

**BY EMAIL**

November 21, 2019

Christine E. Long  
Registrar and Board Secretary  
Ontario Energy Board  
2300 Yonge Street, 27th Floor  
Toronto ON M4P 1E4

Dear Ms. Long:

**Re: Brantford Power Inc. (Brantford Power) and Energy+ Inc. (Energy+)  
Applications for 2020 Electricity Distribution Rates  
OEB Staff Submission on Confidentiality  
Ontario Energy Board File Number: EB-2019-0022 and EB-2019-0031**

In accordance with Procedural Order No. 2, please find attached OEB staff's submission on confidentiality in the above proceedings.

Yours truly,

*Original Signed By*

Jerry Wang  
Analyst  
Electricity Distribution – Major Rate Applications & Consolidations

Encl.

# **ONTARIO ENERGY BOARD**

## **STAFF SUBMISSION ON CONFIDENTIALITY**

**2020 ELECTRICITY DISTRIBUTION RATES**

**Brantford Power Inc.**

**EB-2019-0022**

**and**

**2020 ELECTRICITY DISTRIBUTION RATES**

**Energy+ Inc.**

**EB-2019-0031**

**November 21, 2019**

## INTRODUCTION

Brantford Power Inc. (Brantford Power) filed a Price Cap Incentive Rate-setting application with the Ontario Energy Board (OEB) on August 12, 2019 under section 78 of the *Ontario Energy Board Act, 1998* (OEB Act) seeking approval for changes to the rates that Brantford Power charges for electricity distribution, to be effective January 1, 2020.

Energy+ Inc. (Energy+) filed a Price Cap Incentive Rate-setting application with the OEB on August 26, 2019 under section 78 of the OEB Act seeking approval for changes to the rates that Energy+ charges for electricity distribution, to be effective January 1, 2020.

In Procedural Order (PO) No. 1 issued October 4, 2019, the OEB decided that the two applications would be heard together as a combined hearing due to common elements between the two applications and for regulatory efficiency.

On November 5, 2019, Brantford Power and Energy+ filed interrogatory responses with the OEB. In doing so, pursuant to Rule 10.01 of the OEB's *Rules of Practice and Procedure* and the OEB's *Practice Direction on Confidential Filings* (respectively, the Rules and Practice Direction), both Brantford Power and Energy+ requested confidential treatment for certain information.

Brantford Power requested confidential treatment for certain information contained in materials that had been provided to its Board of Directors.<sup>1</sup> Brantford Power indicated that the redacted information consists of anticipated/targeted pricing for a property that Brantford Power has listed for lease, but for which it has not yet negotiated or contracted lease arrangements. Brantford Power stated that the release of the redacted information could prejudice Brantford Power's competitive position, interfere with contractual negotiations and result in undue loss to Brantford Power.

Energy+ requested confidential treatment for a Measurement and Verification (M&V) report and for load and generation data pertaining to a third-party currently engaged in a competitive business activity.<sup>2</sup> Energy+ indicated that the release of the redacted information could prejudice the economic interest and competitive position of the third-party and result in undue financial loss to the third-party. Further, Energy+ argued that the redacted third-party information falls under subsection 17(1) of the *Freedom of*

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<sup>1</sup> The materials provided to Brantford Power's Board of Directors are included as Interrogatory Attachment C in response to SEC-BPI-1, SEC-BPI-2 and SEC-BPI-7

<sup>2</sup> The M&V report and load and generation data are in response to E-Staff-66

*Information and Protection of Privacy Act (FIPPA)*, which is contemplated in Appendix C of the OEB's Practice Direction.

On November 15, 2019, the OEB issued PO No. 2 in which it set a schedule for submissions on these confidentiality requests. OEB staff's submission on the confidentiality requests is set out below.

## **STAFF SUBMISSION**

OEB staff supports the confidentiality requests of both Brantford Power and Energy+.

OEB staff agrees with Brantford Power that the disclosure of the redacted information could prejudice Brantford Power's position in seeking a competitive lease for its property and result in undue financial loss, and that the release of the anticipated/targeted pricing information could diminish Brantford Power's bargaining power in any potential lease negotiations. Further, OEB staff believes that the information will have limited relevance in this proceeding as Brantford Power has already indicated that it intends to treat the property and any potential lease revenues as part of the non-regulated component of its business.<sup>3</sup>

OEB staff agrees with Energy+ that the disclosure of the redacted information could prejudice the economic interest of the third-party and result in undue financial loss. OEB staff agrees that the redacted information comprises commercially sensitive information for the third-party, including load and generation data, and is therefore exempt from public disclosure under section 17(1) of the FIPPA as well as the Practice Direction. OEB staff further notes that the same type of information was granted confidential treatment in Energy+'s 2019 cost of service application.<sup>4</sup>

All of which is respectfully submitted

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<sup>3</sup> IRR B-Staff-21 f)

<sup>4</sup> EB-2018-0028 / Decision on Confidentiality Requests / December 21, 2018 / pp.3-4 – the OEB granted confidential treatment to customer specific load information in Appendix E of the Settlement Proposal and also for Co-Generation Facility Info in 3-VECC-17b