

December 9, 2015

Doreen Friis
Regulatory Affairs Officer/Clerk
Nova Scotia Utility and Review Board
1601 Lower Water Street, 3rd Floor
P.O. Box 1692, Unit "M"
Halifax, NS B3J 3S3

Re: M07176 - NSPI - 2016 Annual Capital Expenditure ("ACE") Plan - P-128.16

Dear Ms. Friis:

By letter of November 26, 2015, the UARB directed NS Power to provide additional justifications and clarification regarding NS Power's request for confidential treatment of certain information in the 2016 ACE Plan. Specifically, the Board directed as follows:

The Board also reviewed the confidentiality matrix, and NSPI's request for confidential treatment of certain information, filed in the various capital work orders. The Board notes that, in its 2016 ACE Plan submission, NSPI does not consider any attachment to be fully confidential. With reference to commercially sensitive cost information, it is not always clear why certain information is sometimes considered confidential, and sometimes non-confidential. Some examples are:

- G01, G02, G03 - design cost estimates are considered to be non-confidential, but design contingencies are confidential;
- Cost estimates for materials are confidential in G01, G03, but not in G06, G07;
- Reason(s) to redact information in T03.

The Board asks NSPI to provide justification for the above examples, and in general, to explain the criteria used to identify commercially sensitive cost information.

Please accept this letter in response to the Board's request.

Commercially Sensitive Information

As set out in NS Power's 2016 ACE Plan Confidentiality Matrix, NS Power's intent in identifying commercially sensitive information is as follows:

To protect value for customers and mitigate the risk of prospective proponents having access to project budget information, and maintain good business relations with vendors...

Applying confidentiality to commercially sensitive information protects NS Power's customers from the potential of third parties using that same information to their advantage, creating the risk of unfavourable commercial terms and costs. As stated in NS Power's Confidentiality Matrix:

The more a supplier is aware of NS Power's specific requirements, the better their ability to obtain the highest price, reduce competition and ultimately increase the cost for NS Power and its customers. The cost of such transparency is not always immediately evident. Information from regulatory proceedings can provide competitive advantages over other suppliers, and that could be advantageous in bidding or negotiation. Higher prices, or avoidable contractual constraints, will result in unnecessary higher costs to customers.

Each capital work order is examined on a case-by-case basis to determine whether it contains commercially sensitive information. The individual circumstances of the project will influence whether NS Power designates information as commercially sensitive.

Multiple factors are taken into consideration in assessing whether information is confidential. For example:

- *Competitive Bidding Process*

If the project will be subject to or is in the process of a competitive bidding process, corresponding information is frequently considered confidential as the information has the potential to be used by a third party bidder in the submission of their bid.

If a competitive bidding process has completed and pricing determined, there is less commercial sensitivity with respect to that information and often it can be treated as non-confidential.

- *Cost Support Documentation*

If the information provided in a capital work order is derived from a confidential supporting document, then that information would be treated as confidential unless it is determined that it can be released in a non-confidential manner.

In all cases where cost support attachments are included with capital work orders, NS Power works with its vendors to minimize any confidential treatment of their document(s).

- *Source of Cost*

Occasionally, the source of a cost estimate may be materials already in NS Power's stores, or the costs of the services or materials are well known or standardized.

In such instances, the corresponding information would generally not be considered commercially sensitive and therefore treated as non-confidential.

- *Protecting other Commercially Sensitive Information*

In some cases, information would be treated as confidential to protect commercially sensitive information. For example, an amount may be redacted because it could be used by a third party to calculate commercially sensitive information that is otherwise confidential.

In all cases, NS Power has attempted to minimize the information for which it seeks confidentiality. As the Board noted in its letter, "in its 2016 ACE Plan submission, NSPI does not consider any attachment to be fully confidential." This has been done to ensure transparency, and to provide an open and constructive hearing process for stakeholders and the public.

Project Specific Confidentiality Clarification

The Board requested additional clarification regarding a number of specific 2016 ACE Plan projects. Each such project is dealt with in turn below.

- G01, G02, G03 - design cost estimates are considered to be non-confidential, but design contingencies are confidential;

The design cost estimates and design cost contingencies are not commercially sensitive. However, consistent with the reasoning provided in the “Protecting other Commercially Sensitive Information” section above, design cost contingencies are redacted in order to protect the commercially sensitive information for contracts and its associated construction contingencies. With the design contingency amount known, it is possible to calculate back to the total contracts plus contingency amounts which are commercially sensitive.

- Cost estimates for materials are confidential in G01, G03, but not in G06, G07;

Confidential treatment of G01 and G03 is consistent with the reasoning in the “Competitive Bidding Process” section above. NS Power intends to subject the materials in these capital work orders to an RFP process. As such, the materials are designated confidential. Non-confidential release of this information could be used by a third party bidder in the submission of their bid.

Confidential treatment of G06 and G07 is consistent with the reasoning in the “Source of Costs” section above. The materials for these projects are well known, run-of-the-mill items, and are therefore not considered commercially sensitive. As such, NS Power has not claimed any confidential treatment with respect to this specific information.

- Reason(s) to redact information in T03.

The redactions in T03 apply to replacement energy cost information in the attached EAM.

In this case, the fields in the replacement energy section of the EAM have no data and were redacted in error. NS Power apologizes for the oversight.

NS Power trusts that the above information provides the additional clarification requested by the Board. Attached hereto is a revised T03, which is now being submitted as part of the 2016 ACE Plan proceeding on a fully non-confidential basis.

December 9, 2015
D. Friis

If you have any questions or require any further clarification on any of the above, please contact the undersigned.

Yours truly,

A handwritten signature in black ink, appearing to read "Brian Curry". The signature is written in a cursive style with a large, looping initial "B" and a long, sweeping tail.

Brian Curry
Regulatory Counsel