

**Brantford Power Inc.**

**Application for electricity distribution rates and other  
charges effective January 1, 2020**

**-and-**

**Energy+ Inc.**

**Application for electricity distribution rates and other  
charges effective January 1, 2020**

**DECISION ON CONFIDENTIALITY  
December 4, 2019**

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

In PO No.1 issued on November 15, 2019, the OEB established deadlines for intervenors and OEB staff to file submissions on Brantford Power's and Energy+'s confidentiality requests, and for Brantford Power and Energy+ to file reply submissions.

The OEB received OEB staff's submission on November 21, 2019. The OEB did not receive submissions from any other party, and did not receive reply submissions from the applicants.

OEB staff supported the confidentiality request of Brantford Power and agreed that disclosure of the redacted information could result in undue financial loss for Brantford Power by prejudicing Brantford Power's position in seeking a competitive lease for its property. OEB staff also submitted that the redacted information would have limited relevance in this proceeding because Brantford Power had 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 supported the confidentiality request of Energy+ and agreed that the redacted information comprises commercially sensitive information for the third-party and is therefore exempt from public disclosure under section 17(1) of the FIPPA as well as the

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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

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

Practice Direction. Disclosure of the redacted information, OEB staff submitted, could prejudice the economic interest of the third-party. OEB staff also noted that the same type of information was granted confidential treatment in Energy+'s 2019 cost of service application.<sup>4</sup>

## Findings

The OEB grants Brantford Power's and Energy+'s confidentiality requests.

The OEB notes that Brantford Power's confidentiality request is for pricing information for the lease of its property. The OEB finds that the information is commercially sensitive because the disclosure of the redacted information could negatively impact the competitive position of Brantford Power in future lease negotiations.

The OEB notes that Energy+'s confidentiality request is for information related to a third-party. The OEB finds that the information is commercially sensitive for the third-party as it contains load and generation data and agrees that disclosure of the redacted information could prejudice the economic interest of the third-party. The OEB further notes that the Practice Direction<sup>5</sup> identifies third-party information as a type of information for which confidential treatment is warranted. Moreover, consistent with the Practice Direction, the OEB has designated similar information as confidential in other proceedings.

**DATED** at Toronto, December 4, 2019

## ONTARIO ENERGY BOARD

*Original signed by*

Christine E. Long  
Registrar and Board Secretary

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<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

<sup>5</sup> Appendix B, item 5 (Third Party Information under FIPPA), page 20; see also Appendix C