



February 25, 2013

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319, 27th Floor
2300 Yonge Street
Toronto, ON M4P 1E4

Re: E.L.K. Energy Inc. 2013 Electricity Distribution Rates
Submissions on Confidentiality of Mearie Salary Survey
Board File No. EB-2011-0099

Dear Ms. Walli:

In response to AMPCO interrogatory 17(b), E.L.K. filed the salary survey on the public record and circulated it to intervenors. E.L.K. requested that the salary survey be treated as confidential and then later requested that it be removed from the public record. In Procedural Order No. 4 dated February 15, 2013, the Board invited parties to make submissions on two issues related to this matter as follows:

“The salary survey was filed in direct response to an interrogatory. In requesting an order removing the document from the record entirely, and to have parties destroy the copy of the document sent to them, E.L.K. is in effect providing a refusal to answer the interrogatory. In general, the test the Board must consider under such circumstances is whether the document is relevant to the issues in the proceeding, and whether its probative value is outweighed by any prejudice it might cause the applicant. The Board invites parties to file submissions on whether E.L.K.’s request to have the document removed from the record entirely, and whether it should order all copies that were circulated to be destroyed.”

The second issue is, in the event that the Board does not order the document removed from the record and all circulated copies destroyed, should the salary survey be treated as confidential? If so, what rules should govern access to the document? Parties making submissions on this issue are referred to the Board’s *Rules of Practice and Procedure*, and the *Practice Direction on Confidential Filings*.”

AMPCO reviewed the submissions of School Energy Coalition (SEC) filed today and AMPCO agrees with, and supports SEC’s position on the two issues identified by the Board. Accordingly, AMPCO submits that E.L.K.’s request to have the document removed from the record entirely should be denied and the Board should not order that all copies be destroyed. Also, the salary survey should not be treated as confidential for the reasons noted in SEC’s submissions.

Please do not hesitate to contact me if you have any questions or require further information.

Association of Major Power Consumers in Ontario

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Sincerely yours,

(ORIGINAL SIGNED)

Adam White
President
Association of Major Power Consumers in Ontario

Copy to: E.L.K. Energy Inc.