



BY EMAIL and RESS

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Ontario Energy Board
2300 Yonge Street
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October 16, 2018
Our File: EB20180028

Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2018-0028 – Energy+ Inc. – TMMC Confidentiality Request

We are counsel to the School Energy Coalition ("SEC"). Pursuant to Procedural Order No. 3, these are the submissions on the request for confidentiality of portions of certain evidence filed by Toyota Motor Manufacturing Corporation Inc. ("TMMC") pursuant to the *Practice Direction on Confidential Filings* ("*Practice Direction*").

TMMC is seeking confidential treatment over certain information included in, or attached to, the Written Evidence of Jeffry Pollock ("Pollock Report") and the Written Evidence of Melody Collis ("Collis Evidence"). It has made the request on the basis that the information contains commercially sensitive information that may be determinate to TMMC's competitive position.

While SEC is sensitive to the concerns of TMMC, two specific aspects of the request are overbroad and would not ensure the Board strikes an appropriate balance "between the objectives of transparency and openness and the need to protect information that has been properly designated as confidential."¹

First, TMMC seeks confidential treatment over certain information Mr. Pollock proposed for the rate design for the Large User class. This includes the actual Large User rate that Mr. Pollock proposes that TMMC be charged.² While it is not entirely clear from the request why this information should be confidential³, SEC assumes it is based on a fear that a competitor may be able to reverse engineer TMMC's forecast load. SEC submits that it is entirely untenable for TMMC to seek confidential treatment over the rate it seeks to be approved not only for it, but for an entire rate class. TMMC is not even the only customer of Energy+ Inc. who is part of the Large User class.⁴ The Board should deny TMMC's request for confidential treatment over its proposed Large User rate.

Second, TMMC seeks confidentiality over the revisions made to the Board's Cost Allocation Model by Mr. Pollock⁵, on the basis that the revisions to the model contain certain "information regarding

¹ Ontario Energy Board, *Practice Direction on Confidential Filings*, p.2

² Written Evidence of Jeffry Pollock, p.36 (Table 5), Schedule JP-6

³ TMMC Correspondence, Re: TMMC Request for Confidentiality, September 27 2018

⁴ Exhibit 3, p.13

⁵ Excel Version of Schedule JP-5 to the Written Evidence of Jeffry Pollock



TMMC's consumption history and load profile" which it deems commercially sensitive.⁶ TMMC is seeking confidential treatment over the entire excel model. If the Board agrees with the Pollock evidence, SEC submits it would be fundamentally at odds with the open and transparent rate-setting process to set rates based on a confidential Cost Allocation Model.

SEC submits that Mr. Pollock's proposed Large User rates and the related Cost Allocation Model should not be granted confidential treatment.

Yours very truly,
Shepherd Rubenstein P.C.

Original signed by

Mark Rubenstein

cc: Wayne McNally, SEC (by email)
Applicant, TMMC, and interested parties (by email)

⁶ TMMC Correspondence, Re: TMMC Request for Confidentiality, October 1 2018