



THE BRETON LAW GROUP

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File No. 41736-18

June 29, 2015

Nova Scotia Utility & Review Board

PO Box 1692, Unit "M"

Halifax, Nova Scotia

B3J 3S3

Attention: Doreen Friis, Regulatory Affairs Officer / Clerk

Dear Ms. Friis:

Re: M06733 - EfficiencyOne – Application for Approval of a Supply Agreement for Electricity Efficiency and Conservation Activities between EfficiencyOne and Nova Scotia Power Inc., the establishment of a final agreement between the Parties and approval of a 2016-2018 Demand Side Management ("DSM") Plan – E-ENSC-R - 15

Re: Request for confidential treatment of certain attachments to EOne's Response to Undertaking U-4

This is in response to the Board's request of June 25, 2015, with respect to EfficiencyOne's request to have specific attachments included in its response to Undertaking U-4 treated as confidential in this proceeding.

The Board has requested a more detailed explanation for the request for confidential treatment, and in particular, asks whether the documents must be wholly confidential or whether redaction of certain portions would be sufficient.

EfficiencyOne's request for confidential treatment of the attachments is made pursuant to Board Regulatory Rule 12. Rule 12(10) identifies those factors the Board must consider in determining a party's request for confidentiality:

(10) In ruling on a request for confidentiality the Board shall consider

- (a) whether the document may disclose matters involving public security;
- (b) **whether the document may disclose sensitive financial, commercial or personal matters in relation to which the desirability of avoiding disclosure in the interest of any person affected outweighs the desirability of adhering to the principle that documents be available to the public; or**
- (c) **such other matters as the Board deems appropriate.**

It is EfficiencyOne's position that all of the documents for which it has requested confidentiality are proprietary, and contain sensitive, commercial information which, if made widely available to the public, has the potential to impact EfficiencyOne's competitiveness. EfficiencyOne has commissioned and paid for each of these research reports, none of which are publicly available.

Further, the third party consultant reports also contain the methodology, approach and study results of each particular consultant to its engagement. Public availability of these reports in either their entirety or redacted form can impact the third party's consultant competitive position in its market.

Attachments 2, 3, 6 and 7

Attachments 2, 3, 6 and 7 are generally described in the Non Confidential Undertaking response as follows:

Attachment 2 – Consultant research in setting appropriate incentive levels. The report includes Dunskey's methodology and approach, and also includes recommendations for appropriate incentives in the Green Heat Program;

Attachment 3 –LED lighting study to inform the decision to offer incentives for LED lamps and to gain an understanding of consumer price thresholds for the purpose of developing appropriate incentive levels;

Attachment 6 – Market research to identify appropriate rebate levels for products supported by the Instant Savings component of Residential Efficient Products Program; and

Attachment 7 – Market research regarding incentives in the Appliance Retirement program.

EfficiencyOne's intention in commissioning these studies was to ensure its incentive levels were appropriate. With respect to each of the above, EfficiencyOne is particularly concerned that the research reports disclose methodology and data which lead to the identification of specific price points. To make these reports, either in part or in their entirety publicly available, places EfficiencyOne in a vulnerable position with suppliers and retailers. The interaction EfficiencyOne has with retailers and suppliers of products and services requires a heightened sensitivity as the interplay between sales and retail margins could be manipulated by suppliers and retailers to increase their own profits, which will lead to increased costs for EfficiencyOne and, ultimately, the ratepayer.

For the foregoing reasons, EfficiencyOne's request for confidentiality is based in part upon ensuring there is no resulting negative impact to ratepayers through increased costs or misuse of commercial data. This principal appears to have been accepted by the Board in the past as rationale for limiting disclosure of information. In *The Matter of an Application by Nova Scotia Power Incorporated for Confidential Treatment of Material Filed in its Application for Approval of 2013 Capital Expenditure for the South Canoe Wind Project (CI # 42127)* the Board stated at paragraph 28:

In the Board's opinion, the details of such costs are commercial information, which, if publicly revealed, could harm ratepayers. **It is important that NSPI obtain the best prices for materials and contracts so that projects can be undertaken at the lowest cost. Thus, the**

rate base is maintained at an amount which is no higher than necessary in order to provide safe and reliable electricity to ratepayers. Should suppliers have access to this information through a Board proceeding, the Board agrees with NSPI that “competitive advantages” may be gained, which would ultimately result in higher costs to ratepayers.

With respect to whether it is appropriate to redact portions of the above noted reports, it is EfficiencyOne’s position that it would be difficult to extract data and results from the methodology. The resulting redacted report, it is respectfully submitted, may be rendered meaningless to the reader.

Attachments 5 & 8

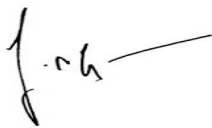
EfficiencyOne has reviewed Attachments 5 and 8. While it maintains the position that these reports are proprietary in nature and contain commercially sensitive information, the level of methodology, data and results detail is not so sensitive as to jeopardize EfficiencyOne’s position with retailers and suppliers. Accordingly, EfficiencyOne does not object to public disclosure of Attachments 5 & 8.

Conclusion

In conclusion, EfficiencyOne maintains its request for confidential treatment of Attachments 2, 3, 6 and 7 of its response to Undertaking U-4 in relation to these proceedings. EfficiencyOne is prepared to withdraw its request for confidentiality with respect to Attachments 5 and 8.

All of which is respectfully submitted.

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James R. Gogan

cc. S. Bruce Outhouse, Board Counsel
M06733 Participants