

NEW BRUNSWICK ENERGY AND UTILITIES BOARD

CLAIM FOR CONFIDENTIALITY

(Rule 6.4)

In Relation to an Application by: New Brunswick Power Corporation (“NB Power”)

In Accordance with: Subsection 107(2) of the *Electricity Act* SNB 2013 c. E-7 (the “*Electricity Act*” or the “*Act*”)

NB Power requests that the document being filed with the Board and described below be held in confidence by the Board pursuant to Section 34 of the Energy and Utilities Board Act:

a. Name of document(s):	CONF Affidavit of Justin Urquhart dated July 17, 2025 CONFIDENTIAL											
b. Proposed confidential treatment:	<input checked="" type="checkbox"/> Limited disclosure of the non-redacted, confidential document to the Board and to the proposed designated recipient(s) named below who will have executed, filed and delivered a Confidentiality Undertaking (see Items c and f, below). <input checked="" type="checkbox"/> Redacted version of the document filed and served on all parties and placed on the public record. 1. Affidavit of Justin Urquhart dated July 17, 2025 REDACTED											
c. Proposed designated recipient(s):	<table border="1"> <thead> <tr> <th>Name of Party</th><th>Name(s) and Positions of Designated Recipients</th></tr> </thead> <tbody> <tr> <td>NBEUB</td><td>Melissa Curran, Chief Clerk</td></tr> <tr> <td>NBEUB</td><td>Abigail Herrington, Board Counsel</td></tr> <tr> <td>NBEUB</td><td>Board Staff</td></tr> <tr> <td>Public Intervener</td><td>Alain Chiasson, Public Intervener</td></tr> </tbody> </table>	Name of Party	Name(s) and Positions of Designated Recipients	NBEUB	Melissa Curran, Chief Clerk	NBEUB	Abigail Herrington, Board Counsel	NBEUB	Board Staff	Public Intervener	Alain Chiasson, Public Intervener	
Name of Party	Name(s) and Positions of Designated Recipients											
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NBEUB	Abigail Herrington, Board Counsel											
NBEUB	Board Staff											
Public Intervener	Alain Chiasson, Public Intervener											
d. Reasons for maintaining confidentiality:	The nature of the confidential information contained in the above documents, and the reasons for this claim for confidentiality, are as follows: <u>Commercially Negotiated Terms</u> 1. The information over which confidentiality is claimed consists of commercial terms in the Tolling Agreement dated July 2, 2025 (attached as Exhibit “A” to the Affidavit of Justin Urquhart) and in a Ground Lease dated July 2, 2025 (attached as Exhibit “B” to the Affidavit of Justin Urquhart), agreed between the parties on matters such as pricing, project timelines and milestones, default and remedies (including the availability and amounts of liquidated damages), security for performance and other negotiated terms and conditions which have commercial value. 2. NB Power’s counterparty operates in a competitive industry in the construction, ownership and operation of electrical generation facilities under contract to its customers. Revealing the confidential information on the											

	<p>public record or to one or more expected interveners in this matter would cause harm to or prejudice the commercial interests of the counterparty.</p> <p>3. The confidential information is subject to confidentiality provisions in the Tolling Agreement and the Ground Lease, and preservation of such confidentiality is in the public interest.</p> <p>4. NB Power (and/or its subsidiary, New Brunswick Energy Marketing Corporation ("NBEMC")) participate in competitive energy markets with respect to the purchase and sale of energy, capacity, ancillary services and fuels. Disclosure of the confidential information would cause harm to or prejudice the commercial interests of NB Power (and by extension, the interests of ratepayers) in the negotiation of the most favorable terms for such purchases and sales. Such harm is caused both by disclosure to potential future counterparties of the terms and conditions accepted by NB Power in the Tolling Agreement, and the potential reluctance of future counterparties to contract with NB Power or to offer favorable terms if NB Power's ability to assure counterparties that commercially sensitive information will remain confidential is compromised.</p> <p><u>Critical Energy Infrastructure Information ("CEII")</u></p> <p>5. The information over which confidentiality is claimed consists of appendices to the Tolling Agreement which include one-line drawings of the configuration of generation and transmission assets (and their interconnection), and narrative description of the same, within the Tolling Agreement.</p> <p>6. The Reliability Standards regime in New Brunswick is governed by Regulation 2013-66 ("NB Reg. 2013-66" or the "Reliability Standards Regulation") under which the Board approves reliability standards which apply in New Brunswick. The Board is responsible for administration and enforcement of the New Brunswick Compliance Monitoring and Enforcement Program ("NBCMEP") as set out in Schedule A to the Reliability Standards Regulation.</p> <p>7. Sections 7.2 and 7.3 of the NBCMEP govern Confidential Information, and specifically, Critical Energy Infrastructure Information ("CEII"). Under Section 7.3, the Board is required to maintain the confidentiality of CEII in accordance with Section 1500 of the NERC Rules of Procedure, and CEII shall not be released publicly.</p> <p>8. The redacted confidential information and confidential documents are CEII or Critical Electric Infrastructure Information, and thereby Confidential Information, as those terms are defined in Section 1500 of the NERC Rules of Procedure.</p> <p><u>Personal Information</u></p> <p>9. The information over which confidentiality is claimed is personal information identifying third parties unrelated to the Tolling Agreement, or personal information naming individual employees of NB Power (who will not be witnesses in this proceeding) or its counterparty to the Tolling Agreement.</p>
e. Previous treatment:	<p>1. The Board has regularly accepted the confidential treatment of pricing information and commercially sensitive terms for the reasons expressed above. For example, in the context of pricing and other commercial terms in Power Purchase Agreements, please see Matter 541 Board Ruling on Objection dated June 7, 2023.</p> <p>2. In Matter EL-001-2025, the Board accepted the confidential treatment of CEII.</p>

	3. In Matter EL-001-2025, the Board accepted the confidential treatment of personal information, including the identity of individual employees of NB Power.
f. Required filings:	<p>Rule 6.4.2 requires the claimant to file the completed Claim for Confidentiality with the Board and serve it on all parties, together with:</p> <ul style="list-style-type: none"> • a non-confidential summary of the document or the redacted information in the document; and • a copy of the claimant's proposed form of Confidentiality Undertaking if it differs from the form set out in the Rules. <p>A non-confidential summary of the Tolling Agreement is found below. A non-confidential summary of the redacted information in the Tolling Agreement is found at paragraphs d.1, d.5 and d.9 of this Claim.</p> <p>A copy of NB Power's proposed form of Confidentiality Undertaking is attached as Appendix "A" to this Claim for Confidentiality</p>

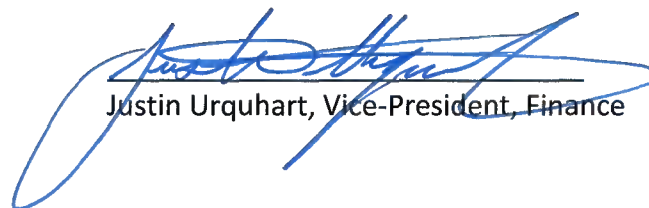
Declaration

I, Justin Urquhart, Vice-President, Finance, have reviewed the above-noted documents and declare that NB Power is claiming confidentiality over only those portions of the above-noted document(s) it considers necessary for the Board to hold in confidence and that, to the best of my knowledge, the document(s) or confidential information within the document(s) has/have not already been revealed to the public.

I confirm that I have the authority to make this declaration on behalf of the claimant.

Dated the 23rd day of July, 2025.

NEW BRUNSWICK POWER CORPORATION


Justin Urquhart, Vice-President, Finance

Non-Confidential Summary of the Tolling Agreement

Under the Tolling Agreement, the Owner will develop, own and operate a dual fuel (natural gas and liquid fuel) combustion turbine generation facility with a maximum nameplate capacity of 400 MW (the "Generation Facility" or the "Facility"), and sell the capacity and energy (including ancillary services) produced by the Facility to NB Power. NB Power will supply the necessary fuel and agree to purchase the available capacity and associated energy. The Facility will be located on land owned by NB Power and leased to the Owner under a long term lease agreement.

The term of the Tolling Agreement is 25 years from the latter of the Targeted Commercial Operation Date of August 1, 2028, or the Commercial Operation Date achieved.

During the term, NB Power has the exclusive right to schedule the delivery of energy from the Generating Facility. The Owner is expressly prohibited from selling any of the capacity of the facility which is not scheduled by NB Power.

During the term, NB Power is obligated to pay a Monthly Capacity Payment with respect to the available capacity of the facility, calculated in accordance with the terms of the Tolling Agreement.

NB Power is also obligated to pay a Variable O&M Payment for hours in which it causes the Facility to be dispatched to produce energy (or any included ancillary services), calculated in accordance with the terms of the Agreement.

Under the Tolling Agreement, it is a condition precedent to the Owner's obligation to achieve the Commercial Operation Date of the Facility that NB Power either obtain approval from the Board under section 107 of the Electricity Act to enter the Tolling Agreement, or obtain a determination of the Board that the Board does not possess jurisdiction under section 107 of the Act with respect to the Tolling Agreement.

APPENDIX "A"

Matter No. EL-002-2025

NEW BRUNSWICK ENERGY AND UTILITIES BOARD

New Brunswick Power Corporation – Application for Approval of Renewables Integration and Grid Security ("RIGS") Project – (the "Proceeding")

WHEREAS New Brunswick Power Corporation ("NBPC") has filed an Application and supporting evidence in the Proceeding which contains information claimed to be confidential to itself, New Brunswick Energy Marketing Corporation ("NBEMC" and, collectively, "NB Power") or a Third Party which has a contractual relationship with NB Power, which information is referred to herein as the "Confidential Information" or "Information", and claims confidentiality to such Confidential Information under Section 34 of the Energy and Utilities Board Act and Rule 6.4 of the Rules of Procedure of the New Brunswick Energy and Utilities Board (the "Board");

AND WHEREAS NBPC may, in the course of the Proceeding, provide further Confidential Information of NB Power or a Third Party;

AND WHEREAS NBPC does not object to disclosing such Confidential Information to certain Interveners in the Proceeding at the date of provision of the Confidential Information to the Board, provided that such Intervener executes an appropriate confidentiality and non-disclosure agreement;

AND WHEREAS Confidential Information is to be provided to such Interveners and the agents and advisors of such Interveners on the terms and conditions attached hereto;

AND WHEREAS the individual executing this undertaking (the "Recipient") agrees that he or she will not discuss the Confidential Information with any other person unless that person has signed this undertaking and provided it to NBPC and the Board;

UNDERTAKING

I, _____, of _____, in the Province/State of _____, having read the terms and conditions attached hereto, hereby undertake and agree to abide by the attached terms and conditions as it relates to the Confidential Information.

Print Name: _____

Signature: _____

Email Address: _____

Dated at _____ in the Province of _____ this ____ day of _____, 2025.

1. This Undertaking does not preclude the Recipient from raising an objection to a claim for confidentiality made by the Discloser, and recognizes the Board's ongoing jurisdiction to determine the confidentiality of information pursuant to Section 34 of the Energy and Utilities Board Act and Rule 6.4 of the Rules of Procedure of the Board.

2. For the purposes of this Undertaking:

a. "Discloser" means the party disclosing Confidential Information, being New Brunswick Power Corporation ("NBPC") on behalf of itself and New Brunswick Energy Marketing Corporation ("NBEMC"), and referred to collectively as "NB Power";

b. "Recipient" means the party receiving Confidential Information;

c. "Confidential Information" means all information disclosed to the Recipient to which NB Power has claimed confidentiality in the Proceeding and, without limiting the generality of the foregoing, includes:

i. any third party information that may come into the possession or the Recipient in the course of the Proceeding that is subject to a confidentiality agreement between Discloser and such third party that has been identified by Discloser and in particular including, but not limited to, any information, know-how, data, patent, copyright, trade secret, process, technique, program, design, formula, marketing, advertising, financial, commercial, customer information, sales or programming matter, written materials, compositions, drawings, diagrams, computer programs, studies, work in progress, visual demonstrations, ideas, concepts, and other data, in oral, written, graphic, electronic, or any other form or medium whatsoever, regardless of whether it has been delivered or communicated by the Discloser.

ii. any further information disclosed by NB Power to the Recipient, in the course of the examination of any NB Power process, system, data or computer program by the Recipient or any agent or employee of the Recipient in the course of the Proceeding, whether such examination is conducted on a voluntary basis, or under Board Order.

The term "Confidential Information" shall not include the following:

- (i) information which is now or which hereafter becomes known to the trade or to the public or becomes available through no act or failure on the part of Recipient;
- (ii) information which is actually known to Recipient prior to the time of receipt of Confidential Information, which actual knowledge can be established by evidence that would be acceptable to a court of competent jurisdiction;
- (iii) information which is furnished to and received by Recipient from a third party who has not obtained the information from Discloser and who has rightfully obtained the information without restriction on disclosure and other than through a breach of this Undertaking by Recipient, the above to be shown by documentation sufficient to establish same;
- (iv) information which is independently developed by Recipient without use of or reference to the Confidential Information of Discloser that does not otherwise contravene the terms and provisions of this Undertaking, and which such independent development can be established by evidence that would be acceptable to a court of competent jurisdiction.

3. Nothing in this Undertaking shall obligate Discloser to make any particular or further disclosure of information, other than Confidential Information identified by the Discloser as being disclosed under its claims to confidentiality filed in the Proceeding. Confidential Information may be exchanged either orally or in writing.

4. All Confidential Information constitutes the sole and exclusive property of the Discloser, which Discloser is entitled to protect. Recipient shall only use the Confidential Information strictly for the purpose of use in the Proceeding and for no other purpose. Recipient shall use all reasonable efforts to protect Discloser's interest in the Information and keep it confidential, using a standard of care no less than the degree of care that Recipient would be reasonably expected to employ for its own similar confidential information. Further, Recipient shall use all reasonable efforts to protect the Confidential Information from any harm, tampering, unauthorized access, sabotage, access, exploitation, manipulation, modification, interference, misuse, misappropriation, copying or disclosure whatsoever, except as specifically authorized by Discloser in writing.

5. Confidential Information shall not be copied, reproduced in any form or stored in a retrieval system or database by Recipient without the prior written consent of Discloser, except for such copies and storage as may reasonably be required internally by Recipient for use in the Proceeding.

6. Recipient shall not disclose, release, copy or publish any Confidential Information to any person, or discuss such information with any person, other than to each of its employees, officers, personnel, directors, contractors, agents and/or advisors and in such event only on a need to know basis to the extent necessary for use in the Proceeding, each of whom shall execute this Undertaking.

7. Within thirty days of the completion of the Proceeding (including any judicial review), Recipient shall return or destroy all Confidential Information, including all records, summaries, analysis, notes or other documents and all copies thereof, in any form whatsoever under the control of the Recipient, to Discloser and further shall destroy and/or delete all Confidential Information from all databases and retrieval systems. The return or destruction of such documents to Discloser shall in no event relieve Recipient of its obligations of confidentiality set out in this Undertaking with respect to such returned or deleted Information. Notwithstanding the foregoing, Recipient may, subject to its obligations under this Undertaking, retain a copy of its work product arising from the Proceeding for Recipient's internal document retention purposes. In the event Recipient chooses to destroy Confidential Information, Recipient shall provide to the Discloser and the Board an affidavit or statutory declaration confirming such destruction.

8. Any notes made of the information for which confidentiality has been granted or copies thereof are classified as confidential and shall not be disclosed, communicated, published or revealed to any other person.

9. When reference is made to the Confidential Information in any public portion of the hearing of the Proceeding such reference shall be by way of a non-confidential description thereof which protects the confidentiality of the information.

10. When reference is made to Confidential Information in any evidence of a participant (other than NB Power) such reference shall be by way of a non-confidential description thereof which protects the confidentiality of the information.

11. Neither this Undertaking nor the disclosure of any Information by Discloser to Recipient shall be construed as granting to Recipient any licence, interest or rights in, to or in respect of the Confidential Information.

12. The provisions hereof are necessary to protect the trade, commercial, customer and financial interests of the Discloser, and Third Parties with whom the Discloser has contractual relationships under which Confidential Information of such Third Parties is provided to Discloser. The Recipient acknowledges and agrees that any breach whatsoever of the covenants, provisions and restrictions hereto contained shall cause irreparable harm and significant injury to Discloser (and, where the Confidential Information is that of a Third Party, that Third Party) for which monetary damages will not, alone or in part, result in adequate compensation. Therefore, Discloser, and where applicable, a Third Party, in addition to claiming monetary damages, shall be authorized and entitled to seek and obtain from any court of competent jurisdiction interim and permanent equitable relief, including without limitation, specific performance, in order to enforce the obligations of this Undertaking and/or in the event of any such breach. All such rights and remedies shall be cumulative and in addition to any and all other rights and remedies whatsoever to which Discloser may be entitled.

13. Due to the valuable and proprietary nature of the Information to Discloser, the obligations assumed by Recipient under this Undertaking shall continue indefinitely.

14. The Recipient shall inform those employees, officers, personnel, directors, contractors, agents and/or advisors of the Recipient who, in the opinion of the Recipient, require access to Confidential Information of the obligations contained herein and further, shall be responsible and vicariously liable for any breach of the within terms and conditions committed by such employees, officers, personnel, contractors, agents and/or advisors.

15. The invalidity or unenforceability of any provision or part thereof of this Undertaking shall not affect the validity or enforceability of any other provision and any remaining part which shall continue in full force and effect.

16. This Undertaking will inure to the benefit of and be binding upon the respective successors and permitted assigns of the Parties.

17. This Undertaking will be governed by and construed in accordance with the laws of the Province of New Brunswick and the laws of Canada applicable in New Brunswick.