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BY COURIER & RESS

Ms. Kirsten Walli, Board Secretary
ONTARIO ENERGY BOARD
2300 Yonge Street, 26th Floor, P.O. Box 2319
TORONTO, ON M4P 1E4

Re: Board File No. EB-2019-0049 - 2020 Cost of Service Application Interrogatories
Kitchener-Wilmot Hydro Inc. - Licence No. ED-2002-0573

Dear Ms. Walli:

As part of the filing of its 2020 Cost of Service Rate Application Interrogatories, Kitchener-Wilmot Hydro Inc. (KWHI) is filing redacted versions of the following documents on public record:

Category One

IR 2-Staff-16 Response	Proposed Downtown Projects
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Category Two

IR 4-Staff-4 Response	PILs Tax Returns for 2018
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KWHI is filing the above documents in confidence pursuant to the Ontario Energy Board's (the Board) Practice Direction on Confidential Filings (the Practice Direction).

For the Category One information, the third parties whose information has been redacted are engaged in competitive business activities. The information that has been redacted is consistently treated in a confidential manner. Disclosure of the third-party information in the document 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.

The document listed in Category Two includes personal information, such as names of individuals, employees' names, apprentices' names, photographs, salaries and/or employment related information. KWHI does not have these individuals' consent to the public release of this information.

The Practice Direction recognizes that these are both among the factors that the Board will take into consideration when addressing the confidentiality of filings. They are also addressed in subsection 17(1) of the *Freedom of Information and Protection of Privacy Act* ("FIPPA"), and the Practice Direction notes (at Appendix C of the Practice Direction) that third party information as described in subsection 17(1) of FIPPA is among the types of information previously assessed or maintained by the Board as confidential.

KWHI will provide unredacted copies of the documents listed in Categories One and Two to parties' counsel and experts or consultants provided that they have executed the Board's form of Declaration and Undertaking with respect to confidentiality and that they comply with the Practice Direction, subject to KWHI's right to object to the Board's acceptance of a Declaration and Undertaking from any person.

Also, in response to 1-SEC-9 (Exhibit 1, p. 38), KWHI is filing redacted version of the Long-Range Strategic Plan of Kitchener Power Corporation ("KPC") ("Strategic Plan") on public record, with the expectation that the balance of the document remains confidential.

The Strategic Plan is a document prepared by KPC, the holding company of KWHI and Kitchener Energy Solutions Inc. ("KESI"). The document contains strategic options for all KPC and its affiliates and therefore contains commercially sensitive information.

Appendix "A" to the Ontario Energy Board's ("OEB" or the "Board") Practice Direction On Confidential Filings¹ ("Practice Direction") sets out the Board's considerations in determining requests for confidentiality. Among those considerations are the following:

- (a)(i) prejudice to any person's competitive position;
- (a)(iv) whether the disclosure would be likely to produce a significant loss or gain to any person;
- (g) any other matters relating to FIPPA (the Freedom of Information and Protection of Privacy Act) and FIPPA exemptions; and
- (h) whether the type of information in question was previously held confidential by the Board.

With respect to item (g) above, the Board has provided a summary of FIPPA provisions at Appendix C of the Practice Direction. That summary provides, in part, as follows:

"Under section 17(1), the Board must not, without the consent of the person to whom the information relates, disclose a record where:

- (a) the record reveals a trade secret or scientific, technical, commercial, financial or labour relations information;
- (b) the record was supplied in confidence implicitly or explicitly; and
- (c) disclosure of the record could reasonably be expected to have any of the following effects:
 - i. prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons or organization;

¹ Ontario Energy Board Practice Direction On Confidential Filings Revised October 28, 2016.

iii. result in undue loss or gain to any person, group, committee or financial institution or agency;

..."

This Strategic Plan contains KPC's business strategies, synergies and competitive advantages, and financial forecasts for the 2016-2020 period. It includes commercially sensitive information related to both regulated and non-regulated business activities carried on by KPC.

KESI is KPC's non-regulated affiliate that performs non-regulated energy services, including streetlight maintenance. Its competitors who also provide streetlight maintenance services include G-Tel Engineering, TM3 Inc., Ducon Utilities Limited, and Langley Utilities Contract Ltd.

In addition, a non-regulated joint venture, Grand River Energy Solutions Corp. ("GRE"), was incorporated to focus on cogeneration opportunities and other businesses. GRE is owned in equal shares of one-third by KPC, Cambridge & North Dumfries Energy Solutions Inc., and Waterloo North Hydro Holding Company. It is an energy solutions company that provides turn-key solutions, including design, procurement, installation and service for solar net metering, virtual net metering, energy storage, sub metering, electrical vehicle charging, and Combined Heat and Power.² Its competitors in business include, Delta Energy Solutions, Solar Dynamics Corp., Stantec, SunGrid Solutions – Powin Energy, FLO Inc., and Green Energy Ontario, and Saturn Power Inc. GRE is a relatively new entity and is establishing itself in the community.

Therefore, the disclosure of its information in the Strategic Plan 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 KPC and its affiliates. It would enable their competitors in competitive businesses to determine the extent of KPC's activities in those businesses.

KPC notes that the maintenance of confidentiality in respect of this document would be consistent with the Board's treatment of business planning material in other applications, including (for example) Horizon Utilities Corporation's 2011 Cost of Service Application (EB-2010-0131), in which the Board made the following finding in response to a request for public disclosure of a Horizon Utilities business plan:

"The Board finds that the business plan material should be confidential, as it has found in other cases. While the Board is interested in having as much information as possible on the public record, the Board relies on full and complete disclosure of all relevant information in order to ensure that its decisions are well-informed. The Board recognizes that some of that information, such as business plans, are of a confidential nature and should be protected as such. The Board notes that it has previously held business plans to be confidential. As such, Horizon had a reasonable expectation that this document would be maintained as confidential."³

In addition, KWHI submits that the redacted materials contain information that is not relevant to this application as the redacted information relates to KPC's non-regulated businesses. In the Board's Decision on Confidentiality in a Hydro One Networks Inc. ("HONI") transmission revenue requirement

² <http://grandriverenergy.com/services/>

³ EB-2010-0131 – Horizon Utilities Corporation – Decision and Order on Confidentiality Issues dated March 20, 2011 at page 6.

application, the Board decided that documents related to HONI's unregulated businesses, such as the business plan, were irrelevant to the application and therefore the documents would not be placed on the record.⁴

Similarly in the current proceeding, the redacted portions of the Strategic Plan are related to KPC and its non-regulated affiliates and the information is not relevant to this proceeding. Parts of the Strategic Plan related to KWHI remain unredacted.

KWHI is prepared to provide unredacted copies of the Strategic Plan to parties' counsel and experts or consultants provided that they have executed the Board's form of Declaration and Undertaking with respect to confidentiality and that they comply with the Practice Direction, subject to KWHI's right to object to the Board's acceptance of a Declaration and Undertaking from any person.

In keeping with the requirements of the Practice Direction, KWHI is filing two confidential unredacted versions of the Strategic Plan in hard copy only. The unredacted version of the Strategic Plan have been placed in a sealed envelope marked "Confidential". The Strategic Plan is marked "Confidential", and KWHI has identified the portions of the document in respect of which confidentiality is claimed through the use of sidebars ("F") and printed on yellow paper. KWHI requests that the unredacted documents be kept confidential.

Questions or concerns in this matter should be addressed to the undersigned.

Respectfully submitted,

Original Signed By:

Jerry VanOoteghen, P.Eng
President & CEO

⁴ EB-2018-0130 – HONI – Decision on Confidentiality, March 13, 2019.