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Ontario Energy Board
2300 Yonge Street
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May 20, 2021
Our File: EB20200290

Attn: Christine Long, Registrar

Dear Ms. Long:

Re: EB-2020-0290 – Ontario Power Generation Inc. 2022-2026 – IRR Confidentiality

We are counsel to the School Energy Coalition (“SEC”). Pursuant to Procedural Order No. 3, these are SEC’s submissions on Ontario Power Generation’s (“OPG”) request for confidential treatment over certain information contained in responses to interrogatories.

L-F4-03-SEC-149

OPG seeks confidential treatment for certain aspects of its response to SEC-149, which provides an estimate of the dollar difference between the total compensation costs for OPG’s employees allocated to its nuclear business and the P50 median used in the Willis Towers Watson (“WTW”) study. In its request for confidential treatment over portions of the interrogatory response, OPG does so under the broad heading ‘Collective Bargaining Documentation’, which SEC understands to mean that the information is labour sensitive.

SEC disagrees that the information contained in Tables 1 and 2 should be granted confidential treatment. This specific information is of the same type placed on the public record in the last two major OPG proceedings, where there was no similar request for confidential treatment.¹ OPG has not provided any reason why the situation is different in this proceeding and how it will negatively impact labour negotiations. The specific information is important and should be on the public record. In both the decisions in EB-2016-0152 and EB-2013-0321, the Board referred to this type of information in determining the appropriate level of compensation costs to be recovered in payment amounts.²

L-D3-01-Society-007, parts (h) and (n)

OPG seeks confidential treatment for certain aspects of Society-007 related to the sale of the Kipling facility. In doing so, it argues that the planned timing of the potential sale of a facility is confidential as it may prejudice its competitive position and interfere with future negotiations with a prospective purchaser. SEC submits that the date of a potential sale of a facility will not harm any future

¹ EB-2016-0152, Exhibit L, Tab 6.6, Schedule 15 SEC-083(b) (SEC IR #83b); EB-2016-0152 Technical Conference Undertaking JT3.2; EB-2013-0321, Undertaking J9.11

² [Decision and Order \(EB-2016-0152\), December 28, 2017](#), p.82 citing JT3.2 in footnote 106; [Decision with Reasons \(EB-2013-0321\), March 20, 2014](#), p.74 citing Undertaking J9.11 in footnote 71.



negotiations. OPG has provided no basis for such a claim. SEC further points the Board to OPG's complete response at part (h).

L-D3-01-Society-12, part (a), Chart 1

OPG seeks confidential treatment over the expected date of the termination of various leases. OPG argues that the information is commercially sensitive as it may significantly interfere with any future landlord-tenant lease negotiations. Based on this explanation, SEC does not understand OPG's concern. OPG is not seeking confidentiality over the specific buildings in which it will terminate its leases, only the expected date of the termination. One would assume that the various landlords would be aware of when OPG could terminate the leases based on the wording of the specific lease agreements. It is not clear how the information is commercially sensitive. SEC requests OPG to elaborate further on how public disclosure of this information may be harmful in its reply submissions.

Yours very truly,
Shepherd Rubenstein P.C.

Mark Rubenstein

cc: Ted Doherty, SEC (by email)
Applicant and intervenors (by email)