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May 15, 2014

**RESS, EMAIL (non-confidential information only) AND COURIER**

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

Dear Ms. Walli:

**Re: EB-2013-0321 – Application by Ontario Power Generation Inc.  
for 2014-2015 Payment Amounts**

The Technical Conference for EB-2013-0321 was held on April 22, and April 23, 2014. A total of 67 Undertakings were given. Almost all of the answers are on the public record. However, certain undertakings requested of OPG required responses that include information that the OEB has previously ordered to be treated as confidential information or to be permanently redacted pursuant to Procedural Orders No. 4, No. 7, and No. 8. One undertaking response includes information for which OPG is hereby requesting confidential treatment in accordance with the OEB's Practice Direction on Confidential Filings.

**A. Confidential Information and Permanent Redactions Previously Ordered to be Protected**

The following Undertakings include information which is confidential and is similar to information that the OEB has previously protected in Procedural Orders No. 4 and No. 8:

- Undertaking JT 2.2
- Undertaking JT 2.3
- Undertaking JT 2.8
- Undertaking JT 2.9

Non-confidential versions of these undertakings were filed with the OEB on May 2, 2014. On May 9, 2014, at the Motions Day in this proceeding, confidential versions of these undertakings were hand-delivered to Board Staff. On hearing some intervenors' submissions on Motions Day, and on further review by OPG, OPG is publically disclosing some of the information it initially protected in these undertakings.

Six copies of the revised confidential, un-redacted Undertaking responses and related attachments are being provided to the OEB with this letter as Attachment "A". The confidential versions of the above responses will be disclosed, subject to any conditions the OEB may find appropriate, to only those persons that have filed the Declaration. Revised non-confidential versions of these responses have recently been filed on the public record. Revised versions of both the confidential and non-confidential Undertaking responses are indicated as "Updated: 2014-05-15."

In addition to the foregoing, Undertaking JT 2.23, Attachment 1 includes information which relates solely to OPG's unregulated business and should be permanently redacted as was accepted by the OEB in its letter dated March 5, 2014 and in Procedural Order No. 7.

For Undertaking JT 2.23, Attachment 1, three fully unredacted copies of the Undertaking response attachment are provided to the OEB Panel in a sealed envelope marked for the OEB's Consideration Only as Attachment "B". OPG requests that upon the OEB's review of the documents and confirmation that the information can be permanently redacted, that the OEB return the unredacted originals to OPG. In aid of returning the documents to OPG, the documents may be returned to the attention of:

Carlton D. Mathias  
Assistant General Counsel, Law Division  
Ontario Power Generation  
700 University Avenue  
H18G25  
Toronto, ON M5G 1X6

**B. Request for Confidential Treatment of JT 2.34**

OPG requests the confidential treatment of certain of the information provided in Undertaking JT 2.34. This information is similar in nature to the overtime wages information which the OEB has previously protected in Procedural Orders No. 7 and No. 8.

In accordance with section 5 of the OEB's Practice Direction, OPG sets out below the reasons for the confidentiality request for Undertaking JT 2.34, and why disclosure to representatives in this proceeding of the Society of Energy Professionals<sup>1</sup> ("SEP"), would be detrimental to OPG even if they were to sign the Declaration.

For Undertaking JT 2.34, OPG requests that the confidential information be first provided for the OEB's consideration only. This is so that the Panel can determine whether it will grant OPG's request that the subject information be shielded from the representatives of SEP even if they were to sign the Declaration, which they have not done. A fully unredacted copy of Undertaking JT 2.34, is included in Attachment "B".

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<sup>1</sup> This is very different from the PWU. On May 9, 2014 (Motions Day in this proceeding), based on the submissions of Richard Stephenson, counsel for the PWU in this case, and with the agreement of OPG, the OEB ordered that OPG's confidential labour relations information which the OEB had previously ordered shielded from the PWU's counsel and consultants notwithstanding that they had signed the Declaration, shall be disclosed to these representatives. No submissions in this regard were made by representatives of SEP, nor have they signed the Declaration.

On final determination, should the OEB grant OPG's request for confidentiality, OPG proposes that the OEB order that the confidential information be disclosed, subject to any conditions the OEB may find appropriate, to those persons that have signed the Declaration, but excluding representatives of SEP. Furthermore, OPG requests that any reference to confidential information contained in JT 2.34 be conducted *in camera*, in the absence of SEP, so as to preserve its confidential nature.

Undertaking JT 2.34

Undertaking JT 2.34 requests OPG to provide the bottom-line number associated with the table in response to Board Staff Interrogatory #101. Attachment 1 to the Undertaking response demonstrates the calculations associated with the net costs and savings as a result of the PWU settlement that were provided as confidential advice to government to satisfy the government's expectations regarding "net zero". Such advice to government is protected from disclosure under the *Freedom of Information and Protection of Privacy Act*, and is similarly protected under the Practice Direction (Appendix A, section (g)). Additionally, this information may also be used by OPG during the next round of collective bargaining. As such, OPG believes that the contents of the Attachment are commercially sensitive and that disclosure of this commercially sensitive information would significantly prejudice OPG's future negotiating position.

As was requested by OPG in its letter of April 4, 2014 regarding SEC interrogatory #119, OPG believes that disclosure of Undertaking JT 2.34, Attachment 1, to representatives of SEP, even on a confidential basis, would be detrimental to OPG. OPG notes that with respect to overtime wage information in SEC interrogatory #119, the OEB has accepted this approach in Procedural Orders No. 7 and No. 8.

**C. Conclusion**

At the conclusion of the proceeding or in the event that all or part of this confidentiality request is refused, OPG requests that accordingly, the information be withdrawn in accordance with 5.1.12 of the Practice Direction, and that all persons in possession of the information be required to destroy or return to the OEB Secretary for destruction the confidential information in accordance with 6.1.6 of the Practice Direction.

Respectfully submitted,

[Original signed by]

Colin Anderson

Attach

cc: Carlton Mathias OPG  
Charles Keizer Torys LLP  
Crawford Smith Torys LLP  
Intervenors of Record (EB-2013-0321)