

**Richard P. Stephenson**

T 416.646.4325 Asst 416.646.7419  
F 416.646.4301  
E richard.stephenson@paliareroland.com  
[www.paliareroland.com](http://www.paliareroland.com)

File 92805

November 14, 2016

Chris G. Paliare  
Ian J. Roland  
Ken Rosenberg  
Linda R. Rothstein  
Richard P. Stephenson  
Nick Coleman  
Margaret L. Waddell  
Donald K. Eady  
Gordon D. Capern  
Lily I. Harmer  
Andrew Lokan  
John Monger  
Odette Soriano  
Andrew C. Lewis  
Megan E. Shortreed  
Massimo Starnino  
Karen Jones  
Robert A. Centa  
Nini Jones  
Jeffrey Larry  
Kristian Borg-Olivier  
Emily Lawrence  
Tina H. Lie  
Jean-Claude Killey  
Jodi Martin  
Michael Fenrick  
Ren Bucholz  
Jessica Latimer  
Debra McKenna  
Lindsay Scott  
Alysha Shore  
Denise Cooney  
Jessica H. Elders  
Lauren Pearce  
Daniel Rosenbluth

COUNSEL

Stephen Goudge, Q.C.

HONORARY COUNSEL

Ian G. Scott, Q.C., O.C.  
(1934 -2006)

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

Dear Ms. Walli:

**Re: Ontario Power Generation  
Payment Amounts 2017-2021  
Ontario Energy Board File No. EB-2016-0152**

Enclosed herewith please find Affidavits executed by Messrs. Andrew Blair and Bayu Kidane which we are filing with the Board in accordance with Procedural Order No. 4.

I will not be filing an affidavit and I am hereby requesting that the Board reconsider its requirement that I do so in order to have access the confidential filings in this matter. In my submission, the requirement for an affidavit is entirely unnecessary and inappropriate. I note that the OPG did not request that an affidavit be filed.

Although I am not typically retained by the PWU in respect of its collective bargaining activities with OPG (and I am not presently engaged to do so), I cannot preclude that I will be requested to do so in the future. If that were to occur, the provisions of the Board's Declaration and Undertaking would prohibit my use or disclosure of any confidential information obtaining in this proceeding in that engagement.

The Declaration and Undertaking fully protects OPG's legitimate interests, and at the same time respects (a) the PWU's right to engage the counsel of its choice in future matters, and (b) the public interest that that any restriction on public access to Board proceedings be as minimal as possible. Nothing more is required.

The terms of the Declaration and Undertaking are stringent and provide complete protection to all stakeholders. Moreover, the Board has made it clear that it

considers any breach of the Declaration and Undertaking to be an extremely serious.

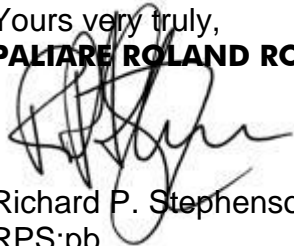
I note that, to my knowledge, the Board has not required any additional assurance other than an executed Declaration and Undertaking in any other context, notwithstanding the fact that the information being disclosed pursuant to the Declaration and Undertaking is, by definition, of a very sensitive nature, and that counsel or consultants executing the Undertaking may well represent clients engaged in future commercial dealing with the utility in question.

Ultimately, the requirement for an affidavit simply amounts to an indication by the Board that I will not abide by the terms of my undertaking. That is distressing to me. It has been my privilege to appear before this Board for more than 22 years. During that time I have executed the Board's Declaration and Undertaking on many occasions. There has never been any suggestion that I have not complied with it in every respect. Moreover, you will know that as a member of the Bar of Ontario, a breach of an undertaking constitutes professional misconduct punishable by the Law Society of Upper Canada.

I would hope this is sufficient for the Board to reconsider its requirement regarding the filing of an affidavit by me in this matter. In the event the Board wishes further submissions on the matter, I am available at its convenience.

Yours very truly,

**PALIARE ROLAND ROSENBERG ROTHSTEIN LLP**



Richard P. Stephenson  
RPS:pb

Encls.

Doc 1991436 v1