



Burlington Hydro Inc.

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

**DECISION ON CONFIDENTIALITY
January 12, 2021**

Burlington Hydro Inc. (Burlington Hydro) filed a cost of service 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.

In a letter dated November 2, 2020, Burlington Hydro filed the following documents in confidence pursuant to the OEB's *Practice Direction on Confidential Filings* (Practice Direction).¹

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

In accordance with the Practice Direction, Burlington Hydro has 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), and why public disclosure of the information would be injurious to the collective bargaining process and financial interest of the third parties identified in the documents.

¹ Ontario Energy Board, Practice Direction on Confidential Filings, October 28, 2016

In accordance with section 4.3.1 of the Practice Direction² and rule 9A.02 of the OEB's *Rules of Practice and Procedure*³, Burlington Hydro has requested the information contained in Document 2 and 3 not be provided to any party, including a person who has provided a Declaration and Undertaking pursuant to the Practice Direction.

OEB staff supported Burlington Hydro's confidentiality request of Document 1, given the ongoing negotiations regarding the expected union and non-union wage increases. OEB staff also had no concerns with Burlington Hydro's request of treating the salary information associated with a specific position in Document 3 as confidential in this proceeding.

Regarding Document 2, OEB staff identified one issue related to the proposed redaction of employee names – found in Area 260 of the tax return. OEB staff submitted 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 submitted that it would no longer be necessary or appropriate to include the redactions proposed in Area 260.

Distributed Resource Coalition supported OEB staff's submissions for all three documents.

In response to OEB staff's submission with respect to Document 2, Burlington Hydro proposed to submit an amended filing which redacts the information in Area 261 of the tax return, beyond the employee's title, in addition to the existing redactions in Area 260 of the tax return. Burlington Hydro acknowledged that if it had redacted the information in Area 261 of the tax return that disclosed the employee's experience, it could have disclosed employee names in Area 260 as employee names and titles are not considered "personal information" under FIPPA. However, given that Area 261 had previously been disclosed in full, Burlington Hydro argued that employee names contained in Area 260 should remain redacted.

² Practice Direction on Confidential Filings, October 28, 2016, Page 6

³ Ontario Energy Board – Rules of Practice and Procedure, Page 7

Findings

The OEB has reviewed the proposed redactions and considered the confidentiality submissions that have been filed. For Document 1, the OEB finds that the information redacted by Burlington Hydro shall remain redacted. This information includes assumed 2021 wage increases for union and non-union employees. The OEB accepts that, if disclosed, this information could prejudice Burlington Hydro's negotiating position in the upcoming collective agreement process.

For Document 2, the OEB finds that the information redacted by Burlington Hydro from its 2019 corporate income tax return shall remain redacted (with the exception of Schedule 55 as explained below). In the OEB's view, the information that will remain redacted constitutes "personal information" as defined in FIPPA. The information is included in the following Schedules⁴ of the income tax return:

- Schedule 31 (Part 21): includes contract numbers of apprentices
- Schedule 55 (Part 2): includes names of employees (with the titles, qualifications and experience of these employees unredacted)
- Schedule 546 (Part 7): includes the name and personal address of a Director/Officer of Burlington Hydro
- Schedule 550 (Part 4): includes names of students

While the OEB agrees with OEB staff that, in Schedule 55, the names of the employees (Area 260) should have been unredacted as long as the qualifications and experience of these employees in Area 261 were redacted, the OEB agrees with Burlington Hydro that this would not be appropriate at this stage of the process. This would result in the information in both Areas 260 and 261 becoming public which would result in the disclosure of personal information. Therefore, the OEB finds that Burlington Hydro shall submit an amended filing which redacts the information in Area 261, beyond the employee's title, in addition to the existing redactions in Area 260.

The OEB further agrees with OEB staff and Burlington Hydro that, while the corporate income tax return is relevant to this proceeding, the specific redacted information in Document 2 is not relevant to this proceeding.

⁴ The Schedule number is used here to identify the location of the item in the income tax return. Using the Part and Area numbers only, as Burlington Hydro did in its November 2, 2020 letter, is not a unique identifier. For example, Part 7, Area 700 exists in more than one place with different information (Schedule 510, p.448 and Schedule 546, p.453).

With respect to Document 3, the OEB finds that the information redacted by Burlington Hydro shall remain redacted. This information includes salary and benefits associated with a specific position at Burlington Hydro and the OEB finds that this falls within the definition of “personal information” under FIPPA.

The OEB also agrees with Burlington Hydro that Documents 2 and 3 should not be provided to any party, including a person who has provided a Declaration and Undertaking, pursuant to the Practice Direction.⁵ However, Document 1 can be provided to parties who have provided a Declaration and Undertaking.

Burlington Hydro is directed to submit an amended filing for Document 2 (Schedule 55) based on OEB’s findings in this Decision.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Burlington Hydro Inc. shall file with the OEB the revised public version of Document 2 reflecting the OEB’s decision.

All materials filed with the OEB must quote the file number, **EB-2020-0007**, 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](#) found at www.oeb.ca/industry. We encourage the use of RESS; however, parties who have not yet [set up an account](#), may email their documents to registrar@oeb.ca.

All communications should be directed to the attention of the Registrar at the address below 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, Shuo Zhang, at Shuo.Zhang@oeb.ca and OEB Counsel, Lawren Murray, at Lawren.Murray@oeb.ca.

⁵ Section 4.3.1 of the Practice Direction.

Email: registrar@oeb.ca

Tel: 1-888-632-6273 (Toll free)

Fax: 416-440-7656

DATED at Toronto, **January 12, 2021**

ONTARIO ENERGY BOARD

Original signed by

Christine E. Long
Registrar