

Bluewater Power Distribution Corp.

**Application for electricity distribution rates beginning
May 1, 2023**

**DECISION ON CONFIDENTIALITY
January 31, 2023**

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).

By letters dated October 24, 2022, and December 6, 2022, Bluewater Power requested confidential treatment of the unredacted versions of the following three documents that were filed as part of the Application. The requests were made pursuant to the OEB's *Practice Direction on Confidential Filings* (Practice Direction)¹.

- Document 1: Measurement and Verification Reports related to its Lost Revenue Adjustment Mechanism Variance Account claim, on the basis that it contains customer information as outlined in Section 3 of Appendix B of the Practice Direction (Exhibit 9, Section 9.4 Attachments 9-4, 9-5, 9-6, 9-7, 9-8 of the Application).
- Document 2: Report on the Actuarial Valuation of Post-Retirement non-Pension Benefits, on the basis that it contains non-public financial information of an unregulated affiliate as outlined in Section 5 of Appendix B of the Practice Direction (Exhibit 4, Section 4.4.3.3, Attachment 4-1).
- Document 3: Bluewater Power's Corporate Income Tax Return (pages 105 and 196), on the basis that it contains non-public financial information of unregulated affiliates as outlined in Section 5 of Appendix B of the Practice Direction (Exhibit 6, Section 6.2.2.1, Attachment 6-1).

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

- Document 3: Bluewater Power's Corporate Income Tax Return (page 107) on the basis that it contains personal information as outlined in Section 10 of the Practice Direction (Exhibit 6, Section 6.2.2.1, Attachment 6-1).

OEB staff was the only party to file a submission on Bluewater Power's request. In its submission, OEB staff stated that, although it did not object to Bluewater Power's request for confidential treatment of the three documents, in certain instances it disagreed with Bluewater Power regarding the basis upon which confidentiality should be granted.

Specifically, OEB staff stated that with respect to the Document 2, confidentiality should be granted on the basis that the information related to affiliates was commercially sensitive and not relevant to the determination of the issues in the proceeding, consistent with previous OEB determinations. Regarding Document 3, OEB staff requested that Bluewater Power confirm when responding to its submission whether all redacted financial information comes from the non-public financial statements of an unregulated affiliate engaged in competitive business activity. OEB staff supported the basis upon which Bluewater Power had requested confidential treatment of Document 1 and the personal information included in Document 3.

Bluewater Power filed its response to OEB staff's submission on January 12, 2023 in which it confirmed that the redacted financial information in Document 3 comes from the non-public financial statements of an unregulated affiliate engaged in competitive business activity. Bluewater Power did not provide comment on OEB staff's submission on Document 2 with respect to the basis upon which confidential treatment should be granted.

Findings

The OEB's findings on the requested redactions to the three documents are set out below.

Document 1

Bluewater Power requested confidential treatment of information relating to five customers based on "presumptive confidentiality" as provided for in the Practice Direction. "Presumptive confidentiality" is based on the proposition that the information for which Bluewater Power seeks confidential treatment is frequently commercially sensitive.

However, in Document 1, three of the customers are public entities:

- The Corporation of the Village of Point Edward
- The Corporation of the City of Sarnia
- Bluewater Health

The Independent Electricity System Operator is providing incentive payments to the three public entities when they achieve reductions in their electricity usage. There is no basis established for why the information in question is commercially sensitive given that their electricity usage does not relate to commercial activities. In fact, Bluewater Health provides information publicly on its website² that is similar to what Bluewater Power proposes to redact. The request for confidential treatment of information relating to these three customers is denied. The request for confidential treatment for the other two customers is granted.

Document 2

Bluewater Power requested confidential treatment of those portions of a pension valuation report that relate to affiliates of Bluewater Power. The OEB has previously held that similar information was commercially sensitive and granted it confidential treatment.³ The OEB approves the confidential treatment as requested by Bluewater Power.

Document 3

Bluewater Power requested confidential treatment of those portions of its income tax return that disclose financial information about its affiliates. As noted above for Document 2, the OEB has previously held that similar information was commercially sensitive and granted it confidential treatment. The OEB approves the confidential treatment as requested by Bluewater Power.

In the same tax return, Bluewater Power has also requested the redaction of the names of individuals who had work placements with Bluewater Power for which it was claiming tax credits. The OEB is satisfied that this constitutes personal information as defined under the *Freedom of Information and Protection of Privacy Act*. This information will be redacted and will not be provided to any other parties to the proceeding.

² <https://www.bluewaterhealth.ca/news/bluewater-health-completes-combined-heat-and-power-project>

³ EB-2021-0011, Decision on Issues List and Confidentiality, August 27, 2021.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Bluewater Power shall file unredacted versions of the measurement and verification reports prepared for the Process and Systems Upgrades Program projects undertaken at the facilities owned by the Corporation of the Village of Point Edward, the Corporation of the City of Sarnia and Bluewater Health.
2. Bluewater Power shall provide individuals that have signed and filed the Ontario Energy Board's standard Declaration and Undertaking with the unredacted, confidential version of (i) Measurement and Verification Reports, (ii) Report on the Actuarial Valuation of Post-Retirement non-Pension Benefits and (iii) Bluewater Power's Corporate Income Tax Return for which confidential treatment has been granted, but not the parts found to constitute personal information.

Parties are responsible for ensuring that any documents they file with the OEB, such as applicant and intervenor evidence, interrogatories and responses to interrogatories or any other type of document, **do not include personal information** (as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*), unless filed in accordance with rule 9A of the OEB's [Rules of Practice and Procedure](#).

Please quote file number, **EB-2022-0016** for all materials filed and submit them in searchable/unrestricted PDF format with a digital signature through the [OEB's online filing portal](#).

- Filings should clearly state the sender's name, postal address, telephone number and e-mail address.
- Please use the document naming conventions and document submission standards outlined in the [Regulatory Electronic Submission System \(RESS\) Document Guidelines](#) found at the [File documents online page](#) on the OEB's website.
- Parties are encouraged to use RESS. Those who have not yet [set up an account](#), or require assistance using the online filing portal can contact registrar@oeb.ca for assistance.
- Cost claims are filed through the OEB's online filing portal. Please visit the [File documents online page](#) of the OEB's website for more information. All participants shall download a copy of their submitted cost claim and serve it on all required parties as per the [Practice Direction on Cost Awards](#).

All communications should be directed to the attention of the Registrar and be received by end of business, 4:45 p.m., on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Andrew Bishop at Andrew.Bishop@oeb.ca and OEB Counsel, Lawren Murray at Lawren.Murray@oeb.ca.

Email: registrar@oeb.ca

Tel: 1-877-632-2727 (Toll free)

DATED at Toronto, **January 31, 2023**

ONTARIO ENERGY BOARD

Nancy Marconi
Registrar