

June 28, 2024

RESS & EMAIL

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Attention: Nancy Marconi, Registrar

Dear Ms. Marconi:

Re: EB-2024-0176: Application by Wataynikaneyap Power LP (“WPLP”) for Approval of 2025 Electricity Transmission Rates (the “Application”)– Request for Confidential Treatment of Information in Pre-Filed Evidence

We are legal counsel to WPLP, the applicant in the above-referenced proceeding. WPLP filed the Application on June 28, 2024. Pursuant to the OEB’s *Practice Direction on Confidential Filings* (the “**Practice Direction**”), WPLP hereby requests the confidential treatment of certain information contained in the Application that relates directly to issues which are the subject of ongoing commercial discussions between WPLP and its contractor in relation to the Engineering, Procurement and Construction (EPC) contract pursuant to which WPLP’s transmission system has been constructed (the “**Confidential Information**”). The Confidential Information has been redacted in the public version of the Application filed with the OEB.

As noted in the Application, WPLP continues to be engaged in commercial discussions with its EPC contractor regarding COVID-related costs and schedule impacts under the EPC contract. The Confidential Information relates to these aspects and a contract change request, which is under negotiation between the parties.

WPLP is requesting confidential treatment of the Confidential Information because its disclosure on the public record would interfere with the commercial discussions, and prejudice WPLP’s position in those discussions and in any resolution process that may be required in the event the discussions do not resolve the outstanding issues between the parties on a final basis. Moreover, because of the nature of the Confidential Information, its disclosure on the public record would be likely to produce a significant loss or gain to one or both of the parties to the discussions. While the Confidential Information is not presumptively confidential under Appendix B to the Practice Direction, each of the foregoing is a consideration set out in subsection (a) of Appendix A to the Practice Direction.

Further, pursuant to Appendix “A”, item (e) of the Practice Direction, in reviewing this request the OEB may consider that it previously determined that the same type of information was determined to be confidential in EB-2023-0168:

The OEB accepts WPLP’s revised confidentiality request in relation to the pre-filed evidence. The OEB finds on balance that the concerns of WPLP about possible disadvantage to its negotiating position with the EPC contractor outweigh the desirability of transparency in the access to evidence that is offered in OEB proceedings.

The OEB notes that the best interests of WPLP’s ratepayers, as well as WPLP, are engaged by the protection of confidentiality where disclosure may be unhelpful to successful negotiations with a contractor. This conclusion has informed the OEB’s findings in approving WPLP’s confidentiality request as revised in its reply submission, and summarized in Table 3 above....¹

The only information in the Application for which WPLP is requesting confidential treatment is the Confidential Information, and WPLP is not requesting confidential treatment of such information for any reasons other than as set out above. The parts of the Application containing the Confidential Information are set out in the following table.

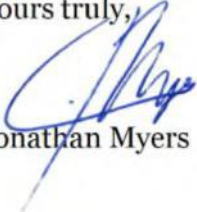
Exhibit Reference	Pages	Presumptive Confidential Treatment (Y/N)	Reasons/Potential Harms
C-2-1: In-Service Additions	p. 3 lines 1-4 p. 4 lines 1-2	No	<ul style="list-style-type: none">• Interference with ongoing commercial discussions• Prejudice to WPLP’s position in the commercial discussions and any potential dispute resolution process• Likelihood of significant loss or gain to a person• The type of information in question was previously held confidential by the OEB

Without limiting WPLP’s rights under the Practice Direction to make further submissions in response to any requests by any person to gain access to the Confidential Information, it is WPLP’s view that, if the EPC contractor or any affiliate of or person related to the EPC contractor seeks intervenor status and files a Declaration and Undertaking with the OEB, there would be compelling reasons for the OEB to either not accept such Declaration and Undertaking or for the terms thereof to be modified to ensure such person is not permitted to access the Confidential Information or any related information that WPLP may be required to file during the proceeding.

¹ EB-2023-0168, Decision on Confidentiality (October 16, 2023), p.4.

Unredacted, confidential copies of the exhibit excerpts containing the Confidential Information are provided in Appendix "A" below.

Yours truly,

A handwritten signature in blue ink, appearing to read "J. Myers", is written over the typed name "Jonathan Myers".

Jonathan Myers

cc: Ms. Margaret Kenequanash, WPLP
Mr. Duane Fecteau, WPLP
Mr. Charles Keizer, Torys

Appendix “A” – Excerpts from C-2-1

[Intentionally Omitted]