



Peterborough
Distribution Inc.

PETERBOROUGH DISTRIBUTION INC.

1867 Ashburnham Drive, PO Box 4125, Station Main
Peterborough ON K9J 6Z5

June 7, 2013

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

Dear: Ms. Walli

**Re: Peterborough Distribution Inc. (PDI) 2013 Cost of Service Electricity
Distribution Rate Application EB-2012-0160
Response to Submissions on Confidentiality Status**

Please find attached Peterborough Distribution Inc.'s response to submissions on the confidentiality status for EB-2012-0160.

If you require any further information, please contact the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to be 'John Stephenson', is written over a horizontal line. The signature is stylized with loops and a long horizontal stroke at the end.

John Stephenson
President & CEO
Peterborough Distribution Inc.
Peterborough, Ontario
Email: JStephenson@peterboroughutilities.ca
Phone: 705-748-9301 x 1280

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B;

AND IN THE MATTER OF an application by Peterborough Distribution Inc. for an order approving just and reasonable rates and other charges for electricity distribution to be effective May 1, 2013.

APPLICANT'S REPLY SUBMISSION ON CONFIDENTIALITY

Delivered June 7, 2013

Introduction:

1. The Applicant (referred to here as “PDI”) seeks the Board’s approval of its cost of service application for 2013 electricity distribution rates and charges. Energy Probe, the School Energy Coalition and the Vulnerable Energy Consumers Coalition are intervenors in the proceeding.
2. In May of this year, PDI received a total of approximately 122 interrogatories in respect of its Application, and PDI filed its responses on May 27, 2013. In one of the interrogatories, (1-SEC-4), PDI was asked to provide the 2012 financial statements (audited when available) for each of PDI, Peterborough Utilities Inc. (“PUI”), Peterborough Utilities Services Inc. (“PUSI”), and Peterborough Utilities Commission (“PUC”).
3. In its response, as the Board notes in Procedural Order No. 2 (PO #2), PDI provided, as requested, its 2012 audited financial statements and those of PUSI and PUC. PDI requested that the financial statements for its affiliate PUI be kept confidential (the Board refers to that as the “Proposed Confidential Material”). In its response, and in a letter dated May 28, 2013, PDI stated (in part) that PUI “is a corporation engaged in competitive businesses. The public disclosure of its financial statements 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 each of these consultants since it would enable its competitors and potential customers and suppliers to ascertain the financial condition of the company.” PDI wishes to point out and correct a small error in the response – the words “each of these consultants” should have read “PUI”.
4. In PO #2, the Board provided opportunities for submissions on the confidentiality request. Submissions have been received from SEC and Board Staff. PDI’s reply submissions are set out below.
5. As discussed in PDI’s response to 1-SEC-4 and in the May 28th letter, The Board’s *Practice Direction on Confidential Filings* (the “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 the *Freedom of*

Information and Protection of Privacy Act ("FIPPA"), and the Practice Direction notes (at Appendix B 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.

The Board Staff Submission:

6. Board Staff, in their June 4th submission, submit that "While the Board's general policy, as stated in its Practice Direction on Confidential Filings, is that all evidence should be on the public record the Board has also recognized that some information may be of a confidential nature and should be protected." Board Staff refer to cases in which the Board has found that the Board public disclosure of financial statements of a parent holding company and/or its affiliates could create significant potential harm for the affiliate, and conclude by submitting that they generally agree that, "if the Proposed Confidential Material contains financial information about a PDI affiliate, such as Peterborough Utilities Inc. (PUI), which is engaged in competitive business, then public disclosure of PUI's financial statements could prejudice PUI's competitive position. Accordingly such information should be treated as confidential and provided only to participants that have signed the Board's Declaration and Confidentiality Undertaking in accordance with the Practice Direction."
7. PDI supports the Board Staff submission. PDI understands that it is important to the Board and its process that as much information as possible be on the public record in a rate proceeding, and for all but a portion of this single interrogatory, PDI has provided its responses on the public record. However, PUI carries on competitive activities and both the Practice Direction and FIPPA afford PUI protection from the release of sensitive financial information in those circumstances.

The SEC Submission:

8. SEC "accepts the Applicant's assertion that the financial statements of its affiliate Peterborough Utilities Inc. may contain information that could affect that company's competitive position", but suggests that the competitive impact is very limited, because of the nature of the business of PUI as described at Ex.1/1/14, p.1-35 of the Application ("operating various renewable generation facilities, including hydro, solar and land fill

gas hydroelectric generation plants”), and that there is little benefit any “competitor” could obtain from reading the financial statements. SEC discusses the public nature of the rules applicable to the renewable generation business in Ontario, and asserts that other renewable generators do not “compete” with PUI for business, so that the harm associated with the disclosure of PUI’s competitive information is, in the circumstances of this case, very small.

9. PDI respectfully disagrees, for a number of reasons. First, other renewable generators (including other generators that may be affiliates of licensed distributors) are not required by the Board to publicly file their financial information. The fact that this generator is an affiliate of PDI should not prompt different treatment by the Board for PUI. Second, PUI has grown its renewable generation business both through acquisitions of existing renewable generation facilities and through applications for contracts under the Ontario Power Authority’s Feed-in-Tariff program. Both potential vendors and the OPA will require confidential, not public, disclosure of financial information. Public disclosure of PUI’s financial information, where other potential purchasers are not required to disclose such information, may put PUI at a competitive disadvantage in competitive acquisition processes.
10. Additionally, SEC refers to p.1-35 of Ex.1/1/14 of the Application for a description of PUI’s activities. However, PUI’s activities are broader than this. A more complete description of those activities can be found at PUI’s web site – <http://www.pui.ca> – and those activities include the ownership and operation of renewable generation facilities; the provision of Meter Service Provider (MSP) and Meter Data Management Agency (MDMA) services; and the management of rental services including water heater rentals and sentinel lighting rentals. With respect to MSP and MDMA services, PDI notes that PUI provides metering services to Wholesale Market Participants, Generators, and retail customers. PUI also provides products and services related to acquisition, validation, and storage of data from remote interval meters. Other services include web posting of data and bill reconciliation, wholesale settlement services and support of OPA demand response initiatives.
11. PDI respectfully submits that there is no question that MSP and MDMA services are competitive. PDI reiterates its submission that the public disclosure of PUI’s financial

information can reasonably be expected to the economic interest of, significantly prejudice the competitive position of, cause undue financial loss to, and be injurious to PUI's financial interest since it would enable its competitors and potential customers and suppliers to ascertain the financial condition of the company.

12. SEC goes on to suggest that as a consequence of PUI being so "tightly integrated" with PUSI and PDI, and because the integration was by choice, PUI's financial information is relevant and the financial information of PUI, an unregulated affiliate, should become subject to public scrutiny. PDI respectfully disagrees. First, this is not a situation in which PDI is refusing to provide the information. It is prepared to do so, but it is not in a position to do so publicly for the reasons discussed above. The intervenors and the Board will have access to it, but its use will be subject to the Practice Direction. This allows the information to be obtained and considered without compromising PUI's competitive position.
13. Second, PDI submits that the Board contemplates and accommodates various corporate structures. This includes structures in which the distributor obtains services and resources from other members of its corporate family. PDI is not aware of a policy whereby a competitive affiliate would forfeit the confidentiality of its financial information by virtue of its provision of services to a distributor, and respectfully submits that this proceeding is not the appropriate place to create such a policy.

Conclusion:

14. PDI has clearly (and publicly) set out its costs and the basis for its proposed revenue requirement in its Application. It is reasonable and appropriate that the financial information of its competitive affiliate remain confidential. PDI reiterates its request that the PUI financial statements be kept confidential. PDI also reiterates that it is prepared to provide copies of PUI's financial statements 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 PDI's right to object to the OEB's acceptance of a Declaration and Undertaking from any person.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 7TH DAY OF JUNE, 2013

Peterborough Distribution Inc.
Per:

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a series of loops and a horizontal line extending to the right.

John Stephenson
President and CEO
Peterborough Distribution Inc.