



Ontario  
Energy  
Board | Commission  
de l'énergie  
de l'Ontario

**BY EMAIL**

December 17, 2020

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

Dear Ms. Long:

**Re: Burlington Hydro Inc.  
Application for Rates  
Ontario Energy Board (OEB) File Number: EB-2020-0007  
OEB Staff Submission on Confidentiality**

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

Yours truly,

Shuo Zhang  
Project Advisor – Electricity Distribution: Major Rate Applications & Consolidations

Attach.

**2021 COST OF SERVICE APPLICATION**

**BURLINGTON HYDRO INC.**

**EB-2020-0007**

**OEB STAFF SUBMISSION ON CONFIDENTIALITY**

**DECEMBER 17, 2020**

## Introduction

Burlington Hydro Inc. (Burlington Hydro) filed a cost of service application (Application) with the Ontario Energy Board (OEB) on October 30, 2020, under section 78 of the *Ontario Energy Board Act, 1998*, seeking approval for changes to the rates that Burlington Hydro charges for electricity distribution, beginning May 1, 2021.

As part of the Application, Burlington Hydro filed the following documents in confidence pursuant to the OEB's *Practice Direction on Confidential Filings* (Practice Direction).<sup>1</sup>

1. Information regarding assumed 2021 wage increases for the union and non-union employee group (Document 1)
  - Exhibit 4, Section 4.3.1.2
  - Exhibit 4, Section 4.3.1.4
2. Personal information contained in Burlington Hydro's 2019 corporate income tax return (Document 2)
  - Exhibit 4, Appendix E
3. Salary and benefit information associated with a specific position (Document 3)
  - Exhibit 4, Section 4.3.1.4, page 173

Regarding Document 1, Burlington Hydro noted that negotiations between itself and the International Brotherhood of Electrical Workers will take place prior to April 1, 2021. As such, public disclosure of the compensation information prior to the negotiating process could reasonably be expected to prejudice Burlington Hydro's negotiating position in the upcoming collective bargaining process and interfere significantly with those negotiations.

Burlington Hydro submitted that redacted information in Document 2 and 3 constitute personal information as defined in the *Freedom of Information and Protection of Privacy Act* (FIPPA), and requested these redactions remain in confidence in accordance with section 4.3.1 of the OEB's Practice Direction<sup>2</sup> and rule 9A.02 of the OEB's *Rules of Practice and Procedure*.<sup>3</sup>

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

<sup>2</sup> Ibid, page 6

<sup>3</sup> Ontario Energy Board, Rules of Practice and Procedure, October 28, 2016, page 7

In its Procedural Order No.1, the OEB sought submissions regarding Burlington Hydro's confidentiality requests.<sup>4</sup> OEB staff's submissions on each document follow.

## **OEB Staff Submission**

### Document 1

In Document 1, Burlington Hydro redacted information regarding the expected union and non-union wage increases for the 2021 test year. Burlington Hydro stated that the compensation information is sensitive and disclosure of such information prior to the upcoming negotiations could prejudice the bargaining process.

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 "whether the information could interfere significantly with negotiations being carried out by a party." Given the ongoing nature of negotiations with the union, OEB staff supports the confidentiality request for document 1.

### Document 2

In Document 2, Burlington Hydro provided its 2019 corporate tax return and redacted information related to its employees on the basis that the redactions are personal information.

The redacted information consists of:

- The contract numbers of apprentices who were the subject of the Investment Tax Credit
- The names of co-op students who were the subject of the Ontario co-operative tax credit claims
- The names of employees involved in certain projects; and
- The names and personal address of Directors and Officers of Burlington Hydro

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<sup>4</sup> EB-2020-0007, Procedural Order No.1, December 11, 2020, page 4

OEB staff notes that similar information has been held to be confidential in previous OEB proceedings. For example, in Toronto Hydro-Electric System Limited (Toronto Hydro) 2020-2024 rate proceeding, the OEB concluded that information contained in Toronto Hydro's 2017 corporate tax return, including employee names and contract agreements, is properly considered personal.<sup>5</sup>

For the most part, OEB staff has no concerns with the redactions proposed and notes that while the tax return is relevant to the proceeding, the specific information in question has no monetary values, and therefore is not relevant to this proceeding. The one issue that OEB staff has identified relates to the proposed redaction of employee names – found in Area 260 of the tax return. OEB staff submits that Burlington Hydro should instead be redacting the information in Area 261 of the tax return, beyond the employee's title, as employee's experience qualifies as personal information. With that additional redaction, OEB staff submits that it would no longer be necessary or appropriate to include the redactions proposed in Area 260.

Document 3

The redacted information contained in Document 3 consists of the salary information associated with a specific position. OEB staff agrees with Burlington Hydro that the information is personal information pursuant to FIPPA. The OEB made a similar finding in another proceeding, where the OEB found that titles and compensation of specific identifiable individuals employed by Toronto Hydro are properly considered personal information.<sup>6</sup>

Accordingly, OEB staff has no concerns with Burlington Hydro's request of treating the salary information associated with a specific position as confidential in this proceeding.

*All of which is respectfully submitted*

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<sup>5</sup> EB-2018-0165, Decision on Issues List, Partial Decision on Confidentiality and Procedural Order No. 3, February 5, 2019, pp. 3-4

<sup>6</sup> Ibid