



Ontario
Energy
Board | Commission
de l'énergie
de l'Ontario

BY EMAIL

May 13, 2024

Ms. Nancy Marconi
Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4
Registrar@oeb.ca

Dear Ms. Marconi:

**Re: Ontario Energy Board (OEB) Staff Submission
Upper Canada Transmission 2, Inc.
Application for Electricity Transmission Rates Beginning January 1, 2024
OEB File Number: EB-2023-0298**

Please find attached the OEB staff's submission in the above mentioned proceeding, pursuant to Procedural Order No. 6.

Yours truly,

Michael Price
Senior Advisor, Generation & Transmission

Encl.
cc: All parties in EB-2023-0298



ONTARIO ENERGY BOARD

OEB Staff Submission Request for Confidentiality

Upper Canada Transmission 2, Inc.

2024 Rates Application

EB-2023-0298

May 13, 2024

Introduction

On October 10, 2023, Upper Canada Transmission 2, Inc. (Upper Canada Transmission) applied to the Ontario Energy Board (OEB) for approval of electricity transmission rates and other charges effective January 1, 2024.

As part of the application hearing, Upper Canada Transmission submitted written responses to OEB staff and intervenor interrogatories. In its filing, Upper Canada Transmission proposes to redact the following information from the public record:

- **Unit pricing/ billing rate of a third party**
 - Sections of Exhibit I-01-08 Att. 5
 - Entirety of Exhibit I-01-09 Att.1
 - Sections of Exhibit I-01-14 Att. 3
 - Entirety of Exhibit I-01-14 Att. 6.2 to 6.7
 - Sections of Exhibit I-01-14 Att. 6.8
 - Sections of Exhibit I-01-19
 - Sections of Exhibit I-01-19 Att. 1
 - Response I-01-30
 - Response I-01-32
 - Sections of Exhibit I-01-33 Att. 1
 - Response I-01-35
 - Entirety of Exhibit I-01-35 Att. 1
 - Entirety of Exhibit I-01-36 Att. 1
 - Entirety of Exhibit I-01-37 Att. 1
 - Entirety of Exhibit I-02-07 Att. 1
 - Sections of Exhibit I-02-12 Att. 2
 - Sections of Exhibit I-02-12 Att. 3
 - Response I-03-03
 - Entirety of Exhibit I-03-10 Att. 1
 - Response IR I-03-12
 - Entirety of Exhibit I-03-12 Att. 1
 - Sections of Exhibit I-03-13 Att. 1
 - Entirety of Exhibit I-03-14 Att. 2
 - Sections of Exhibit I-05-06 Att.1
- **Other commercially sensitive information**
 - Sections of Exhibit I-01-08 Att. 7
 - Sections of Exhibit I-01-13
 - Response I-02-07
 - Response IR I-03-04
 - Response IR I-03-08
 - Response IR I-05-01
 - Response IR I-05-06

Upper Canada Transmission submits that its requests for confidentiality are based on the need to protect commercially sensitive information and outweighs the public interest in transparency. The majority of redacted information pertain to a third-party contractor, Valard Construction LP (Valard). Upper Canada Transmission asserts potential risks to Valard, including interference with ongoing commercial discussions, prejudice to competitive standing, obstruction of negotiations, and the possibility of significant losses or competitor gains, as a result of disclosure of this information. Citing EB-2020-0150 as precedent, Upper Canada Transmission also argues that similar confidential treatment has been granted before by the OEB to prevent prejudice to economic interests and competitive positions.

OEB Staff Submission

OEB staff does not support Upper Canada Transmission's redaction requests on the whole, with the exception of the specific instances listed below:

- (i) *Sections of Exhibit I-01-08 Att. 7*: Portions of NextBridge Infrastructure's meeting minutes banking and litigation information only
- (ii) *Response I-01-32*: Portions of the tables detailing force account standby unit rates, labour rates, pickup rates and flight costs
- (iii) *Sections of Exhibit I-01-33 Att. 1*: Portions of tab "Mobilization – B.2.3C"
- (iv) *Response I-01-35*: Portions of table detailing mobilization rates for crews
- (v) *Entirety of Exhibit I-01-35 Att. 1*: Spreadsheet detailing third party unit rates
- (vi) *Entirety of Exhibit I-01-36 Att. 1*: Spreadsheet with detailed budget and actual costs
- (vii) *Entirety of Exhibit I-01-37 Att. 1*: Spreadsheet with detailed budget and actual costs
- (viii) *Response to I-02-12 Att. 2*: Portions of the subcontractor's invoices containing unit rates and personnel names
- (ix) *Response to I-02-12 Att. 3*: Portions of the subcontractor's invoices containing unit rates and personnel names
- (x) *Response to IR I-03-03*: Portions that contain actual incremental safety costs and contractor's names
- (xi) *Entirety of Exhibit I-03-10 Att. 1*: Names and amounts paid to contractors
- (xii) *Response to IR I-03-12*: Portions that detail contractor's budget and actual costs for equipment
- (xiii) *Entirety of Exhibit I-03-12 Att. 1*: Contractor's equipment hours and unit rates
- (xiv) *Sections of Exhibit I-03-13 Att. 1*: Portions of spreadsheet with Living Out Allowance expenses
- (xv) *Entirety of Exhibit I-03-14 Att. 2*: Contractor's unit pricing and personnel
- (xvi) *Sections of Exhibit I-05-06 Att. 1*: Portions of Contract and breakdown

OEB staff does not object to the proposed redaction of unit pricing and billing rates of a third party where the amounts represent a specific fixed charge. OEB staff also agree with Upper Canada Transmission's request to redact the banking information and litigation in the meeting material and minutes.¹ This information is not relevant to the proceeding and should be considered commercially sensitive. However, OEB staff considers much of the billing rates and unit rate redactions to be overly broad.

Upper Canada Transmission should not be permitted to withhold aggregate costs, both budgeted and actual, especially where a central component of the application involves assessing the prudence of costs overruns. For example, total contract amounts for

¹ Staff 1-01-08

labour, material, equipment, and subcontracts are not unit pricing.² The claim that confidentiality for this type of information was previously approved under EB-2020-0150 is not comparable. The redacted information, which is pivotal in evaluating cost overruns, was not central to the prior application. The suggestion that disclosure of this information would undermine the competitive position of the contractor needs to be balanced against the harm keeping the information private.

Moreover, Upper Canada Transmission should not be permitted to keep overall cost increases from the original budget confidential. This information is equally vital for the same reasons outlined above—it is required for a thorough evaluation of the prudence of cost overruns.³

With the exclusion of specific fixed charges, the redactions for the Socotec Report should be refined as well. The Socotec Report includes studies quantifying the impact of productivity losses resulting from COVID-19. To ensure the legitimacy of the cost overruns, it is imperative that the information supporting this methodology is made available for assessment. In essence, access to the data used in the Socotec Report is essential for evaluating the accuracy of the claims made regarding productivity losses and justifying associated cost increases.⁴

Furthermore, Upper Canada Transmission's confidentiality requests include information already in the public domain. Notably, Tab 6.6 of the attachment for Exhibit I-01-14 includes data sourced from the publicly disclosed StatsCan Consumer Price Index.⁵ In addition, some of the cost calculations can be deduced from information which is already on the public record.⁶ In a letter of support submitted as part of Upper Canada Transmissions confidentiality request, Valard claims that details about the lump sum and total length of the transmission line would enable competitors to deduce its price per kilometer.⁷ OEB staff dismiss this claim as unfounded. If the total project cost cannot be disclosed, it follows that the breakdown by cost type cannot be disclosed either. This approach, according to OEB staff, leads to either a complete absence of cost information or limited information without clarity on its significance in the overall project costs.

OEB staff submits that, other than the specific instances listed above, it does not support Upper Canada Transmission's overly broad redaction requests to exclude total costs, such as contract, labour, material and equipment amounts.

~All of which is respectfully submitted~

² Staff 1-01-19

³ AMPCO I-02-07

⁴ Staff I-01-08

⁵ Staff I-01-14

⁶ CCMBC I-03-08

⁷ Appendix A - Request for Confidential Treatment, dated February 5, 2024.