proposal [SEC #8(c)]. As I mentioned in my letter of November 20, “The disclosure of the terms of the AGSI Agreement could reasonably be expected to prejudice the economic interest of, significantly prejudice the competitive position of, cause undue financial loss to, and be injurious to the financial interest of AGSI since it would enable its competitors to ascertain the scope and pricing of services provided by AGSI....BHI has requested AGSI’s consent to the placement of the AGSI Agreement on the public record, and AGSI has requested that the document be kept in confidence”; and
- BHI’s meter reading agreement with Olameter Corporation (“Olameter”). As discussed in our November 20<sup>th</sup> letter, “The disclosure of the terms of the Olameter Agreement could reasonably be expected to prejudice the economic interest of, significantly prejudice the competitive position of, cause undue financial loss to, and be injurious to the financial interest of Olameter since it would enable its competitors to ascertain the scope and pricing of services provided by Olameter....BHI has requested Olameter’s consent to the placement of the Olameter Agreement on the public record, and Olameter has requested that the document be kept in confidence.”

In all three cases, the OEB’s Practice Direction on Confidential Filings recognizes that the factors forming the basis for our confidentiality request are among the factors that the Board will take into consideration when addressing the confidentiality of filings. They are also addressed in section 17(1) of FIPPA, and the Practice Direction notes (at Appendix C of the Practice Direction) that third party information as described in subsection 17(1) of FIPPA is among the types of information previously assessed or maintained by the OEB as confidential.

In our letter of November 20<sup>th</sup>, we indicated that we were prepared to provide copies of these documents to parties’ counsel and experts or consultants provided that they have executed the OEB’s form of Declaration and Undertaking with respect to confidentiality and that they comply with the Practice Direction. On December 3, 2009, Mr. Shepherd, counsel to SEC, provided to BHI a Declaration and Undertaking with respect to the confidential material. On December 7, 2009, BHI provided unredacted versions of the documents to Mr. Shepherd. Mr. Shepherd is the only person from whom we have received a Declaration and Undertaking.

In Procedural Order No. 2, the OEB identified steps related to the request for confidentiality of these documents. Parties were given until December 11, 2009 to provide submissions on the confidential status, and BHI was given until today to respond to those submissions. The only party that provided comment on the documents was Mr. Shepherd, who responded that he had “no objection to these documents being declared confidential for the purpose of this proceeding”.

In the same Procedural Order, and in advance of any intervenor’s submission on confidentiality, the Board directed BHI to file redacted versions of the documents that are the subject of the confidentiality claim, or to file a submission if it is unable to reply with that order. At this time, BHI respectfully requests that the entire documents remain confidential, and is not providing redacted versions at this time. The grounds for this request remain as set out above and in our letter of November 20<sup>th</sup>. The documents are commercially sensitive; the third parties have requested that they remain confidential; and

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the party requesting them has agreed that they may remain confidential. We anticipate that if it is necessary to refer to these documents in final submissions, appropriate arrangements will be made to protect the confidentiality of those documents in keeping with the Practice Direction.

As I stated in my letter of November 20<sup>th</sup>, should counsel or consultants to the other participants in the proceeding wish to review these documents, BHI continues to be prepared to provide copies of these documents to parties' counsel and experts or consultants provided that they have executed the OEB's form of Declaration and Undertaking with respect to confidentiality and that they comply with the Practice Direction, subject to BHI's right to object to the OEB's acceptance of a Declaration and Undertaking from any person.

I can be reached at 905-332-2265 should anything further be required.

Yours truly,

*Original signed by*

Michael Kysley  
Executive Vice-President and Chief Financial Officer



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November 20, 2009

Dear Ms. Walli,

RE: EB-2009-0259  
2010 Electricity Distribution Rate Application for Burlington Hydro Inc.  
Request for Treatment of Confidentiality

Through the interrogatory process related to the 2010 Cost of Service Electricity Distribution Rate Application from Burlington Hydro Inc ("BHI"), BHI has been requested to provide information that we are requesting that the Board treat as confidential.

Interrogatory #8, part (c) from School Energy Coalition is related to the selection of a new GIS system, included in 2009 capital expenditures. They have requested that BHI provide the consultant recommendation on which the RFI was based, the RFI document, the winning bid, and the contract with the winning bidder. We are requesting that two of the documents related to this response be treated as confidential.

AESI Acumen Engineered Solutions International Inc. ("AESI") is a corporation which is engaged in competitive businesses. AESI was engaged by BHI to make recommendations on a new GIS system. The GIS Recommendation for Burlington Hydro Inc. is a report summarizing all bids received from companies responding to the Request for Information included in the public record of interrogatory 8. The disclosure of this report could reasonably be expected to prejudice the economic interest of, significantly prejudice the competitive position of, cause undue financial loss to, and be injurious to the financial interest of AESI, and all parties responding to the RFI, since it would enable its competitors to ascertain the scope and pricing of services provided by them. Similarly, Angus GeoSolutions Inc. ("AGSI"), the successful bidder, is a corporation which is engaged in competitive businesses. The disclosure of the terms of the AGSI Agreement could reasonably be expected to prejudice the economic interest of, significantly prejudice the competitive position of, cause undue financial loss to, and be injurious to the financial interest of AGSI since it would enable its competitors to ascertain the scope and pricing of services provided by AGSI. The OEB's Practice Direction on Confidential Filings (the "Practice Direction") recognizes that these are among the factors that



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the Board will take into consideration when addressing the confidentiality of filings. They are also addressed in section 17(1) of the *Freedom of Information and Protection of Privacy Act* ("FIPPA"), and the Practice Direction notes (at Appendix C of the Practice Direction) that third party information as described in subsection 17(1) of FIPPA is among the types of information previously assessed or maintained by the OEB as confidential. BHI has requested AESI's consent to the placement of its report on the public record, and AESI has requested that the document be kept in confidence. BHI has requested AGSI's consent to the placement of the AGSI Agreement on the public record, and AGSI has requested that the document be kept in confidence.

Interrogatory #15, part (c) from School Energy Coalition is related to the reading of meters, and has requested that BHI provide the contract with the meter reading contractor. We are requesting that this document be treated as confidential.

Olameter Corporation ("Olameter") is a corporation which is engaged in competitive businesses. The disclosure of the terms of the Olameter Agreement could reasonably be expected to prejudice the economic interest of, significantly prejudice the competitive position of, cause undue financial loss to, and be injurious to the financial interest of Olameter since it would enable its competitors to ascertain the scope and pricing of services provided by Olameter. The OEB's Practice Direction recognizes that these are among the factors that the Board will take into consideration when addressing the confidentiality of filings. They are also addressed in section 17(1) of FIPPA, and the Practice Direction notes (at Appendix C of the Practice Direction) that third party information as described in subsection 17(1) of FIPPA is among the types of information previously assessed or maintained by the OEB as confidential. BHI has requested Olameter's consent to the placement of the Olameter Agreement on the public record, and Olameter has requested that the document be kept in confidence. (Note that in January 2009 Olameter assumed the agreement originally signed with OZZ Energy Solutions Incorporated, as included in this package. Contract extensions with Olameter are also attached.)

Accordingly, BHI requests that the AESI GIS Recommendations for Burlington Hydro, the AGSI Master Services Agreement and the Olameter Meter Reading Agreement be kept confidential. BHI is prepared to provide copies of these documents to parties' counsel and experts or consultants provided that they have executed the OEB's form of Declaration and Undertaking with respect to confidentiality and that they comply with the Practice Direction, subject to BHI's right to object to the OEB's acceptance of a Declaration and Undertaking from any person.

In keeping with the requirements of the Practice Direction, BHI is filing a confidential unredacted version of each of these agreements, which have been placed in a sealed envelope marked "Confidential". BHI has noted in the responses to these interrogatories that the documents have been provided in confidence to the Board with a request for confidentiality.

I can be reached at 905-332-2265 should anything further be required.

Yours truly,

*Original signed by*

Michael Kysley  
Chief Financial Officer

**Appendix A**  
**Summary of Information Included in Documents**

AESI Acumen Engineered Solutions International Inc. - GIS Recommendation for Burlington Hydro Inc.

This document provides a summary of all bids received in accordance with the Request for Information. The RFI is included in the response to School's interrogatory 8, part c. Details include service/product offerings, costs (including aspects such as total costs, maintenance fees, project management costs, conversion costs, etc. depending on vendor), and a consultant opinion of pros and cons of all vendors solutions.

Angus GeoSolutions Inc. - Master Services Agreement

This document is the contract between Burlington Hydro and Angus GeoSolutions Inc. for the provision of a GIS system. It includes all terms and conditions and financial requirements associated with that project.

Olameter Corporation - Meter Reading Services Agreement

This document is the contract originally signed with Ozz Energy Solutions Incorporated and assumed through corporate restructuring by Olameter Corporation. It includes all terms and conditions and financial requirements associated with the reading of meters within Burlington.