



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

July 16, 2021

Sent via email and RESS
CC to Parties of Record in EB-2021-0009

Dear Ms. Long,

RE: EB-2021-0009 Brantford Power Inc. (BPI) – Reply Submissions on Confidentiality

In response to the OEB Staff Submission on Confidentiality dated July 14, 2021, BPI provides the attached Reply Submission, consistent with Procedural Order #1 in the above-mentioned case.

Sincerely,

Oana Stefan

Manager, Regulatory Affairs | Brantford Power Inc.

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BPI filed its cost of service rate application for January 1, 2022 rates on May 12, 2021 (OEB Case No. EB-2021-0009). BPI included two documents for which it requested confidential treatment pursuant to the OEB's Practice Direction on Confidential Filings and the OEB's Rules of Practice and Procedures.

1. Attachment 4-K: Unredacted Korn Ferry Compensation Presentation (Attachment 4-K)
2. Attachment 4-M: Confidential Compensation Schedule (Attachment 4-M)

BPI filed with the OEB an unredacted version of Attachment 4-K and requested the document be kept confidential, even to parties which sign the OEB's Declaration and Undertaking form, as the document contains personal information.

BPI filed with the OEB an unredacted version of Attachment 4-M and requested the document be kept confidential, except to parties which sign the OEB's Declaration and Undertaking form and subject to BPI's right to oppose requests to access these materials.

Attachment 4-K represents the results of a study conducted for BPI by the firm Korn-Ferry reviewing the compensation for executive and non-union management employees, including the total base pay and short term variable pay for various job levels. BPI has redacted information and requested confidential treatment in this Attachment which it constitutes as personally identifiable information because, if released, it would disclose the salaries or salary ranges for identifiable individuals.

Attachment 4-M contains budgeted compensation increases for BPI's union and non-union groups in 2021 and 2022. BPI has requested confidential treatment for this attachment because it contains labour relations information which could reasonably be expected to prejudice BPI's competitive position.

In its Submission on Confidentiality, OEB Staff submitted the following:

With Respect to Attachment 4-K:

- OEB Staff submitted that it is unclear whether all of the redacted information on Attachment 4-K is personal information and that specifically it is unclear that all the information relates to *identifiable individuals*.
- OEB Staff submitted that if the information redacted on slide 14 of the report relates to the job bands or grades of identifiable BPI employees, the OEB staff agrees the information constitutes personal information and must not be disclosed.
- OEB Staff submitted that if the information about job bands does not relate to an identifiable individual, OEB Staff believes that such information does not constitute personal information and should be placed on the public record. OEB Staff provides the example that this would be the case if there was more than one individual in a given job band and position.
- OEB Staff invited BPI to clarify in its reply submission whether the information related to all or some of the job band information on slide 14 is associated with identifiable individuals.



With Respect to Attachment 4-M:

- OEB Staff submitted that it agrees that if BPI is in the process of negotiating a new collective agreement, public disclosure of the document could interfere with negotiations. On this basis, OEB Staff would support the confidentiality request for Attachment 4-M.
- OEB Staff submitted that if negotiations have concluded, the information no longer requires confidential treatment.
- OEB Staff submitted that BPI should provide an update on the status of its collective bargaining process in its reply submission on confidentiality.

BPI Reply Submissions

With respect to Attachment 4-K, BPI carefully limited the redactions so as to ensure the maximum amount of information is made available on the public record without breaching BPI's obligations under privacy law.

BPI submits that the information contained on slide 14, if made available to any party, would disclose, when read together with the balance of the presentation, the confidential and personal information of readily identifiable individuals. The redacted information represents the organization of the job titles of existing employees into job band groupings. These groupings are used to identify financial compensation information in later parts of Attachment 4-K.

Information regarding the job titles of identifiable individuals is not closely controlled and is readily available and easily ascertained by various parties. Disclosure of the information on slide 14 would allow for the inference of salary and compensation information of identifiable individuals through their ascertained job title, when considered together with the other information in the Attachment.

In most cases (all except two of the positions), BPI confirms that there is only one incumbent with a given title; however BPI does not believe this is the only relevant consideration. BPI submits that even in cases where there is more than one incumbent with a given title; the disclosure of the redacted information could still allow the inference of personal information regarding an identifiable individual's (or potentially multiple identifiable individuals') compensation.

BPI therefore submits that the information should not be made publicly available and that the information should not be provided to individuals that sign the OEB's Declaration and Undertaking form.

With respect to Attachment 4-M, BPI submits that its agreement with its union has not yet been finalized and approved by both parties, therefore the disclosure of the contents of the Attachment 4-M would continue to pose a risk of an undue loss or gain to one of the parties involved in these negotiations.

All of which is respectfully submitted.