

April 15, 2014

Delivered by Courier

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, Ontario
M4P 1E4

Dear Ms. Walli:

**Re: Oakville Hydro Electricity Distribution Inc. – 2014 Electricity Distribution Rate
Application – Board File No.EB-2013-0159
School Energy Coalition Motion regarding industry surveys**

We are writing to you today with respect to the Board's Procedural Order No. 6 ("PO#6"). In PO#6, the Board ordered Oakville Hydro to provide the second of two benchmarking studies/surveys in which Oakville Hydro participated and that were referenced in response to School Energy Coalition ("SEC") Interrogatory 2.1-SEC-3 on a confidential basis. Copies were provided to the Board and to Mr. Rubenstein, counsel to SEC, as he had executed the Board's form of Declaration and Undertaking with respect to confidentiality.

PO#6 also revised the process for disposition of the SEC Motion regarding disclosure of that study (after the Canadian Electricity Association [the "CEA"] filed correspondence with the Board, SEC withdrew its Motion as it related to the CEA survey and material). The deadline for any reply by Oakville Hydro was revised to April 14th from today's date. Oakville Hydro understood the deadline to be April 15th, based on PO#5 and regrets the oversight.

Oakville Hydro understands that the issue for the Board at this time is whether the second survey should remain confidential, as it has already determined in PO#6 that it is relevant to this proceeding and necessary to determine Issue 2.1. Oakville Hydro can confirm that it repeats and relies upon its emailed response to SEC's clarification question in respect of the surveys, which can be found at Appendix D to the SEC Motion. More particularly, Oakville Hydro made the following comment in respect of the confidentiality of the material:

"Oakville Hydro also submits at this time (while reserving the right to make further submissions in this regard, and while not agreeing at this time to provide the surveys in any manner, whether publicly or in confidence) that the parties preparing the surveys are engaged in competitive businesses. The disclosure of the terms of the surveys 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 interests of those parties since it would enable their competitors to ascertain the survey methodology used by those parties. The disclosure of information related to the survey participants could also reasonably be expected to result in survey participants no longer participating in surveys of this kind, as their participation has been premised on the understanding that their information would remain confidential.

The OEB'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 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. Accordingly, at a minimum, the Board should deny any request to make the subject material public. If the Board were to order disclosure of the requested material, that disclosure should be only to parties' counsel and experts or consultants provided that they have executed the Board's form of Declaration and Undertaking with respect to confidentiality and that they comply with the Practice Direction, subject to Oakville Hydro's right to object to the Board's acceptance of a Declaration and Undertaking from any person."

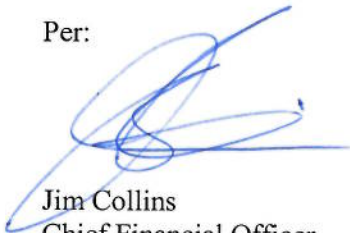
Oakville Hydro acknowledges that the Board has determined through the *Renewed Regulatory Framework for Electricity Distributors* that (as Board staff note in their submission) "(b)enchmarking will become increasingly important, as comparison among distributors is one means of analyzing whether a given distributor is as efficient as possible" and that "benchmarking will be necessary to support the Board's renewed regulatory framework policies".¹ Oakville Hydro submits that adopting a requirement for public disclosure of these surveys may result in fewer studies being performed and/or fewer utilities being prepared to participate in those studies.

The third party provider of the survey has retained copyright in the survey and has not consented to the reproduction of these materials. In order to participate in the survey, Oakville Hydro was required to agree to the confidentiality policy of the third party conducting the survey, and under those terms, Oakville Hydro is not permitted to disclose the existence or results of the survey to any regulatory body or other person unless compelled by law to do so.

Should you have any questions or require further information, please do not hesitate to contact me.

Yours very truly,
Oakville Hydro Electricity Distribution Inc.

Per:



Jim Collins
Chief Financial Officer

Enclosures

c.c. Harold Thiessen, OEB
Intervenors of Record

¹ *Report of the Board: Renewed Regulatory Framework for Electricity Distributors: A Performance Based Approach*, October 18, 2012, pages 56, 59
http://www.ontarioenergyboard.ca/oeb/_Documents/Documents/Report_Renewed_Regulatory_Framework_RRFE_20121018.pdf