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| **Ontario Energy**  **Board**  P.O. Box 2319  27th Floor  2300 Yonge Street  Toronto ON M4P 1E4  Telephone: 416-481-1967  Facsimile: 416-440-7656  Toll free: 1-888-632-6273 | **Commission de l’énergie**  **de l’Ontario**  C.P. 2319  27e étage  2300, rue Yonge  Toronto ON M4P 1E4  Téléphone: 416-481-1967  Télécopieur: 416-440-7656  Numéro sans frais: 1-888-632-6273 |  |

**BY EMAIL**

March 2, 2018

Ontario Energy Board

P.O. Box 2319

27th Floor

2300 Yonge Street

Toronto ON M4P 1E4

[Kirsten.Walli@ontarioenergyboard.ca](mailto:Kirsten.Walli@ontarioenergyboard.ca)

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

**Re: Halton Hills Hydro Inc.**

**2018 IRM Distribution Rate Application**

**OEB Staff Submission – Issue of Confidentiality**

**OEB File No. EB-2017-0045**

In accordance with Procedural Order No.3, please find attached the OEB Staff Submission on the issue of confidentiality in the above proceeding. This document is being forwarded to Halton Hills Hydro Inc. and to all other registered parties to this proceeding.

Halton Hills Hydro Inc. is reminded that its Reply Submission is due by March 7, 2018, should it choose to file one.

Yours truly,

*Original Signed By*

Marc Abramovitz

Advisor, Electricity Rates & Accounting

Encl.



**ONTARIO ENERGY BOARD**

**STAFF SUBMISSION**

2018 ELECTRICITY DISTRIBUTION RATES

Halton Hills Hydro Inc.

EB-2017-0045

**March 2, 2018**

**OEB Staff Submission**

**Halton Hills Hydro Inc.**

**2018 IRM Rate Application**

**EB-2017-0045**

**Introduction**

Halton Hills Hydro Inc. (Halton Hills Hydro) filed applications with the Ontario Energy Board (OEB) on September 25, 2017, October 23, 2017 and December 1, 2017. The applications are for, respectively, rates pursuant to the OEB’s Price Cap IR framework, the establishment and disposition of a variance account to account for and remedy an error related to depreciation expense, and recovery of costs incurred as a result of a pay equity settlement agreement (Z factor). The applications were filed under section 78of the *Ontario Energy Board Act*, *1998*, S.O. 1998, c. 15, (Schedule B) and under the OEB’s Filing Requirements for Incentive Regulation Rate Applications, seeking approval for changes to Halton Hills Hydro’s electricity distribution rates to be effective May 1, 2018.

In accordance with Procedural Order #1, School Energy Coalition (SEC) and all parties on record, filed interrogatories with the OEB. On February 20, 2018, Halton Hills Hydro filed its responses.

SEC’s Interrogatory Request number 7 (SEC IR No. 7) sought the provision of a copy of the utility’s Memorandum of Agreement regarding Pay Equity Maintenance, dated February 2, 2017 (the Agreement). Halton Hills Hydro filed its response to SEC IR No. 7 with the Board Secretary by letter dated February 21, 2018. Therein, the utility requested that the Agreement be considered confidential in its entirety. (OEB staff notes, however, that the Agreement was not filed with the OEB until two days later.)

The reasons underpinning Halton Hills Hydro’s request for confidentiality are set out in the following two paragraphs excerpted from the February 21 letter:

The agreement in question is a signed confidential agreement between the two parties that indicates previous and agreed upon wage rates in addition to retroactive adjustment payments by position. In addition to the pay equity portion of the agreement, Exhibit 3 is directly related to the agreed upon internal equity that is not a part of this proceeding. It should be noted that at no time in the application did HHHI include any internal equity adjustment amounts; the requested amounts only relate to retroactive pay equity adjustments and incremental pay equity wages.

Halton Hills is a closely knit community and the employees of HHHI are well known in the community. Even though there are only positions listed in the agreement, it is very possible for citizens to be able to determine wages for specific employees in the Exhibits. HHHI would never disclose the wages of a particular employee to the public and by releasing the agreement, HHHI would, in fact be allowing for that very scenario. It should also be noted that the job description in Exhibit 5 also indicates the name of the incumbent employee.

In OEB staff’s view, although the February 21 letter does not specifically use the words “personal information”, the foregoing paragraphs allude to there being personal information contained within the Agreement. Subject to limited exceptions, the OEB is prohibited from releasing personal information, as that phrase is defined in the *Freedom of Information and Protection of Privacy Act Property Act* (FIPPA).

OEB staff therefore submits that before the Agreement can be disclosed to any other party, the OEB needs to make a determination on the matter in accordance with section 4.3.1 of the *Practice Direction on Confidential Filings,* and rules 9A and 10 of the *Rules of Practice and Procedure.* For ease of reference, these requirements are reproduced at the end of this submission.

In OEB staff’s view, should the OEB find that the Agreement does not contain personal information, then the Agreement should be made available for viewing by intervenors who have filed a signed Declaration and Undertaking with the OEB.

If, however, the OEB finds that the Agreement does contain personal information, the OEB may require Halton Hills Hydro to file a version of the Agreement with all personal information redacted. Such a version, if there remains confidential information, could then be viewed by intervenors who have filed a signed Declaration and Undertaking with the OEB.

All of which is respectfully submitted

*Practice Direction on Confidential Filings*

**4.3 Personal Information under FIPPA**

4.3.1 Subject to limited exceptions, the Board is prohibited from releasing personal information, as that phrase is defined in FIPPA. When a person files a document or record that contains the personal information of another person who is not a party to the proceeding, the person filing the document or record must file two versions of the document or record in accordance with Rule 9A.01 of the Board's Rules of Practice and Procedure. As indicated in Rule 9A.02, the confidential, un-redacted version of the document or record will be held in confidence and neither that version of the document or record nor the personal information contained in it will be placed on the public record or provided to any other party, including a person from whom the Board has accepted a Declaration and Undertaking under section 6.1, unless the Board determines that the information is not personal information or that the disclosure of the personal information would be in accordance with the requirements of FIPPA.

*Rules of Practice and Procedure*

**9A Filing of Documents that Contain Personal Information**

9A.01 Any person filing a document that contains personal information, as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*, of another person who is not a party to the proceeding shall file two versions of the document as follows:

(a) one version of the document must be a non-confidential, redacted version of the document from which the personal information has been deleted or stricken; and

(b) the second version of the document must be a confidential, un-redacted version of the document that includes the personal information and should be marked "Confidential—Personal Information".

9A.02 The non-confidential, redacted version of the document from which the personal information has been deleted or stricken will be placed on the public record. The confidential, un-redacted version of the document will be held in confidence and will not be placed on the public record. Neither the confidential, un-redacted version of the document nor the personal information contained in it will be provided to any other party, including a person from whom the Board has accepted a Declaration and Undertaking under the *Practice Directions,* unless the Board determines that either (a) the redacted information is not personal information, as that phrase is defined in the *Freedom of Information and Protection of Privacy Act,* or (b) the disclosure of the personal information would be in accordance with the *Freedom of Information and Protection of Privacy Act.*

**10. Confidential Filings**

10.01 A party may request that all or any part of a document, including a response to an interrogatory, be held in confidence by the Board.

10.02 Any request for confidentiality made under **Rule 10.01** shall be made in accordance with the *Practice Directions*.

10.03 A party may object to a request for confidentiality by filing and serving an objection in accordance with the *Practice Directions* and within the time specified by the Board.

10.04 After giving the party claiming confidentiality an opportunity to reply to any objection made under **Rule 10.03**, the Board may:

(a) order the document be placed on the public record, in whole or in part;

(b) order the document be kept confidential, in whole or in part;

(c) order that the non-confidential redacted version of the document or the non-confidential description or summary of the document prepared by the party claiming confidentiality be revised;

(d) order that the confidential version of the document be disclosed under suitable arrangements as to confidentiality; or

(e) make any other order the Board finds to be in the public interest.

10.05 Where the Board makes an order under Rule 10.04 to place on the public record any part of a document that was filed in confidence, the party who filed the document may, subject to Rule 10.06 and in accordance with and within the time specified in the *Practice Directions*, request that it be withdrawn prior to its placement on the public record.

10.06 The ability to request the withdrawal of information under Rule 10.05 does not apply to information that was required to be produced by an order of the Board.

10.07 Where a party wishes to have access to a document that, in accordance with the *Practice Directions*, will be held in confidence by the Board without the need for a request under Rule 10.01, the party shall make a request for access in accordance with the *Practice Directions*.

10.08 Requests for access to confidential information made at times other than during the proceeding in which the confidential information was filed shall be made in accordance with the *Practice Directions*.

10.09 The party who filed the information to which a request for access under Rule 10.07 or Rule 10.08 relates may object to the request for access by filing and serving an objection within the time specified by the Board.

10.10 The Board may, further to a request for access under Rule 10.07 or Rule 10.08, make any order referred to in Rule 10.04.