



Ontario
Energy
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BY EMAIL

August 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
Essex Powerline Corporation (Essex Powerlines)
Application for 2025 Electricity Distribution Rates
OEB File Number: EB-2024-0022/EB-2024-0096**

Please find attached OEB staff's submission in the above referenced proceeding, pursuant to Procedural Order No. 3.

Yours truly,

Original Signed By

Amber Goher
Advisor, Electricity Distribution Rates

Encl.

cc: All parties in EB-2024-0022/EB-2024-0096



ONTARIO ENERGY BOARD

OEB Staff Submission on Confidentiality

Essex Powerlines Corporation

Application for 2025 Rates

EB-2024-0022/EB-2024-0096

August 13, 2024

Introduction

Essex Powerlines Corporation (Essex Powerlines) filed a cost of service application with the Ontario Energy Board (OEB) on May 1, 2024 under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B), seeking approval for changes to the rates that charges for electricity distribution, beginning January 1, 2025 (Application).

As part of its Interrogatory responses, Essex Powerlines filed the following documents in confidence pursuant to the OEB's *Practice Direction on Confidential Filings* (Practice Direction).¹

1. Compensation information for identifiable individual employees (Document 1)
 - Essex Powerlines IR Responses, 4-Staff-41
 - Essex Powerlines IR Responses, 4.0-VECC-36

2. Confidential information related to unit pricing and/or billing rates for a defined scope of work in shared service agreements with affiliates, Essex Powerlines IR Response, 4-SEC-30 (Document 2)
 - Utilismart Services
UCC-2019-02 - April 1, 2021: Schedules A & B and signatures
 - MSA
September 25, 2002 – signatures
March 1, 2009 – Schedule A and signatures
 - Utilismart Software Term Licence and Services Agreement
UCC-2018-14 – August 1, 2018: Schedule A & B and signatures
 - Utilismart Services
 - UCC-2023-87 – November 1, 2023: Schedule A & B and signatures

Essex Powerlines submitted that redacted information in Document 1 is personal information as defined in the *Freedom of Information and Protection of Privacy Act* (FIPPA). The redacted information pertains to personal information about salaries, benefits, pay adjustments and bonuses of executive staff at Essex Powerlines.

Regarding Document 2, Essex Powerlines stated that the redacted material in the shared services agreements with its affiliates is confidential. Essex Powerlines submitted that the redactions relate to unit pricing and/or billing rates for a defined

¹ Ontario Energy Board, Practice Direction on Confidential Filings, December 17, 2021

scope of work and are presumptively confidential under section 4 of the Practice Direction.

In its Procedural Order No.3, the OEB sought submissions regarding Essex Powerlines' confidentiality requests. OEB staff's submissions on each document follow.

OEB Staff Submission

Document 1

In Document 1, Essex Powerlines redacted information regarding the salary range involving groups of less than two employees in each Job Classification. Essex Powerlines submitted that the redacted information is personal information under FIPPA as it pertains to an identifiable individual about their employment history or information relating to financial transactions with their employer.

Essex Powerlines stated that the compensation information is not sufficiently aggregated to protect the identity of individual employees and there is a risk that particular information could be reasonably identified. Essex Powerlines referenced an OEB Decision on Confidentiality (EB-2020-0048), stating that similar information was treated as confidential by the OEB. OEB staff notes that the referenced Decision is related to redacting the salary of the CEO of Oshawa Power as opposed to a salary range. The exact salary of an identifiable individual is considered "financial information" which is generally treated as confidential under FIPPA. However, section 21(4) of FIPPA states, that "a disclosure does not constitute an unjustified invasion of personal privacy if it, a) discloses the classification, **salary range** and benefits, or employment responsibilities of an individual who is or was an officer or employee of an institution or a member of the staff of a minister". Therefore, OEB staff submits that the salary ranges in Document 1 do not constitute personal information under FIPPA.

Document 2

In Document 2, Essex Powerlines provided its shared service agreements with affiliates. Essex Powerlines submitted that this information is presumptively confidential under section 4 of the Practice Direction.

The redacted information consists of:

- The signatures of the Executives of Essex Powerlines and its affiliates

- Unit pricing and billing rates
- Details of scope of work and service levels
- The names, titles, email, telephone number and business address of Essex Powerlines and its affiliates' contacts

OEB staff has no concerns with the redactions proposed specifically relating to the unit pricing and billing rates and signatures of the Executives. The one issue that OEB staff has identified relates to the description of the services being offered and contact information. OEB staff notes that the information relating to the defined scope of work and services provided does not fall within the “Categories of Information that will Presumptively Be Considered Confidential” in accordance with the Practice Direction.²

OEB staff does not agree that information regarding the scope of work could be used by competitors to undercut or unfairly compete with the contracting parties given the pricing information is accorded confidential treatment. Further OEB staff is unclear of the basis for redacting names, titles, emails, telephone number and business address of the employees named on the contracts. This information appears to fit within the “business identity information” exception set out in section 2(3) of FIPPA. Section 2(3) states that “personal information does not include the name, title, contact information or designation of an individual that identifies the individual in a business, professional or official capacity.”

All of which is respectfully submitted

² Practice Direction, Appendix B