

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

John Vellone
T: 416-367-6730
jvellone@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



File No. 15427.23

December 10, 2025

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 Mr. Murray:

Re: Entegrus Powerlines Inc. (“Entegrus”) 2026 Cost of Service Application Ontario Energy Board (“OEB”) File No. EB-2025-0044 Confidentiality Request Reply

On November 26, 2025, Entegrus filed written responses to all interrogatories pursuant to revised Procedural Order No. 1 and requested confidential treatment over certain aspects of a report prepared by Eckler Ltd. (the “**Eckler Report**”). On December 4, 2025, OEB Staff and the School Energy Coalition (“**SEC**”) filed submissions on Entegrus’ request for confidentiality. This letter constitutes Entegrus’ reply to those submissions in accordance with section 5.1.8 of the *Practice Direction on Confidential Filings*.

OEB Staff and SEC primarily argue that the OEB has already ruled on the confidentiality of previous versions of MEARIE reports. OEB Staff and SEC have overlooked the critical distinction between the confidentiality protections sought in this proceeding and those at issue in the prior matters. Entegrus is claiming presumptively confidential treatment for the “underlying dataset and/or model of a consultant retained by a party” in accordance with section 4 of the *Practice Direction on Confidential Filings*.

OEB Staff and SEC have failed to rebut this presumption. Each annual survey is a distinct work product and contains independent intellectual property rights. The submissions filed by OEB Staff and SEC do not address why the underlying dataset and model in the Eckler Report should not be afforded confidential treatment. Yesterday the OEB approved confidential treatment of a consultant’s model on the basis that the information is proprietary.¹

¹ Decision and Order EB-2025-0241, pgs. 4-5.

1. Page 8 – List of Participants (Underlying Dataset)

OEB Staff submits that the list of participants in the Eckler Report is not presumptively confidential information on the basis that no underlying data / statistic have been attributed to an individual LDC.² Entegrus does not agree.

The Eckler Report is clear that “reliable industry data” is a “core deliverable” of the report.³ The list of participants is a fundamental component of the underlying dataset – without a participant there is no underlying dataset upon which the Eckler Report could be prepared.

While Entegrus cannot anticipate all the creative ways that third parties could use customer lists to manipulate the underlying dataset and model used in the Eckler Report, a third party could compare lists of survey participants between different years. If a utility participates one year and then decides not to participate the next year (or vice versa), this change could potentially be observed and used to back calculate information specific to that utility.

A significant concern is that disclosing the list of participants could directly or indirectly expose personal salary information. For example, salary information for an individual could be derived where either: (i) the number of incumbents reflected in any benchmark position is three or fewer; or (ii) the change in the number of incumbents between years is two or fewer.⁴ Because changes in the participating utility list directly affect the Benchmark Positions Survey Results beginning on page 28 of the Eckler Report, it becomes possible to infer salary information for specific positions by comparing year-over-year participation.

These identified risks underscore why the list of participants is presumptively confidential.

2. Pages 5-7 – Benchmark Positions, Pages 28-30 – Benchmark Positions Survey Results, and Appendix C (Underlying Dataset and Model)

OEB Staff reason that prior decisions held that MEARIE reports have been disclosed before and this Eckler Report should also be disclosed.⁵ OEB Staff also submits that determining whether a document becomes part of the record is the document’s content and relevance to the matters at issue in the proceeding.⁶

As noted above, the onus lies with OEB Staff and SEC to rebut the presumption of confidentiality over an “underlying dataset and/or model of a consultant retained by a party”. The redacted information clearly pertains to the underlying dataset and the model prepared by Eckler, as stated at pages 28 and 36 of the Eckler Report:

² OEB Staff Submission at pg. 5.

³ Eckler Report at pg. 55.

⁴ For example, see Decision on Confidentiality EB-2024-0022/EB-2024-0096, October 7, 2024, at pgs. 4-5; Decision on Confidentiality EB-2021-0009, July 22, 2021.

⁵ OEB Staff Submission at pgs. 5-6.

⁶ OEB Staff Submission at pgs. 6-7.

The benchmark job tables are provided as a separate Excel file. The file includes the statistical data for the survey benchmark jobs for up to total cash compensation, including annual incentive or variable pay information. [...]

The table below shows the median values from the “All data cut. The other percentiles and data cuts are available in the Excel file, where there are sufficient data to report. [...]

Appendix C: Benchmark Job Models

OEB Staff and SEC have not rebutted this presumption. Entegrus submits that this confidentiality request is distinguishable from the cases cited by OEB Staff and SEC on the following bases:

- i) Entegrus has narrowed the redactions only to presumptively confidential information relating to the underlying dataset and model in the Eckler Report;
- ii) Prior decisions did not consider the arguments that are being advanced by Entegrus;
- iii) Prior decisions appeared to assume that the MEARIE report had been prepared by MEARIE directly, not by an independent consultant Eckler Ltd. The commercial concerns raised by Entegrus relate to Eckler as it will be the party that will suffer the commercial loss or prejudice to their competitive position. The OEB routinely grants confidentiality over consultant reports on this basis.

Entegrus agrees with OEB Staff that the Eckler Report is relevant to its application and should be placed on the record of this proceeding. However, it does not follow that a relevant record that is relied upon by Entegrus in its cost of service application must be publicly disclosed. This is acknowledged in the *Practice Direction on Confidential Filings*:

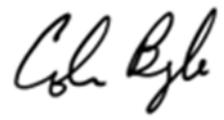
That being said, the OEB relies on full and complete disclosure of all relevant information in order to ensure that its decisions are well-informed, and recognizes that **some of that information may be of a confidential nature and should be protected as such.** [Emphasis added]

3. **Generative Artificial Intelligence**

Entegrus’ comments on generative artificial intelligence materially increases the risk that the intellectual property value of the Eckler Report, including the underlying dataset and model, could be undermined. The Eckler Report contains proprietary modelling structures, benchmark categorizations, and participant data that is of significant value to Eckler Ltd. Reproducing the analysis in the Eckler Report is significantly easier with the rapid emergence of generative artificial intelligence – this is an important consideration that did not factor into the drafting of the *Practice Direction on Confidential Filings*.

Yours truly,

BORDEN LADNER GERVAIS LLP

A handwritten signature in black ink, appearing to read "Colm Boyle". The signature is written in a cursive, flowing style.

Colm Boyle

CB/JV