

**Essex Powerlines Corporation**

**Application for electricity distribution rates beginning  
January 1, 2025**

**DECISION ON CONFIDENTIALITY  
October 7, 2024**

Essex Powerlines Corporation (Essex Powerlines) filed an application on February 16, 2024 seeking approval to establish a new deferral account to capture commodity costs that exceed the cost of power for any kWh procured by Essex Powerlines through its Distribution System Operator Pilot Project. Essex Powerlines also requested approval of two sub-accounts to track local capacity costs and energy costs (net of IESO funding and Hourly Ontario Energy Price). Essex Powerlines requested that the new account be effective from February 19, 2024, to March 31, 2026. The OEB assigned EB-2024-0096 to the application.

Essex Powerlines filed a separate application on May 1, 2024, seeking approval for changes to the rates that Essex Powerlines charges for electricity distribution, beginning January 1, 2025. The OEB assigned EB-2024-0022 to the application.

The OEB determined that both applications would be combined into one proceeding and that an accelerated procedural schedule would be followed to address Essex Powerlines' request for a new deferral account and sub-accounts.

In accordance with Procedural Order No. 1 dated June 12, 2024, the OEB directed parties to file interrogatories in relation to the cost of service application by July 10, 2024, and for Essex Powerlines to file its responses by July 30, 2024.

Essex Powerlines filed its interrogatory responses on July 31, 2024. Included as part of its filings was a request for confidential treatment of certain portions of two interrogatory responses. Redacted versions of the interrogatory responses were filed for the public record of this proceeding and unredacted versions of the documents were filed confidentially with the OEB pursuant to the *Rules of Practice and Procedure* and the *Practice Direction on Confidential Filings* (Practice Direction). The confidentiality request relates to the following interrogatory responses:

1. Document Category 1: 4.0-VECC-36 - salary and compensation benefits of executive staff
2. Document Category 2: 4-SEC-30 - Shared services agreements:
  - Utilismart Services Agreement  
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 Agreement  
UCC-2023-87 – November 1, 2023: Schedule A & B and signatures

Essex Powerlines stated that the redacted information in Document Category 1 is personal information under the *Freedom of Information and Protection of Privacy Act* (FIPPA). Essex Powerlines noted that requested redactions involve groups of less than two employees and “the salary ranges would effectively disclose the exact compensation information for the employees within these Job Classifications”. Accordingly, Essex Powerlines requested that Document Category 1 should remain redacted and not be provided to parties who would otherwise be allowed to have access to confidential information in accordance with section 6 of the Practice Direction.

Essex Powerlines proposed to redact the following types of information in Document Category 2:

- (1) signatures of executives of Essex Powerlines and its affiliates;
- (2) unit pricing and billing rates;
- (3) details of scope of work and service levels; and
- (4) name, title, email, telephone number and business address of employees of Essex Powerlines and its affiliate named in the contracts.

Essex Powerlines submitted that the redactions in the schedules relate to unit pricing and/or billing rates for a defined scope of work and are presumptively confidential under section 4 of the Practice Direction; or alternatively, the redactions in the schedules are confidential technical, commercial or financial materials that Essex Powerlines has consistently treated in a confidential manner. Essex Powerlines submitted that disclosure of this information could produce a significant loss or gain. The confidential information would disclose a detailed scope of work, along with unit pricing, that could be used by competitors to undercut or unfairly compete with the contracting parties. Further, the information could interfere with future negotiations with alternative vendors

as they would have access to pricing information that was previously acceptable to Essex Powerlines.

Only OEB staff filed a submission on Essex Powerlines' request.

Regarding Document Category 1, OEB staff noted 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”. OEB staff submitted that the salary ranges in Document Category 1 do not constitute personal information under FIPPA.

Regarding Document Category 2, OEB staff submitted that, although it did not object to Essex Powerlines' request for confidential treatment of the pricing/billing rates and signatures, it disagreed with Essex Powerlines regarding the redaction of the scope of work and contact information of employees.

Specifically, OEB staff stated that contact information of employees 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.” OEB staff also noted 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.<sup>1</sup>

On August 22, 2024, Essex Powerlines filed its reply to OEB staff's submission. Essex Powerlines referred to a “nearly identical” scenario in EB-2021-0009 whereby the OEB granted confidential treatment of information that would allow the inference of compensation information for identifiable individuals or multiple individuals. Essex Powerlines further noted that OEB staff and VECC can obtain sufficient aggregated employee compensation information in Exhibit 4 of the cost of service application.

Regarding Document Category 2, Essex Powerlines agreed with OEB staff and withdrew its request for confidentiality in respect of descriptions of the services being offered and business contact information. However, Essex Powerlines maintained its request for confidentiality over signatures of executives and its affiliates and unit pricing and billing rates. Essex Powerlines filed revised redacted versions of the documents in Category 2.

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<sup>1</sup> Practice Direction, Appendix B

## Findings

### *Document Category 1: Salary and compensation benefits of Essex Powerlines staff*

The OEB approves the confidential treatment of the redacted information relating to salary and compensation benefits of Essex Powerlines staff in Document Category 1, recognizing the particular sensitivity of the data in this proceeding. The OEB is satisfied that the redacted information constitutes personal information, and it will not be provided to parties who would otherwise be allowed to have access to confidential information in accordance with section 6 of the Practice Direction.

The redacted information in Document Category 1 is information regarding the salary range for particular job classifications in a number of instances where there is only one employee in a job classification and one instance where there are two employees in a job classification.

As discussed above, in its reply to OEB staff submissions about the confidentiality claim, Essex Powerlines referred to the OEB's July 22, 2021 confidentiality decision in EB-2021-0009 (Brantford Power Inc. application for approval of 2022 rates).<sup>2</sup> Essex Powerlines says that the OEB considered a "nearly identical scenario" in EB-2021-0009 to that which is before the OEB in this case. Essex Powerlines relies on both the OEB staff submissions and the OEB's findings on confidentiality in EB-2021-0009. In the July 22, 2021 confidentiality decision, the OEB found that the provision of the information in question would allow the inference of compensation information for identifiable individuals or multiple individuals.

Consistent with the July 22, 2021 decision in EB-2021-0009, the OEB finds that provision of the redacted information about salary ranges in the particular circumstances of Essex Powerlines would allow the inference of compensation for identifiable individuals. In other circumstances, such as when there are multiple employees in each job classification, the disclosure of salary ranges might not give rise to concerns about inferences that can be drawn regarding compensation information for identifiable individuals. As stated above, however, the redacted information in the particular circumstances of this case includes salary ranges in many instances where there is only one employee in a job classification, as well as one instance where there are only two employees in a job classification. The redacted information about salary ranges, when taken together with other publicly-available information, could provide a basis for inferences to be drawn about compensation for identifiable individuals. The

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<sup>2</sup> Note that there were two confidentiality decisions in the EB-2021-0009 proceeding, but Essex Powerlines refers to the first of these two decisions, which was issued on July 22, 2021.

OEB is satisfied in this case that parties can obtain sufficient aggregate employee compensation information in Exhibit 4 of the cost of service application.

*Document Category 2: Shared services agreements*

The OEB approves the confidential treatment of the signatures of executives of Essex Powerlines and its affiliates; and the unit pricing and billing rates in the agreements. There was no objection to the claim for confidentiality in respect of those items, and the OEB agrees that unit pricing and billing rates are among the items considered presumptively confidential in Appendix B to the Practice Direction Further, the OEB has, on other occasions, allowed the signatures in agreements of this kind to remain confidential.

As Essex Powerlines has already filed on the public record updated redacted versions of the documents that correspond to the findings in this Decision, no further order is necessary.

**DATED** at Toronto, **October 7, 2024**

**ONTARIO ENERGY BOARD**

Nancy Marconi  
Registrar