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March 29, 2019

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

Dear Ms. Walli:

**Re: Toronto Hydro-Electric System Limited ("Toronto Hydro")
Custom Incentive Rate-setting ("Custom IR") Application for 2020-2024 Electricity Distribution
Rates and Charges – Technical Conference Undertaking Responses – Request for Confidential
Treatment
OEB File No. EB-2018-0165**

Pursuant to Rule 10.01 of the OEB's *Rules of Practice and Procedure* and the OEB's *Practice Direction on Confidential Filings* (the "**Practice Direction**"), Toronto Hydro requests that certain information contained as part of the utility's undertaking responses be kept confidential.

Appendix 'A' to this letter contains un-redacted, marked confidential versions of the documents for which Toronto Hydro seeks confidential treatment. The confidential materials in Appendix 'A' are being provided to the OEB in a separate, sealed envelope that is marked "confidential" and have been excluded from the electronic version of this request.

Toronto Hydro's confidentiality request applies to the following three categories information:

1. Information subject to an ongoing dispute resolution process;
2. Information that can undermine the utility's competitive procurement process; and
3. Information related to construction projects executed by internal workforce and external contractors.

Descriptions of the particular information contained in the undertaking responses and the rationale for requesting confidential treatment for each category, are set out below.

1. Information subject to an ongoing dispute resolution process

- Undertaking Response JTC 1.5
- Undertaking Response JTC 2.22, Appendices G and H

Certain information provided in the undertaking responses referenced above pertains to the legal implications of Carillion Canada's insolvent status under the *Companies' Creditors Arrangement Act* and Toronto Hydro's participation in an ongoing dispute resolution and claims adjudication process with Carillion Canada. Given that this process is still ongoing, the public disclosure of this information could affect Toronto Hydro's ability to be successful in putting forward arguments to advance the utility's position as part of that process, which would have a negative impact on ratepayers' interests.

2. Information that can undermine the utility's competitive procurement process

- Undertaking Response JTC 1.18, Appendix A, slide 19
- Undertaking Response JTC 2.7

The undertaking responses referenced above include a detailed forecast budget and risk-based contingency value for the Copeland Phase II project. Toronto Hydro is in the midst of a Request for Proposals ("RFPs") process for the Engineer Procure Construct ("EPC") contract for Copeland Phase II. The release of the information described above could harm the utility's competitive procurement process because this information could be used by parties participating in the RFP to inflate their bids for specific components of the work, and as a result, increase their overall cost proposals in the RFP.¹

3. Information related to construction projects executed by internal workforce and external contractors

- JTC 4.18, Appendix A

Appendix A to this undertaking response contains a detailed analysis of the calculation of the internal versus external contractor efficiency measure. This information is commercially sensitive and its disclosure could interfere significantly in Toronto Hydro's negotiations with construction contractors, as well with the utility's collective bargaining position. This type information is subject to further consideration by the OEB and, in the interim, the OEB directed all parties to treat it in confidence.²

Please contact me directly if you have any questions or concerns.

Respectfully,



Andrew J. Sasso

Director, Regulatory Affairs

Toronto Hydro-Electric System Limited

¹ Similar type of budget and contingency information has been previously afforded confidential treatment, see EB-2010-0008, EB-2013-0321, and EB-2016-0152.

² EB-2018-0165, Decision on Confidentiality (December 14, 2018) at p. 3.