

September 27, 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: Wataynikaneyap Power LP (“WPLP”) – Application for Approval of 2025 Electricity Transmission Rates (the “Application”) – Request for Confidential Treatment of Information in Interrogatory Responses**

We are legal counsel to WPLP, the applicant in the above-referenced proceeding. WPLP filed its interrogatory responses on September 27, 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 its interrogatory responses that relates directly 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 interrogatory responses filed with the OEB. In particular, the requests relate to one interrogatory response identified below. As further described herein, WPLP wishes to emphasize that the reasons in support of affording confidential treatment to the Confidential Information are materially the same as those previously raised by WPLP, and accepted by the OEB, related the Application and in EB-2023-0168, in support of the same type of information. As such, WPLP submits that there is no reasons to deviate from the established approach.

As noted in the Application, and in WPLP’s confidentiality request related to the Application, WPLP continues to be engaged in negotiations with its EPC contractor regarding COVID-related costs and schedule impacts under the EPC contract. The Confidential Information relates to these aspects and certain contract change requests, which are under review or at different stages of resolution as between the parties.

WPLP is requesting confidential treatment of the Confidential Information because its disclosure on the public record would significantly interfere with the discussions, and materially 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, as the Applicable raised in its confidentiality request related to the Application, which the OEB accepted,<sup>1</sup> 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....<sup>2</sup>*

The only information in the interrogatory responses 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 interrogatory responses containing the Confidential Information are set out in the following table.

<b>IRR</b>	<b>Pages</b>	<b>Presumed Confidential (Y/N)</b>	<b>Reasons/Potential Harm</b>
OEB 11 (part (a) of response)	2 (of 3)	No	<ul style="list-style-type: none"><li>• Interference with ongoing commercial discussions</li><li>• Material prejudice to WPLP’s position in the commercial discussions and any potential dispute resolution process</li><li>• Prejudicing a person’s competitive position</li><li>• Likelihood of</li></ul>

<sup>1</sup> EB-2024,0176, Procedural Order 2 and Decision on Issues List and Confidentiality Request (August 28, 2024), p.1).

<sup>2</sup> EB-2023-0168, Decision on Confidentiality (October 16, 2023), p.4.

			significant loss or gain to a person
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Unredacted, confidential copies of the interrogatory response excerpts containing the Confidential Information are provided in Appendices "A" below.

**Access to Confidential Information**

Consistent with the Practice Direction, it is WPLP's expectation that access to confidential information in this proceeding will only be available to representatives of parties that file Declarations and Undertakings in the prescribed form. As no parties have filed Declarations and Undertakings, it is WPLP's expectation that access to confidential information would therefore only be available to OEB staff that are involved directly in this proceeding and that such staff would be under equivalent obligations in respect of confidentiality notwithstanding that they are not required to file Declarations and Undertakings. Moreover, in respect of any Declarations and Undertakings that may be filed, WPLP reserves its right to make submissions regarding the need for limitations on access to any of the confidential information.

Yours truly,



Charles Keizer

cc: Ms. Margaret Kenequanash, WPLP  
Mr. Duane Fecteau, WPLP

**Appendix “A” – Staff 11(a)**

**[Intentionally Omitted]**