



Ontario | Commission
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BY EMAIL

January 9, 2023

Nancy Marconi
Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4
Registrar@oeb.ca

Dear Ms. Marconi:

**Re: Ontario Energy Board (OEB) Staff Submission on Confidentiality
Bluewater Power Distribution Corp.
Application for Electricity Distribution Rates Beginning May 1, 2023
OEB File Number: EB-2022-0016**

Please find attached OEB staff's submission in the above referenced proceeding, pursuant to Procedural Order No. 1.

Yours truly,

Original Signed By

Andrew Bishop
Senior Advisor, Generation & Transmission

Encl.

cc: All parties in EB-2022-0016



ONTARIO ENERGY BOARD

OEB Staff Submission on Confidentiality

Bluewater Power Distribution Corp.

Application for Electricity Distribution Rates Beginning May 1, 2023

EB-2022-0016

January 9, 2022

Background

Bluewater Power Distribution Corp. (Bluewater Power) filed a cost of service application with the Ontario Energy Board (OEB) on October 24, 2022 under section 78 of the *Ontario Energy Board Act, 1998*, seeking approval for changes to the rates that Bluewater Power charges for electricity distribution, beginning May 1, 2023 (Application).

As part of the Application, Bluewater Power requested confidential treatment of the unredacted versions of the following four documents pursuant to the OEB's *Practice Direction on Confidential Filings* (Practice Direction)¹:

1. Document 1: Exhibit 9, Section 9.4 Attachments 9-4, 9-5, 9-6, 9-7, 9-8
 - Basis of request: confidential treatment of customer information as outlined in paragraph 3 of Appendix B of the Practice Direction.
2. Document 2: Exhibit 4, Section 4.4.3.3, Attachment 4-1
 - Basis of request: confidential treatment of non-public financial information of an unregulated affiliate as outlined in paragraph 5 of Appendix B of the Practice Direction.
3. Document 3: Exhibit 6, Section 6.2.2.1, Attachment 6-1
 - Basis of request: confidential treatment of non-public financial information of an unregulated affiliate as outlined in paragraph 5 of Appendix B of the Practice Direction.
4. Document 4: Exhibit 6, Section 6.2.2.1, Attachment 6-1
 - Basis of request: confidential treatment of personal information as outlined in Section 10 of the Practice Direction.

Bluewater Power did not provide further context for why the above listed information should be deemed confidential, other than referencing the section of the Practice Direction it determined applied to each request.

Through Procedural Order No. 1, issued on December 12, 2022, the OEB allowed parties to file objections to Bluewater Power's confidentiality request and for Bluewater

¹ Ontario Energy Board, Practice Direction on Confidential Filings, December 17, 2021

Power to reply to any objection, in accordance with the Practice Direction. OEB staff's submissions on each document follow.

OEB Staff Submission

OEB staff does not object to Bluewater Power's request for confidential treatment of the identified attachments, however, as further described below, in certain instances OEB staff disagree with Bluewater Power regarding the basis upon which confidentiality should be granted.

Document 1: Exhibit 9, Section 9.4 Attachments 9-4, 9-5, 9-6, 9-7, 9-8

Bluewater Power filed five Measurement and Verification Reports (MVR) in support of its request for disposition of its Lost Revenue Adjustment Mechanism Variance Account. Bluewater Power indicated that the MVRs, which include data on the operational characteristics of businesses that participated in the Process and Systems Upgrade Initiative, had been redacted to exclude any business information that may be commercially sensitive, consistent with the allowance provided by paragraph 3 of Appendix B of the Practice Direction that states "[i]nformation that would disclose load profiles, energy usage and billing information of a specific customer that is not personal information" will be considered presumptively confidential.

OEB staff agrees with Bluewater Power that the redactions fall within paragraph 3 of Appendix B of the Practice Direction and should be kept confidential.

Document 2: Exhibit 4, Section 4.4.3.3, Attachment 4-1

Document 2 represents a report entitled "Report on the Actuarial Valuation of Post-Retirement Non-Pension Benefits" (Report) filed by Bluewater Power in support of its other post-employment benefits (OPEB) expense claims. Bluewater Power redacted certain information in the Report related to its affiliates on the basis that it fit within the category of information set out in paragraph 5 of Appendix B which states that the following type of information will be considered presumptively confidential: "Non-public financial statement of an unregulated affiliate engaged in competitive business activity".

Although OEB staff does not object to Bluewater Power's request for confidential treatment of the unredacted attachment, it disagrees with the basis upon which confidentiality should be granted. Specifically, paragraph 5 of Appendix B of the Practice Direction applies to financial statements being considered presumptively confidential. In OEB staff's view, the Report does not constitute a financial statement.

However, OEB staff still does not oppose the claim for confidentiality and notes that similar information has been held to be confidential in previous OEB proceedings. For example, Canadian Niagara Power Inc. (CNPI) requested as part of its 2022 cost of service proceeding that a similar actuarial report be granted confidential status.² The OEB determined that the actuarial report, which included information on non-regulated affiliates, would be held confidential given the redacted information related to CNPI's affiliates was commercially sensitive and not relevant to the determination of the issues in the proceeding. OEB staff contends that Bluewater Power's request related to the Report should be granted on the same basis, not based on paragraph 5 of Appendix B of the Practice Direction.

Document 3: Exhibit 6, Section 6.2.2.1, Attachment 6-1 (pp. 105 and 196)

Document 3 represents Bluewater Power's latest filed corporate income tax return for the period ended December 31, 2021 (Tax Return). Bluewater Power redacted certain information in the Tax Return related to the total assets and total liabilities of its parent (Bluewater Power Corporation) and affiliates on the basis that it fit within the category of information set out in paragraph 5 of Appendix B which states that the following type of information will be considered presumptively confidential: "Non-public financial statement of an unregulated affiliate engaged in competitive business activity".

Although OEB staff does not object to Bluewater Power's request for confidential treatment for portions of Document 3, it is not clear whether the redactions only reflect information that would appear on the financial statements of an unregulated affiliate engaged in a competitive business activity. OEB staff asks that Bluewater Power confirm in responding to this submission whether all redacted information comes from the non-public financial statements of an unregulated affiliate engaged in competitive business activity.

Document 4: Exhibit 6, Section 6.2.2.1, Attachment 6-1 (p. 107)

Document 4 represents Bluewater Power's latest filed Tax Return. In this instance, Bluewater Power redacted the names of students associated with its Calculation of the Ontario co-operative education tax credit on the basis that names represent personal information, as defined in Section 10 of the Practice Direction. OEB staff agrees with Bluewater Power's redactions.

² EB-2021-0011, Decision on Issues List and Confidentiality, August 27, 2021

OEB staff notes that similar information has been redacted in previous OEB proceedings. For example, in EnWin Utilities Ltd. (EnWin) 2020 cost of service proceeding, the OEB concluded that certain information contained in EnWin's 2017 federal and provincial tax return, such as names of individuals (employees' names and apprentices' names), should be redacted from the public record on the basis that it constitutes personal information.³

All of which is respectfully submitted

³ EB-2019-0032, Decision on Confidentiality, July 10, 2019