

January 28, 2021

BY EMAIL AND FILED VIA RESS

Ms. Christine Long
Board Secretary
Ontario Energy Board
2300 Yonge Street
Suite 2700
Toronto, ON M4P 1E4

Dear Ms. Long:

**Re: Niagara Peninsula Energy Inc. ("NPEI")
Submissions To Procedural Order No. 2
EB-2020-0040**

Pursuant to Procedural Order No. 2, NPEI has communicated with the Parties to this proceeding regarding the confidential information and provide the Board the following response.

Following the Board's Decision and Order regarding the issues list and confidentiality claims, the Parties achieved full settlement which is before the Board for approval (the "Settlement Proposal"). As part of the Settlement Proposal, NPEI had submitted responses to clarification questions posed by the Parties. Contemporaneously with filing the Settlement Proposal, NPEI refiled the submission regarding the Category 2 confidentiality claim. In the refiled materials, NPEI seeks to retain confidentiality over 1 document (Niagara Peninsula Energy Inc. Salary Structure Re-Design). while 2 documents (NPEI Executive Total Compensation Pay Policy and the NPEI Executive Incentive Pay Plan) that had been previously included in the initial confidentiality request were filed with the clarification questions. As Procedural Order No. 2 notes, the 1 remaining document at issue was not included in Attachment 1 to the clarifying questions in redacted form. This is because it was never meant to be filed with the clarification questions as it was previously filed with the Board as an attachment to an interrogatory response (4-Staff-62) and there was not intended to that they be placed on the public record with the other 2 documents. Consistent with that, in the refiled materials, NPEI seeks to retain confidentiality over only that single document.

The contents of the confidential document were available to the two parties, SEC and DRC, that signed the undertaking. Hydro One and VECC did not sign the undertaking. However, as indicated, a complete settlement was reached and the Parties who have received the document are of the view that the document, while clearly relevant to the application, is not strictly speaking required to support the Settlement Proposal, but it does provide context and like many other parts of the evidence, helped informed settlement positions.

Further, since a full settlement has been reached, NPEI has been informed that no intervenor will object to NPEI's request to maintain the confidentiality of the document for which confidentiality is claimed.

As noted in the request for confidentiality, NPEI submits the document contains highly confidential personal information throughout its entirety. The difficulty in redacting portions of the document, without effectively disclosing confidential information, is too great and has therefore sought confidentiality over the entire agreement. Maintaining the confidentiality of the entire document provides the Board with all possible necessary information for assessing the Settlement Proposal in the context of the entire record. It is NPEI's view the public maintains assurance that all required information was provided by NPEI and reviewable in a manner that protected the very personal information contained in the document.

The content of this letter has prepared with the involvement of SEC, DRC, VECC and Hydro One who we understand are comfortable with its content.

Yours truly,

AIRD & BERLIS LLP

A handwritten signature in black ink, appearing to read "Scott Stoll". The signature is fluid and cursive, with a large initial "S" and a trailing flourish.

SCOTT STOLL
Partner

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