

**Oshawa PUC Networks Inc.**

**Application for electricity distribution rates beginning  
January 1, 2021**

**DECISION ON CONFIDENTIALITY**

**December 14, 2020**

Oshawa PUC Networks Inc. (Oshawa PUC Networks) filed a cost of service application with the Ontario Energy Board (OEB) 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 Oshawa PUC Networks charges for electricity distribution, beginning January 1, 2021. The application was accepted by the OEB as complete as of August 19, 2020.

On November 16, 2020, Oshawa PUC Networks filed its interrogatory responses which included a confidentiality request pursuant to the OEB's *Practice Direction on Confidential Filings* (Practice Direction).<sup>1</sup>

Oshawa PUC Networks requested confidential treatment of certain information contained in two interrogatory responses:

1. 4-EP-21(c) (Document 1)
  - Specifically, this information pertained to the 2019 total compensation for the CEO of Oshawa PUC Networks
2. DRC-7(a), Appendix Q – Taking A.I.M Proposal - Operational Plan (Document 2)
  - The information redacted in Appendix Q contains two aspects:
    - A price quotation provided by a third party to Oshawa PUC Networks for their customer engagement services
    - Information containing the names, positions and responsibilities of individuals employed at the same third party

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<sup>1</sup> Practice Direction on Confidential Filings, October 28, 2016

Oshawa PUC Networks provided reasons for the confidentiality request, including reasons why public disclosure of the information would be contrary to the *Freedom of Information and Protection of Privacy Act* (FIPPA). <sup>2</sup>

In the OEB's Partial Decision on Confidentiality and Procedural Order (PO) No. 3, the OEB found that the personal information contained in Document 1 is properly considered personal information pursuant to FIPPA.

In accordance with section 4.3.1 of the OEB's Practice Direction<sup>3</sup> and Rule 9A.02 of the OEB's *Rules of Practice and Procedure*<sup>4</sup>, the OEB noted that the information contained in Document 1 will be treated as confidential information and will not be provided to any party, including a person who has provided a Declaration and Undertaking pursuant to the OEB's Practice Direction.

PO No. 3 also made provision for the filing of submissions by OEB staff and intervenors on Oshawa PUC Networks' request for confidential treatment of Document 2.

OEB staff and the Distributed Resource Coalition (DRC) filed submissions on the request for confidentiality.

In its submission, OEB staff supported the request for confidentiality in relation to the pricing information contained in Document 2. OEB staff submitted that this information is considered "financial information" which is generally treated as confidential under section 17(1) of FIPPA.

With respect to the information in Document 2 containing the names, positions and responsibilities of individuals employed at UtilityPULSE, OEB staff submitted that it does not agree that this type of information is considered "personal information" in accordance with sections 2(1) and 2(3) of FIPPA, and therefore does not warrant confidential treatment by either the Practice Direction or FIPPA.

Further, OEB staff noted that while it does not believe that the subject information has significant probative value to the issues in the proceeding, the principle that underlies the Practice Direction is that the placing of materials on the public record is the rule, and confidentiality is the exception.

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<sup>2</sup> R.S.O. 1990, c.F.31

<sup>3</sup> Practice Direction on Confidential Filings, October 28, 2016, Page 6

<sup>4</sup> Ontario Energy Board – Rules of Practice and Procedure, Page 7

DRC supported the submissions of OEB staff.

In its reply submission, Oshawa PUC Networks stated that the individual information offers little or no probative value in respect of the matters at issue in this proceeding<sup>5</sup> and referenced two previous OEB decisions on confidentiality in which the OEB found that information that is not relevant need not be filed.<sup>6</sup>

Oshawa PUC Networks noted its concern that disclosure of the third party's individual information may be prejudicial not only to the third party, which is not a party to this proceeding, but it may also be prejudicial to the individuals named.<sup>7</sup>

Oshawa PUC Networks further submitted that the OEB has in the past supported confidential treatment of individual names in substantially similar situations – even when the information was not technically personal information under FIPPA.

## Findings

The OEB Practice Direction states that “the placing of materials on the public record is the rule and confidentiality is the exemption. The onus is on the person requesting confidentiality to demonstrate to the satisfaction of the Board that confidentiality is warranted in any given case.”<sup>8</sup> The OEB finds that Oshawa PUC Networks has not demonstrated that all the information contained in Document 2 warrants confidential treatment and that a portion of this document shall be placed on the public record of this proceeding as described below.

The price quotation provided by UtilityPULSE for its customer engagement services is considered “financial information” as defined in section 17 (1) of FIPPA and shall be afforded confidential status. This information shall be redacted.

The names, positions and responsibilities of individuals employed by UtilityPULSE do not constitute “personal information” as defined in FIPPA if it relates to individuals in a business, professional or official capacity. This finding is also consistent with decisions

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<sup>5</sup> EB-2020-0048, Oshawa PUC Networks Inc.'s Reply Submission on Confidentiality, December 7, 2020, Page 3

<sup>6</sup> EB-2020-0048, Oshawa PUC Networks Inc.'s Reply Submission on Confidentiality, December 7, 2020, Page 4, paras 14-15 and references to decisions in Halton Hills Hydro Inc. - EB-2017-0045, Decision on Confidentiality Request and Procedural Order No. 4, March 9, 2018, Page 4 and Kitchener-Wilmot Hydro Inc. - EB-2019-0049, Decision on Confidentiality, July 10, 2019, Page 2

<sup>7</sup> EB-2020-0048, Oshawa PUC Networks Inc.'s Reply Submission on Confidentiality, December 7, 2020, Page 5

<sup>8</sup> Practice Direction, Page 2

of the Information and Privacy Commission of Ontario. The OEB, therefore, finds that this information shall be placed on the public record of this proceeding.

In its Reply submission, Oshawa PUC Networks argued that the OEB has in the past supported confidentiality requests of individual names in substantially similar situations and referenced previous OEB decisions on confidentiality.<sup>9</sup> The OEB notes that the decisions cited dealt with personal and employment information of the utilities' employees, including names, salaries, wage rates and pay adjustments for specific positions, which has consistently been treated as personal information and granted confidential treatment by the OEB. The information in this proceeding (consultants' individual names) is not 'substantially similar' to the personal information concerning utility employees.

In the circumstances of this particular case, this panel is guided by the Practice Direction which sets out the factors generally considered by the OEB in determining confidentiality requests (Appendix A), the types of information previously held confidential (Appendix B) and pertinent FIPPA provisions (Appendix C).

#### **THE ONTARIO ENERGY BOARD ORDERS THAT:**

1. Oshawa PUC Networks Inc. shall file with the OEB revised versions (public and confidential) of Document 2 reflecting the OEB's decision, by **December 18, 2020**. Oshawa PUC Networks Inc. shall provide a revised public version to all parties and a revised confidential version to intervenors that have executed the OEB's Declaration and Undertaking.

All materials filed with the OEB must quote the file number, **EB-2020-0048**, and be submitted in a searchable/unrestricted PDF format with a digital signature through the OEB's web portal at <https://pes.ontarioenergyboard.ca/eservice>. Filings must clearly state the sender's name, postal address, telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the [Regulatory Electronic Submission System \(RESS\) Document Guidelines](https://www.oeb.ca/industry) found at [www.oeb.ca/industry](https://www.oeb.ca/industry). We encourage the use of RESS; however, parties who have not yet [set up an account](https://www.oeb.ca/industry), may email their documents to [registrar@oeb.ca](mailto:registrar@oeb.ca).

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<sup>9</sup> Reply submission at paragraphs 19 – 25 and references to decisions in Energy+ (EB-2018-0028), Halton Hills Hydro (EB-2017-0045), Kitchener-Wilmot Hydro Inc. (EB-2019-0049)

All communications should be directed to the attention of the Registrar and be received no later than 4:45 p.m. on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Georgette Vlahos at [Georgette.Vlahos@oeb.ca](mailto:Georgette.Vlahos@oeb.ca) and OEB Counsel, Ljuba Djurdjevic at [Ljuba.Djurdjevic@oeb.ca](mailto:Ljuba.Djurdjevic@oeb.ca).

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**DATED** at Toronto, **December 14, 2020**

**ONTARIO ENERGY BOARD**

*Original signed by*

Christine E. Long  
Registrar