

December 14, 2016

RESS & OVERNIGHT COURIER

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

Dear Ms. Walli:

Re: Application by Ontario Power Generation Inc. for 2017-2021 Payment Amounts (EB-2016-0152) – OPG's Reply Submission on Confidential Filings (Undertaking Responses)

Pursuant to Procedural Order No. 5 in EB-2016-0152, this is OPG's response to submissions from School Energy Coalition ("**SEC**"), in relation to the confidentiality request made by OPG regarding Attachment 2, to undertaking response JT1.7.

OPG sought confidential treatment of JT1.7 Attachment 2 by letter dated November 21, 2016. JT1.7 Attachment 2 is a guideline produced by AACE International Inc. ("AACE") that was used by OPG in planning the Darlington Refurbishment Program ("DRP"). OPG had requested confidential treatment of this document on the basis that it included proprietary information of AACE and was produced in confidence on consent from AACE. SEC objected to confidential treatment on the grounds that confidential treatment of this document could potentially lead to a requirement for a significant part of the DRP-related cross-examination to be held in-camera, given the heavy reliance on the document by OPG, parties it has retained in the planning process, and both its own and the OEB Staff's expert.

On December 12, 2016 OPG wrote to AACE to confirm that OPG had requested that the AACE document be granted confidential treatment. OPG also advised AACE that SEC had objected to the confidentiality request and OPG provided AACE with a copy of SEC's submission.

OPG advised AACE that in OPG's reply submission (herein), OPG will reassert that the document was claimed confidential by AACE, will indicate that OPG has forwarded SEC's letter to AACE and that OPG has advised AACE to make any submissions it may have directly to the OEB, though the submission may go via OPG as OPG is familiar with the filing process.

Later in the day on December 12th, OPG received the following in an email from AACE:

Mr. Rose,
I checked with my supervisor. AACE International's position is that OPG either received access to RP 18R-97 as part of an AACE membership or OPG purchased a copy of the document for use in preparing your document. Therefore, AACE asks that if others need a full copy of the RP 18R-97,

they also purchase a copy at the nominal fee of \$50.00. If several copies are needed, AACE will entertain a request for a bulk purchase discount.

AACE does not view RP 18R-97 as being a "confidential" document, but rather as a "copyright protected" document. AACE asks that the document not be posted online or become available to the public. AACE believes it would violate copyright to provide copies at no charge to all parties to the proceeding. It is up to the OEB how they classify the document to protect AACE International's copyright.

In the letter from counsel to the School Energy Coalition, signed by Mark Rubenstein and Jay Shepherd, AACE responds that only the document itself is copyright protected. Therefore it is permissible for parties, during cross-examination, to discuss with the witnesses on the public record the detailed descriptions of the estimate classes that are detailed in the document. Parties can view the document, hold a copy of the document, reference the document, we just ask that the full RP not become a part of the proceedings that become available to the general public with no revenue being returned to AACE.

Please have OPG forward or file AACE's response with the Ontario Energy Board (OEB) as you are familiar with the filing process. Contact me should you have any further questions or need additional clarification.

Regards,

Marvin Gelhausen
Managing Editor

In light of the foregoing, OPG has no further submissions on this matter.

All of which is respectfully submitted,

[Original signed by]

Barbara Reuber
Regulatory Affairs
Ontario Power Generation

Cc: Carlton Mathias (OPG) via email
Charles Keizer (Torys LLP) via email
Crawford Smith (Torys LLP) via email