



Burlingtonhydro inc.

Registrar  
Ontario Energy Board  
27<sup>th</sup> Floor  
2300 Yonge Street  
Toronto, ON  
M4P 1E4

March 5, 2021

Dear Ms. Long,

**Re: Electricity Distribution License ED-2003-0004  
2021 Cost of Service Application for Electricity Distribution Rates (EB-2020-0007)  
Burlington Hydro Inc. Reply Submission on Confidentiality and  
Cover Letter for Confidential Reports**

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Burlington Hydro Inc. ("BHI") filed its 2021 Cost of Service Rate Application ("the Application") on October 30, 2020 and received interrogatories related to the Application on January 14, 2021. As part of its interrogatory responses, BHI requested confidential treatment of five documents where redactions were made pursuant to the Ontario Energy Board's ("OEB") *Practice Direction on Confidential Filings* ("Practice Direction"):

- 2-Staff-17
- CCC-13
- DSP-DRC-4
- 2-SEC-14
- 4-VECC-46

Additionally, in BHI's responses to interrogatories 1-SEC-2 and 4-Staff-53 (a) and (d) it indicated that it was unable to provide copies of the following reports because it had entered into non-disclosure agreements with the report providers:

- 2020 MEARIE Management Salary Survey ("Report 1")
- Korn Ferry 2019 Management and Non-Union Employee Pay Report ("Report 2")
- 2016 Willis Towers Watson Incentive Program Review ("Report 3")

On February 17, 2021, BHI filed a redacted version of Report 3 on the public record after receiving consent from the report author to do so. Regarding Reports 1 and 2, Burlington Hydro stated that it was prepared to file these reports in confidence but had not received consent from the report providers.

On February 19, 2021, the Board issued Procedural Order No. 3 ordering BHI to file Reports 1 and 2 in full with the OEB, and to provide to intervenors that have executed a Declaration and Undertaking, copies of Reports 1 and 2 redacted for personal information if applicable.



On February 22, 2021, BHI filed the following reports:

- Unredacted confidential copies of Reports 1 and 2 with the OEB.
- Copies of Reports 1 and 2, redacted for personal information, together with certain information denoted as Korn Ferry Information, as identified in BHI's cover letter, to intervenors who signed the OEB's Declaration and Undertaking.
- BHI noted in its February 22nd letter that it was also filing the 2019 Burlington Hydro CEO Pay Review Report ("Report 4") that it undertook as part of the management and non-union compensation review (two separate reports - Reports 2 and 4 were provided within the context of that one review). BHI filed an unredacted confidential version with the OEB and a copy redacted for personal information to intervenors that had signed the OEB's Declaration and Undertaking.

On February 26, 2021 OEB Staff and School Energy Coalition ("SEC") made submissions on the confidentiality requests of interrogatory responses and compensation benchmarking reports. In accordance with Procedural Order No. 3, BHI is filing its:

1. Reply Submission on Confidentiality.

Furthermore, as BHI has yet to file redacted versions of Reports 1, 2 and 4 to be placed on the public record in accordance with the OEB's Practice Direction, BHI is also filing:

2. Public redacted versions of Reports 1, 2, and 4

#### **1. BHI's Reply Submission on Confidentiality**

In accordance with Procedural Order No. 3, BHI makes its reply submissions on the confidentiality requests of interrogatory responses and compensation benchmarking reports.

##### **2-Staff-17 c) and 2-SEC-14 b)**

BHI requested confidential treatment of various settings, calculations and assumptions used in METSCO's Evaluation Tool provided in response to Interrogatories 2-Staff-17 c) and 2-SEC-14 b). BHI submitted that the redacted information regarding the Evaluation Tool represents commercial and technical material that is consistently treated in a confidential manner by METSCO. OEB Staff noted that the redacted information consists of detailed assumptions, data, and calculations within the Evaluation Tool and does not oppose BHI's request for confidential treatment of this information. SEC submitted that BHI has not explained why this information is a trade secret, and therefore the request for confidentiality should be denied unless BHI is able to provide further information to substantiate its claim.



BHI submits that the redacted information represents the internal workings of the Excel-based tool, and its disclosure could reasonably lead to another party reproducing the tool at no cost. The redacted information represents METSCO's intellectual property which is at risk of loss should it be publicly disclosed. As such, BHI is requesting that the OEB allow the redacted information to remain in confidence in this proceeding.

CCC-13 and 4-VECC-46 a)

BHI was requested to provide the total cost of Customer Engagement activities with Innovative Research Group ("Innovative") and the cost of METSCO's Evaluation Tool and Prioritization Tools as part of its interrogatory responses to CCC-13 and 4-VECC-46a) respectively. In its response to CCC-13, BHI submitted that the disclosure of project cost could reasonably be expected to prejudice Innovative's negotiating position on future engagements with other LDCs and interfere significantly with those negotiations.

In their submissions regarding CCC-13, OEB Staff and SEC noted that the total cost of Customer Engagement activities is regularly provided on the public record in other OEB proceedings. In their submissions regarding 4-VECC-46 a), OEB Staff and SEC noted BHI did not provide reasons supporting the request to redact the cost of the Evaluation Tool and Prioritization Tool. This was an oversight on BHI's part – BHI submits that the rationale for not disclosing the cost of Innovative's customer engagement cost also applies to the disclosure of the cost of Metsco's Evaluation Tool and Prioritization Tool.

BHI submits that disclosing the cost of the customer engagement activities, Evaluation Tool, and Prioritization Tool sets an indicative price for future negotiations. A like-sized company or like-utility could use this information to affect negotiations in what is a discrete Ontario market, making the disclosure of this information prejudicial to Innovative's and METSCO's competitive positions.

DSP-DRC-4

As part of its interrogatory response to DSP-DRC-4, BHI submitted that the disclosure of project details and timelines could reasonably be expected to prejudice Innovative's competitive position, as this information is proprietary to their approach to Customer Engagement. In their submissions, OEB Staff and SEC noted that this information is regularly provided on the public record in other OEB proceedings.

BHI has reconsidered its position and is prepared to provide unredacted versions of this interrogatory response on the public record.



Korn Ferry 2019 Management and Non-Union Employee Pay Report ("Report 2") and 2019 Burlington Hydro CEO Pay Review Report ("Report 4")

In its letter dated February 22, 2021 BHI provided redacted versions of Report 2 and Report 4 to remove personal information as well as information Korn Ferry considered proprietary and insisted be permanently redacted.

In its submission, OEB Staff agreed that *"information which discloses or will along with already available information allow someone to ascertain, the actual compensation/salary for a specific BHI employee qualifies as "personal information"*. However, OEB Staff and SEC noted that the redactions proposed by BHI appear to go beyond information that would reveal the compensation/salary for a specific BHI employee and requested BHI to review these redactions again or explain the basis of these redactions. After reviewing the redacted information, BHI agrees that the phone number and email address of a Korn Ferry employee in Reports 2 and 4; and the names of a number of BHI employees in Report 2 do not constitute personal information and should not have been redacted.

SEC further submitted that BHI's redactions to non-personal information at Korn Ferry's urging with respect to "All Industrial Market" and "Ontario Utilities Market" listing of companies and information is inappropriate and breaches the terms of Procedural Order No. 3. As stated in BHI's letter dated February 22, 2021, BHI takes no position in this regard and will abide by any OEB direction in this regard. BHI is of the opinion that the list of participants does constitute proprietary confidential information but it is not personal information.

2020 MEARIE Management Salary Survey ("Report 1")

BHI has filed unredacted confidential versions of Report 1 with the OEB and intervenors who have signed the OEB's Declaration and Undertaking. Report 1 contained no personal information. However, BHI is seeking confidential treatment of Report 1 as identified in Section 2 below.

**2. Reports to be Placed on the Public Record**

As stated above, BHI filed unredacted confidential copies of Reports 1, 2 and 4 ("the Reports") with the OEB. Although copies of the Reports, redacted for personal information, together with certain information denoted as Korn Ferry Information, were provided to the intervenors that have signed the OEB's Declaration and Undertaking, a redacted version was not filed on the public record which would denote additional aspects of those reports that were not personal or the Korn Ferry information, but over which BHI requests confidential treatment. As a result, SEC and Board Staff have not yet had the opportunity to make submissions on those aspects. BHI apologizes for any inconvenience and acknowledges that SEC and Board Staff should have the opportunity to make submissions in that regard.



BHI is, together with these submissions, filing redacted versions of the Reports to be placed on the public record. These Reports have been redacted for personal and proprietary confidential information, consistent with the Board's Practice Direction.

### 2020 MEARIE Management Salary Survey ("Report 1")

#### *Personal Information*

There is no personal confidential information contained in Report #1.

#### *Proprietary Information*

BHI requests confidential treatment of Report 1 (produced by Korn Ferry for MEARIE) for the following reasons:

Report #1 is an "off-the-shelf" benchmarking report which, if made publicly available in its entirety, would prejudice MEARIE's and Korn Ferry's competitive position and could produce a significant economic loss to MEARIE and Korn Ferry. If the unredacted report was made publicly available, MEARIE would lose the ability to sell the report for financial gain; and Korn Ferry would lose the opportunity to provide services to MEARIE. Confidential treatment of "off-the-shelf" benchmarking reports is consistent with the Board's decision in Toronto Hydro's Custom Incentive Rate Application<sup>1</sup> in which the CEA benchmarking report was not placed on the public record.

As such, BHI has made redactions to certain benchmarking information regarding salaries and benefits, and listings of Hays Points, salary and target bonus % by position. In addition, sample size of and number of participants in the survey; list of survey participants has been redacted as it consists of commercial material that is consistently treated in a confidential manner by Korn Ferry.

Furthermore, Report #1 contains Union and Non-Union historical and forecasted compensation information, including but not limited to salary range adjustments, base salary increases, benefit policies and numerous benefits provided to employees. BHI's current collective agreement with the International Brotherhood of Electrical Workers ("IBEW") expires on April 1, 2021. Negotiations between BHI and the IBEW will be taking place in the near future. As such, any reference to, or inclusion of, Union and Non-Union compensation information provided in Report 1 is sensitive and could prejudice BHI's 2021 collective bargaining process.

The list of redactions related to this confidential proprietary information is provided in Table 1 below with a reference to the consideration(s) in Appendix A of the Board's Practice Direction that applies. BHI is requesting that the Board allow the redacted information to remain in confidence in the proceeding.

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<sup>1</sup> Decision and Order on Notice of Motion, February 11, 2015, p10-11



**Table 1 – Listing of Redacted Proprietary Information – MEARIE SURVEY**

The MEARIE Group 2020 Management Salary Survey (September 2020) - REPORT - Report 1			
Page Title	Pg. #	Notes	Factor for Consideration
Participants	8	list of customers (LDCs in KF database)	Appendix A (b) - commercial information
Participant Group Profile	9	sample size and # of participants	Appendix A (b) - commercial information
Salary Administration (salary range adjustments)	10	salary range adjustments by employee level	Appendix A (a) (i) - prejudice to competitive position; Appendix A (a) (iii); interference with negotiations Appendix A (a) (iv) - significant loss
Base Salary Increases	11	base salary increases by employee level	
Incentive Programs	12	number and % of LDCs participating in incentive plans; average plan mix by performance factor	
Threshold Bonus Payouts/Maximum Bonus	13	number of participating LDCs; threshold bonus payouts by employee level	
Salary Compression Policy	14	Front line supervisors compression policies	
Line Supervisor Review/Overtime	15	Compensation and overtime policies/rates for line supervisors	
Line Supervisor Team size and vehicle	16	Overtime rates for supervisory and bargaining unit levels; typical team size	
Engineer Compensation	17	Engineering compensation	Appendix A (b) - commercial information; out of scope
Non regulated revenue	18	Non-regulated revenue	
KPIs/Non-regulated growth	19	Non-regulated revenue	Appendix A (b) - commercial information; out of scope
COVID-19 strategies	20	leave of absence; allowances; vacation policy	Appendix A (a) (i) - prejudice to competitive position; Appendix A (a) (iii); interference with negotiations
Benefit Policies	21-27	various benefit policies	Appendix A (a) (iv) - significant loss
The MEARIE Group 2020 Management Salary Survey (September 2020) - SUPPORTING DOCUMENTS - Report 1			
Page Title	Pg. #	Notes	Factor for Consideration
All Organization Results - Participants	n/a	list of customers (LDCs in KF database)	Appendix A (b) - commercial information
All Organization Results - List of Jobs	n/a	Hay points, min/max salary by position, target bonus % (proprietary information in KF database)	Appendix A (a) (i) - prejudice to competitive position; Appendix A (a) (iv) - significant loss
Results by Customer Base - Participants	n/a	list of customers (LDCs in KF database)	Appendix A (b) - commercial information
Results by Customer Base - List of Jobs	n/a	Hay points, min/max salary by position, target bonus % (proprietary information in KF database)	Appendix A (a) (i) - prejudice to competitive position; Appendix A (a) (iv) - significant loss
Results by FTE - Participants	n/a	list of customers (LDCs in KF database)	Appendix A (b) - commercial information
Results by FTE - List of Jobs	n/a	Hay points, min/max salary by position, target bonus % (proprietary information in KF database)	Appendix A (a) (i) - prejudice to competitive position; Appendix A (a) (iv) - significant loss
Results by Region - Participants	n/a	list of customers (LDCs in KF database)	Appendix A (b) - commercial information
Results by Region - List of Jobs	n/a	Hay points, min/max salary by position, target bonus % (proprietary information in KF database)	Appendix A (a) (i) - prejudice to competitive position; Appendix A (a) (iv) - significant loss
Results by Revenue - Participants	n/a	list of customers (LDCs in KF database)	Appendix A (b) - commercial information
Results by Revenue - List of Jobs	n/a	Hay points, min/max salary by position, target bonus % (proprietary information in KF database)	Appendix A (a) (i) - prejudice to competitive position; Appendix A (a) (iv) - significant loss

**Korn Ferry 2019 Management and Non-Union Employee Pay Report (“Report 2”) and 2019 Burlington Hydro CEO Pay Review Report (“Report 4”)**

***Personal Information – Compensation Information***

As previously submitted in its letter of February 22, 2021 and as provided in Table 2 below, BHI has made redactions to the compensation information associated with specific positions and individuals; and is requesting that the Board allow the redacted information to remain in confidence in this proceeding. As stated above, BHI agrees with OEB Staff and SEC that the phone number and email address of a Korn Ferry employee in Reports #2 and 4; and the names of a number of BHI employees in Report #2 do not constitute personal information and should not be redacted.



**Table 2 – Listing of Redacted Personal Information – Compensation Information – Korn Ferry Pay Reviews**

The 2019 Management & Non-Union Employee Pay Report (December 4, 2019) - Report 2			
Page Title	Pg. #	Redaction	Notes
Job Evaluation	6	Col 3 of Table - 2019 KF Hay Points	Hay points combined w title or name is personal information
Actual and Target Remuneration by various components	13-20	All columns except Name and Position; leave page title and table title	Includes individual's Hay points, salary and comparison to all industrial and utilities market; and comparison to others in organization
Compensation Table by Incumbent	22-51	Whole table except for Title and Name; remove all Hay points (table and title)	Includes individual's Hay points, salary and comparison to all industrial and utilities market
The 2019 CEO Pay Report (November 20, 2019) - Report 4			
Page Title	Pg. #	Redaction	Notes
Methodology	5	"X Hays Points" under #1	BHI CEO's Hay points
Key Observations	11	All bullets under each of the three headings	CEO's pay position compared to All Industrial, Ontario Utilities and GSC positions
Results - Using the KF database	12	Whole table except for Title and Name; remove all Hay points (table and title)	Includes individual's Hay points, salary and comparison to all industrial and utilities market

*Proprietary Information*

BHI has made redactions to the Observations & Key Findings on page 11 of Report 2 which includes BHI's consolidated marked positioning for variance components of compensation, including but not limited to, base salary, benefit value and targeted compensation. This consists of commercial material that is consistently treated in a confidential manner by BHI. Furthermore, consolidated results could be misinterpreted due to the wide variation of positioning on an incumbent basis for different compensation elements, for which BHI is also seeking confidential treatment. Disclosure of BHI's consolidated marked positioning without the proper context could interfere with negotiations being carried out by BHI as follows:

- Disclosure of this information could interfere with salary negotiations for management and non-union new hires; and
- BHI's current collective agreement with the International Brotherhood of Electrical Workers ("IBEW") expires on April 1, 2021. Negotiations between BHI and the IBEW will be taking place in the near future. As such, any reference to, or inclusion of, Union and Non-Union compensation information provided in Report 2 is sensitive and could prejudice BHI's 2021 collective bargaining process.

BHI has made redactions to certain information regarding Korn Ferry's All Industrial Market and All Ontario Utilities Market database which includes of a list of companies in its database which consists of commercial material that is consistently treated in a confidential manner by Korn Ferry. OEB Staff submitted in its February 26<sup>th</sup> submission that it is aware of lists of



participants in compensation benchmarking studies disclosed on the public record in other proceedings and provided Hydro One Networks Inc. as an example of an LDC filing un-redacted versions of its compensation cost benchmarking studies prepared by Willis Towers Watson and Mercer in its recent transmission rate application.<sup>2</sup> BHI is not aware of Korn Ferry providing lists of its participants in its compensation benchmarking studies in other proceedings.

BHI has also made redactions to information related to Korn Ferry's Hays Points methodology which consists of commercial material which Korn Ferry consistently treats as confidential information.

The list of redactions related to this confidential proprietary information is provided in Table 3 below. BHI is requesting that the Board allow the redacted information to remain in confidence in the proceeding.

**Table 3 – Listing of Redacted Proprietary Information – Korn Ferry Pay Reviews**

The 2019 Management & Non-Union Employee Pay Report (December 4, 2019) - Report 2			
Page Title	Pg. #	Notes	
Observations and Key Findings	11	BHI's market positioning for compensation as compared to the All Industrial Market and Ontario Utilities Market	Appendix A (b) - commercial information; Appendix A (a) (iii); interference with negotiations
Appendix A - All Industrial Market	53-55	list of customers (companies in KF database)	Appendix A (b) - commercial information
Appendix B - Ontario Utilities Market	56	list of customers (LDCs in KF database)	Appendix A (b) - commercial information
Appendix C - Overview of Job Evaluation	57	proprietary information about KF Hays Points methodology	Appendix A (a) (iv) - significant loss; Appendix A (b) - commercial information
The 2019 CEO Pay Report (November 20, 2019) - Report 4			
Page Title	Pg. #	Notes	
Appendix A - All Industrial Market	15-17	list of customers (companies in KF database)	Appendix A (b) - commercial information
Appendix B - Ontario Utilities Market	18	list of customers (LDCs in KF database)	Appendix A (b) - commercial information
Appendix D - Overview of Job Evaluation	20	proprietary information about KF Hays Points methodology	Appendix A (a) (iv) - significant loss; Appendix A (b) - commercial information

Respectively submitted,

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Attachments

<sup>2</sup> EB-2019-0082, Hydro One Networks Inc. 2020-2022 Custom IR Application, Exhibit F-4-1, Attachment 1, 2 and 3, March 21, 2019.