

C A N A D A

PROVINCE OF PRINCE EDWARD ISLAND

**BEFORE THE ISLAND REGULATORY
AND APPEALS COMMISSION**

IN THE MATTER of Sections 10, 13(1) and 20 of the *Electric Power Act* (R.S.P.E.I. 1988, Cap. E-4) and **IN THE MATTER** of the Application of Maritime Electric Company, Limited for an order of the Commission approving rates, tolls and charges for electric service for the years March 1, 2023 to February 28, 2026 and for certain approvals incidental to such an order.

**REPLY TO THE RESPONSE OF
THE PEI ENERGY CORPORATION**

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1. Maritime Electric Company, Limited ("Maritime Electric") has requested that its responses to certain interrogatories be held in confidence by the Island Regulatory and Appeals Commission ("Commission").
2. Prince Edward Island Energy Corporation ("PEIEC") has confirmed that it "does not object generally" to the requests for confidentiality made by Maritime Electric.¹
3. PEIEC has nevertheless requested an order pursuant to Rule 54(d) of the Commission's Rules of Practice and Procedure. This Rule permits the Commission to order that information received in confidence by the Commission be made available to a party who has a "good faith interest in accessing the confidential information and who would not otherwise be in conflict of interest, on such terms as the Commission considers appropriate".
4. Maritime Electric respectfully submits that an order pursuant to Rule 54(d) would not be appropriate in the circumstances. The information in respect of which Maritime Electric seeks a confidentiality order should not be made available to PEIEC. PEIEC's suggestion to the contrary is undermined by a number of considerations.
5. First, Maritime Electric has requested that its responses to London Economics IR-18 and Commission IR-12 be held in confidence in order to protect confidential information of, and respecting, third parties. It is in the public interest for the Commission to have access to this information in reviewing the General Rate Application; it is not, however, in the public interest for this information to be disclosed to PEIEC. There is an important public interest in protecting a public utility's ability to credibly represent that it is willing and able to hold third-party information in confidence. Regulators have recognized that third parties would be less willing to contract with a public utility if they knew that the public utility would be obligated, in a regulatory proceeding, to disclose third parties' confidential information.²
6. Second, Maritime Electric's responses to Commission IR-15, IR-16, and IR-18 will contain details from energy purchase and power purchase agreements that Maritime Electric has concluded with third parties. Maritime Electric has requested that these responses be held in confidence in order, along with other reasons, to protect confidential third-party

¹ Response to Application for Confidentiality on Behalf of the PEI Energy Corporation at para 2.

² Application for Confidentiality at para 52.

information contained in these agreements.³ The public interest requires the Commission to have access to this information; it does not require – and in fact militates against – disclosing this information to PEIEC.

7. Third, Maritime Electric's response to London Economics IR-47 will be comprised of its annual reports from the years 2015 to 2020. These reports provide a comprehensive picture of Maritime Electric's finances. The public interest in Maritime Electric's efficiency and competitiveness is not served, and could in fact be undermined, by an order requiring Maritime Electric to disclose this sensitive information to a corporation, such as PEIEC, from whom Maritime Electric can be compelled to purchase electric energy.⁴
8. Finally, Maritime Electric has argued that the *Freedom of Information and Protection of Privacy Act*⁵ prevents the Commission from collecting or disclosing the personal information of Maritime Electric's senior management and executive position employees.⁶ This statute prevails over other enactments⁷ and therefore does not permit the personal information of Maritime Electric's employees to be disclosed to PEIEC.
9. For these reasons, Maritime Electric respectfully requests that its responses to London Economics IR-18 and IR-47, and to Commission IR-12, IR-15, IR-16, and IR-18, be held in strict confidence by the Commission. Maritime Electric also requests that it be permitted to respond to Commission IR-40 and IR-41 by providing aggregate figures rather than the personal information of its employees.

³ Application for Confidentiality at para 57(a).

⁴ *Electric Power Act*, R.S.P.E.I. 1988, c. E-4 at s. 3(c).

⁵ R.S.P.E.I. 1988, c. F-15.01.

⁶ Application for Confidentiality at paras 65-97 and 98-101.

⁷ Section 5(2).

Dated at Charlottetown, Province of Prince Edward Island, this 28th day of November, 2022.



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