

Toronto

March 7, 2018

Jeff St. Aubin
Direct Dial: 416.862.5972
jstaubin@osler.com

Montréal

Calgary

Ottawa

Vancouver

New York

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

Attention: Ms. K. Walli, Board Secretary

Dear Ms. Walli:

RE: EB-2017-0045
Reply Submission in relation to Confidential Filing

Halton Hills Hydro Inc. (“**HHHI**”) requested, in the HHHI letter dated February 21, 2018, that the Memorandum of Agreement regarding Pay Equity Maintenance, dated February 2, 2017 (the “**Pay Equity Memo**”), be filed in confidence for the purposes of this proceeding (EB-2017-0045).

Pursuant to Procedural Order No. 3, dated February 27, 2018, OEB Staff made a submission regarding the confidential treatment of the Pay Equity Memo on March 2, 2018. This letter sets out HHHI’s Reply Submission.

Confidential Treatment

HHHI maintains its position that the Pay Equity Memo should be filed on a confidential basis, as it contains commercially sensitive information for the reasons set out in the HHHI letter dated February 21, 2018 and reiterated in the OEB Staff submission.

HHHI submits that the OEB Staff submission fails to address why OEB Staff believes that the Pay Equity Memo is not confidential or the reason why OEB Staff requires disclosure of the Pay Equity Memo. Section 5.1.7 of the OEB’s *Practice Direction on Confidential Filings*, revised October 28, 2016 (the “**Practice Direction**”), requires that an objection to a request for confidentiality must address both of these issues.

To the extent that OEB Staff interprets the confidentiality request as relating solely to personal information, that characterization (addressed below) does not mean that the Pay Equity Memo is not confidential or that its disclosure is necessary for this proceeding.

Personal Information

OEB Staff correctly identified in their submission that the Pay Equity Memo may contain personal information. HHHI has the benefit of knowing the contents of the Pay Equity Memo and submits that certain information included therein does constitute personal information, as that term is defined in the *Freedom of Information and Protection of Privacy Act*, as this information includes the names of individuals and would reveal personal information about those individuals.

Treatment of the Pay Equity Memo for this Proceeding

The treatment of the Pay Equity Memo for this proceeding depends on the findings of the OEB with respect to both confidentiality and personal information. To ensure that all potentially necessary versions of the Pay Equity Memo are available to the OEB, HHHI has summarized below its understanding of the *Rules of Practice and Procedure* and the Practice Direction, and respectfully submits that if the OEB determines that the Pay Equity Memo:

- a) **is confidential but does not contain personal information**, then the confidential, un-redacted version of this document, printed on coloured paper and marked “confidential”, as per Section 5.1.4(b) of the Practice Direction, is attached as Appendix A. This document will not be placed on the public record, but it may be disclosed to persons that provide the OEB with a signed form of Declaration and Undertaking pursuant to Section 6.1.1 of the Practice Direction.
- b) **is confidential and contains personal information**, then the:
 - i. confidential version of this document, with the personal information redacted, printed on coloured paper and marked “confidential”, as per Section 5.1.4(b) of the Practice Direction and Rule 9A.01, is attached as Appendix B. This document will not be placed on the public record, but it may be disclosed to persons that provide the OEB with a signed form of Declaration and Undertaking pursuant to Section 6.1.1 of the Practice Direction; and
 - ii. confidential, un-redacted version of this document, marked “Confidential – Personal Information”, as per Rule 9A.01(b), is attached as Appendix C. Rule 9A.02 provides that this document will not be placed on the public record, nor will it be provided, subject to limited exceptions, to any other party including a person from whom the OEB has accepted a Declaration and Undertaking pursuant to Section 6.1.1 of the Practice Direction.

- c) **is not confidential but contains personal information**, then the:
- i. non-confidential, redacted version of the document from which the personal information has been deleted or stricken, filed in accordance with Rule 9A.01(a), is attached as Appendix D. Rule 9A.02 provides that this document will be placed on the public record; and
 - ii. confidential, un-redacted version of this document, marked “Confidential – Personal Information”, as per Rule 9A.01(b), is attached as Appendix C. Rule 9A.02 provides that this document will not be placed on the public record, nor will it be provided, subject to limited exceptions, to any other party including a person from whom the OEB has accepted a Declaration and Undertaking pursuant to Section 6.1.1 of the Practice Direction.
- d) **is not confidential and does not contain personal information**, then the un-redacted Pay Equity Memo, attached as Appendix E, will be included in the public record and available to all parties.

The appendices to this Reply Submission have only been circulated to the OEB by direct email and the hardcopy submissions. The Reply Submission circulated to other parties and posted publicly omits these appendices.

Yours very truly,



Jeff St. Aubin

Copy: All Intervenors in EB-2017-0045