

BY EMAIL

June 25, 2019

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

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: Kitchener-Wilmot Hydro Inc. (Kitchener-Wilmot Hydro)
Application for 2020 electricity distribution rates
OEB Staff Submission
Ontario Energy Board File Number: EB-2019-0049

In accordance with Procedural Order No. 1, please find attached OEB staff's submission in the above proceeding.

Yours truly,

Original Signed By

Donald Lau
Project Advisor – Rates Major Applications

Encl.

ONTARIO ENERGY BOARD

STAFF SUBMISSION ON CONFIDENTIALITY

2020 ELECTRICITY DISTRIBUTION RATES

Kitchener-Wilmot Hydro Inc.

EB-2019-0049

June 25, 2019

INTRODUCTION

Kitchener-Wilmot Hydro Inc. (Kitchener-Wilmot Hydro) filed a cost of service application with the Ontario Energy Board (OEB) on April 30, 2019 under section 78 of the *Ontario Energy Board Act*, 1998, S.O. 1998, c. 15, (Schedule B), seeking approval for changes to the rates that Kitchener-Wilmot Hydro charges for electricity distribution, to be effective January 1, 2020.

As part of Kitchener-Wilmot Hydro's 2020 cost of service application, it filed the following documents in confidence pursuant to the OEB's *Practice Direction on Confidential Filings*¹(Practice Direction):

1. Exhibit 2, Distribution System Plan - Appendix 2-3 – Customer Information System (CIS) Replacement Business Case dated April 2019
2. Exhibit 4, Appendix 4-7 – Bill and Mail Processing Outsourcing Proposal dated March 19, 2017
3. Exhibit 4, Appendix 4-5 – PILs Tax Returns for 2017

Kitchener-Wilmot Hydro stated that disclosure of document 1 and 2 “could reasonably be expected to prejudice the economic interest of, significantly prejudice the competitive position of, cause undue financial loss to, and be injurious to the financial interest of the applicable third party.”² On document 3, Kitchener-Wilmot Hydro requested confidentiality on the basis that it includes personal information, such as employees' names, salaries, and/or employment related information and Kitchener-Wilmot Hydro does not have consent to publicly release this information.

Staff Submission

In document 1, Kitchener-Wilmot Hydro provided a business case for replacing the CIS and in document 2, a proposal for outsourcing the billing and mailing process. In document 1, Kitchener-Wilmot Hydro redacted vendor bids and in document 2, Kitchener-Wilmot Hydro redacted either the cost a vendor charges or the vendor's name. Kitchener-Wilmot Hydro stated that the information has been redacted because the third parties are engaged in competitive business activities.

In Appendix A of the Practice Direction, it states that the OEB will strive to find balance between the general public interest in transparency and openness and the need to protect confidential information. Among other factors, the OEB may consider the potential harm that could result from the disclosure of the information, including

¹ Practice Direction on Confidential Filings, October 28, 2018

² EB-2019-0049, KWHI_Appl_redacted_20190430, April 30, 2019

prejudice to any person's competitive position. Appendix B of the Practice Direction further provides that third party information, including vendor pricing, has previously been assessed or maintained by the OEB as confidential.³ OEB staff submits that the information redacted is related to, or with the intent to, protect vendor pricing information and should be confidential.

In document 3, Kitchener-Wilmot Hydro provided its tax return for 2017 and has redacted information related to its employees on the basis that it includes personal information. OEB staff notes that the redacted information appears to have limited relevance to the application of Kitchener-Wilmot Hydro and the continued confidential treatment of such information is unlikely to hinder the OEB's ability to hear this application in a transparent and open manner. OEB staff agrees that the redacted information should remain confidential insofar as that information relates to individual, identifiable employees and disclosure of such information is restricted by the *Freedom of Information and Protection of Privacy Act*. OEB staff further acknowledges that similar information has been held to be confidential in previous OEB proceedings.⁴ It is, however, not clear to OEB staff how some of the proposed redacted information fits within the ambit of personal information. OEB staff notes that, without more information, the name and title of an employee should not be considered personal information.⁵ Similarly, it is not clear to OEB staff how contract or training agreement numbers qualify as personal information or should otherwise be withheld. OEB staff recommends that Kitchener-Wilmot Hydro address in its reply whether all of the redactions qualify as personal information and explain the basis on which the redacted information should not be disclosed.

All of which is respectfully submitted

³ Practice Direction on Confidential Filings, October 28, 2018 (Appendix B)

⁴ EB-2018-0165 Decision on Confidentiality and Procedural Order No. 2, November 21, 2018
EB-2018-0028 Decision on Confidentiality Request, September 14, 2018

⁵ Section 2(3) of the *Freedom of Information and Protection of Privacy Act* states: "Personal information does not include the name, title, contact information or designation of an individual that identifies the individual in a business, professional or official capacity."