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BY EMAIL

March 20, 2019

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto ON M4P 1E4

Dear Ms. Walli:

**Re: Toronto Hydro-Electric System Limited (Toronto Hydro)
Application for 2020-2024 Rates
Expert Evidence of Pacific Economics Group Research LLC and Request
for Confidentiality of Working Papers Used in the Preparation of that
Evidence
Board File Number: EB-2018-0165**

In accordance with the Decision on the Filing of Expert Evidence issued by the Ontario Energy Board (OEB) on February 14, 2019, please find enclosed the report prepared by Pacific Economics Group Research LLC (PEG) entitled "*IRM Design for Toronto Hydro-Electric System*." The report was prepared at the request of OEB staff and is being filed for the purpose of assisting the OEB in the current proceeding. The report is marked as Exhibit M1.

A copy of the author's *curriculum vitae* and signed Acknowledgement of Expert's Duty form is also enclosed, in accordance with Rule 13A of the OEB's *Rules of Practice and Procedure*.

Request for Confidentiality of PEG's Working Papers

Toronto Hydro has requested that PEG make available its Working Papers – i.e., the models and data used in its analyses that are reported in PEG's evidence (Exhibit M1 above).

PEG has used the working papers that were provided earlier by Toronto Hydro and its

consultant, Power Systems Engineering Inc. (PSE). Toronto Hydro has claimed confidentiality of PSE's working papers, and the OEB accepted this request in the Decision on Confidentiality and Procedural Order No. 2 issued on November 21, 2018.

PEG has used PSE's data, along with modified and alternative data that PEG has obtained and constructed, in doing its analyses in preparing its evidence. The Working Papers thus contain also PSE's confidential working paper data. PEG is therefore bound to not publicly disclose the data that it obtained from PSE in accordance with the Decision on Confidentiality and Procedural Order No. 2 and its signed Declaration and Undertaking. PEG also has noted that certain data in the PEG Working Papers is proprietary in nature and hence has commercial value which would be lost if disclosed publicly.

Additional data that has been incorporated by PEG into the PSE data cannot be readily disaggregated from the PSE data, and therefore OEB staff submits that it is not possible to file a redacted public version of the PEG Working Papers at this time. OEB staff submits that public disclosure of the PEG Working Papers would be detrimental due to the commercially sensitive nature of the data, including commercially sensitive third party data contained in the PEG Working Papers. The public disclosure of the PEG Working Papers may reasonably be expected to prejudice significantly the competitive positions of, and result in undue loss to PSE, PEG, and other third parties from which PSE and PEG may have obtained information incorporated into the PEG Working Papers.

Under section 17(1) of the *Freedom of Information and Protection of Privacy Act* (FIPPA),¹ records containing technical or commercial information, supplied in confidence, are not to be disclosed without the consent of the person to whom the material relates. Neither PEG nor PSE has consented to the release of this material. OEB staff notes that under the Practice Direction on Confidential Filings (the Practice Direction), third party information as described in section 17(1) of FIPPA is a type of information previously assessed or maintained by the OEB as confidential.²

OEB staff is therefore requesting, pursuant to the Practice Direction, that the PEG Working Papers being provided in response to Toronto Hydro's request be maintained in confidence in their entirety at this time. OEB staff is currently working with PEG to determine whether any portion(s) of the PEG Working Papers can be placed on the public record, and OEB staff will advise the OEB as soon as possible in that regard. OEB staff submits that maintaining the PEG Working Papers in confidence in their entirety for the time being is the most efficient approach.

PEG is preparing the PEG Working Papers for confidential distribution as soon as possible, and is making its best efforts to have the confidential un-redacted PEG

¹ RSO 1990, Chapter F.31

² <https://www.oeb.ca/sites/default/files/uploads/documents/regulatorycodes/2019-01/Practice-Directionon-Confidential-Filings-20161028.pdf> - see Appendix B

Working Papers delivered to the OEB and representatives of who have signed the OEB's Declaration and Undertaking and otherwise complied with the Practice Direction. The provision of this information by OEB staff is subject to OEB staff's right to object to any request for access pursuant to the Practice Direction.

Yours truly,

Original signed by

Keith C. Ritchie
Project Advisor, Application Policy & Climate Change

cc: All registered parties to EB-2018-0165