

May 7, 2014

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File 22332

**VIA EMAIL: [boardsec@oeb.gov.on.ca](mailto:boardsec@oeb.gov.on.ca)**

Ms. Kirstin Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, Ontario M4P 1E4

Dear Ms. Walli:

**Re: OPG Application re Payment Amounts for Prescribed Generating  
Facilities (EB-2013-0321) – Procedural Orders Nos. 7 and 8**

I am writing concerning the Board's decision and order on Confidential Filings and Procedural Order No. 8 issued May 6, 2014. At page 4 of that Decision, the Board makes the following order:

The full confidential version of Exh L-6.8-SCC-119 Attachment 1 will be made available to persons who have signed the Declaration and the Undertaking under the Practice Direction, but will not be made available to the Power Workers' Union or Society of Professional Engineers.

As I read it, this Order will preclude me from receiving copies of the document in question, notwithstanding the fact that I have executed the Board's Declaration and Undertaking.

Needless to say the compensation cost issue (including the overtime issue) is of central importance to my client. The effect of the Board's order is to limit my ability to represent my client's interests in this proceeding and raises serious issues regarding the Board's duty of fairness and natural justice. I note that my client was not asked for its position on this matter prior to the Board making the order in question.<sup>1</sup>

I have given an undertaking to the Board that I will not disclose any confidential information to any person not having executed the Confidentiality Undertaking.

<sup>1</sup> This ruling first arose in P.O. No. 7. The PWU was not participating in any of the confidentiality matters that led to that ruling, and as a result, P.O. No. 7 did not come to my attention. That was an oversight on my part.

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(1934 - 2006)

No internal representative of my client has executed the Undertaking. Implicit in the Board's ruling must be a conclusion that there is a real risk that I will violate my undertaking. Having practiced before the Board for the past 20 years I find this implication distressing to me at a personal and professional level.<sup>2</sup> However, more important is the fact that my client's rights in this proceeding are compromised by the order in question.

As a result, I am requesting the opportunity to address the Board at the earliest opportunity, seeking to have it revisit this matter. I am hoping that I can address this issue without disturbing the Board's schedule for this proceeding. I am available to address the Board at the scheduled motion on May 9 if that is convenient. In the alternative, I am prepared to defer the matter to the hearing panel, to be dealt with at the commencement of the oral hearing. I await your direction in that regard.

Yours very truly,

**PALIARE ROLAND ROSENBERG ROTHSTEIN LLP**



Richard P. Stephenson  
RPS:pb

c: Applicant (*via email*)  
Intervenors (*via email*)

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<sup>2</sup> Note that I do not act as counsel to the PWU in collective bargaining with OPG or any other employer.