

John Vellone
T: 416-367-6730
jvellone@blg.com

Colm Boyle
T: 416-367-7273
cboyle@blg.com

Borden Ladner Gervais LLP
Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto ON M5H 4E3
Canada
T 416-367-6000
F 416-367-6749
blg.com

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DELIVERED BY EMAIL
registrar@oeb.ca

Ms. Nancy Marconi
Ontario Energy Board
2300 Yonge Street, 27th floor
P.O. Box 2319
Toronto, ON M4P 1E4

Dear Ms. Marconi:

**Re: EARTH Power Corporation (“ERTH”)
2025 Application for 2025 Rates – EB-2024-0021 (“Application”)
Confidential Interrogatory Responses**

We represent EARTH in the above noted matter. Pursuant to Procedural Order No. 1, on January 7th EARTH filed responses to all interrogatories except for SEC-1.

ERTH is filing with the Ontario Energy Board (“OEB”) certain information in response to SEC-1 that is confidential and/or subject to the *Freedom of Information and Protection of Privacy Act* (“FIPPA”). EARTH is hereby requesting confidential treatment of the information in the table below pursuant to sections 9A, 10.01 and 10.02 of the OEB’s Rules of Practice and Procedure (revised March 6, 2024) and sections 5.1.1, 5.1.2, 10 and 11 of the OEB’s Practice Direction on Confidential Filings (revised December 17, 2021, “**Practice Direction**”).

| Reference | Reason for Confidentiality |
|--|---|
| SEC-1, Attachment 1 Directors Meeting (Oct 20, 2022) | Section 11 of the Practice Direction. This record contains some information that is relevant and other information that is not relevant to SEC-1. EARTH is providing all relevant information in relation to the New Facility that was requested in SEC-1. The redacted information is not relevant to the Application as it relates to EARTH Board’s business strategy broadly and does not relate to the New Facility. The redacted information relates to unrelated business growth strategies and opportunities, risk management and corporate sustainability, innovation to enhance customer experience and performance excellence, and market reputation and strong community relations. |

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| | In accordance with 11.1.4, if the OEB determines that some or all of the redacted information is relevant, ERTH requests an opportunity to assess whether any of the information is confidential or contains personal information and make further submissions. Some of the information that is redacted may also be confidential and/or contain personal information. |
| SEC-1, Attachment 3 Directors Meeting (Feb 16, 2023), page 1 | Sections 4 and 5 of the Practice Direction. The redacted information relates to financial information about an unsuccessful bid by ERTH as part of a competitive process to acquire alternative real estate for the New Facility. ERTH does not want to prejudice this landowner's competitive position in the marketplace by publicly disclosing confidential business negotiations that were never ultimately concluded. In the event this information is not presumptively confidential, ERTH submits it should remain confidential on the basis of sections (a)(i) and (a)(iii) of Appendix A of the Practice Direction. |
| SEC-1, Attachment 9 Special Shareholder Meeting (Mar 23, 2023), page 5 | See the response above for Attachment 3. The redactions contain the same information. |
| SEC-1, Attachment 10, Bid Summary and Report Recommendations | Sections 4 and 5 of the Practice Direction. ERTH is requesting the entire document be filed confidentially with the OEB. This document contains confidential information about bids received from construction contractors for the New Facility. The document compares all bids to one another, including unsuccessful bids, and provides confidential costs and a list of preferred subcontractors. ERTH submits this information is presumptively confidential in accordance with section 4 of Appendix B of the Practice Direction. In the event this document is not presumptively confidential, the OEB has similarly granted confidentiality over information related to requests for proposals in other cases. ¹ |

Yours truly,

BORDEN LADNER GERVAIS LLP



Colm Boyle

¹ Decision on Confidentiality EB-2021-0149, Enbridge Gas Inc., August 16, 2021, online: <<https://www.rds.oeb.ca/CMWebDrawer/Record/722285/File/document>>

RESPONSES TO SCHOOL ENERGY COALITION INTERROGATORIES

INTERROGATORY SEC-1

[2025 IRM Application Part 1, Appendix A, ICM Application]

- a. Please provide a copy of all materials provided to each of the ERTH Power and ERTH CORP Board of Directors regarding the New Facility.
- b. Please provide a copy of all internal business cases or similar documents outlining the cost, benefits, risks, options, etc. for the New Facility.

RESPONSE:

- a) The following is a list of materials provided to ERTH Power's Board of Directors related to the New Facility:
 - Attachment 1 - 2022_10_Package_Decision Item - 2023 Action Plan_REDACTED.pdf
 - Attachment 2 - 2022_10_Package_Resolution_ERTH BoD_2023 Corporate Action Plan.pdf
 - Attachment 3 - 2023_02_Package_Decision Item_ERTH Corporation_LDC Hub Land Acquisition16Feb2023_final_REDACTED.pdf
 - Attachment 4 - 2023_02_Package_Resolution_ERTHCorp_Land Purchase_385 Thomas Street_2023FEB16.pdf
 - Attachment 5 - 2023_03_Package_Special Shareholder Meeting_Resolution EPC Land Acquisition 385 Thomas St_2023MAR23.pdf
 - Attachment 6 - 2024_02_Package_Shareholder Special Meeting_Approval_New Building Construction Approval_15Feb2024_Final.pdf
 - Attachment 7 - 2024_02_Special Shareholder Meeting_Resolution New Build_15Feb2024_Final.pdf
 - Attachment 8 - 2024_09_Package_Special Board Meeting_Resolution_Construction Bid.pdf
 - Attachment 9 - Package_ERTH Corporation_Special Shareholder Meeting_2023MAR23_Redacted.pdf
 - Attachment 10 – 2024_09_Package_Special Board Meeting_Bid analysis Letter.pdf
 - Attachment 11 - 2023_12_Package_DRAFT_ERTH Facility ICM Model Ouput Summary 20231127_Utilis.pdf
 - Attachment 12 - 2023_12_Package_DRAFT_Utilis ERTH New Facility Business Plan 20231202.pdf
- b) The following is a list of internal business cases and documents that outlined business analysis elements related to the New Facility noted in the question:
 - a. Please see the New Facility Business Plan noted above in the Board of Directors file listing as Attachments 11 and 12.