



Prince Edward Island
Legislative Assembly

Office of the Third Party
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Assemblée législative

Bureau du troisième parti
C.P. 2000, Charlottetown PE
Canada C1A 7N8

Re: Response to request for confidentiality

September 18th 2025

To Whom It May Concern:

I write in response to the communication from Maritime Electric Company Limited (MECL) regarding their request for confidentiality on certain documents relevant to the supplemental application, Exhibit M-12 on docket UE20742.

I disagree with the position taken by MECL, which calls for an order that would be overly broad and would deprive me of information that is central to my ability to make submissions as a Friend of the Commission.

As the request for confidentiality outlines, it has been established that the open court principle applies to tribunals such as the Island Regulatory and Appeals Commission. As is laid out in detail in MECL's most recent request for confidentiality, exceptions can apply, however, when it can be shown that court openness poses a serious risk to an important public interest. In MECL's most recent request for confidentiality, they request that all documents included in their previous request for confidentiality remain subject to that initial request, and further that the redacted information and Appendices B-F inclusive in exhibit M-12 be added.

The central argument in the filing for request for confidentiality centers on the claim that divulging the information would indeed create a serious risk to the public interest, in that it would impact MECL's ability to negotiate successfully, and therefore could harm the competitiveness and efficiency of the public utility. This in turn could create a situation where MECL customers' power rates will be impacted negatively, thus allegedly creating a risk to the public interest.

In order to complete a fully informed analysis of both the original and supplemental applications, the public, or a Friend of the Commission intervener such as myself must have access to documents that support the claims made by MECL that the proposals brought forward are indeed in the public interest because they are more economic, and therefore provide the most cost-effective option for customers of MECL. As was stated in my earlier response to the first MECL request for confidentiality, if the public and interveners cannot properly scrutinize the economic rationale behind the proposed plan, there is no real accountability.

Indeed, given that this supplemental application offers no options other than the immediate purchase of two refurbished Aeroderivative Combustion Turbines on a sole-sourced basis, the rationale for all interveners to have full access to all the evidence that provides justification for such an enormous expenditure in such a limited timeframe is stronger than ever.

In paragraph 53 of the most recent request for confidentiality, MECL offers what they describe as a compromise. Namely that MECL would file a summary of financial information related solely to the purchase of the two CTs from ProEnergy. This “compromise” does not deal in any way with the matter of the continued withholding of financial information regarding projected future rate increases and Net Present Value calculations, (Appendices E and F of the original request for confidentiality) and which continue to underpin the rationale for the purchase being proposed in this supplemental application.

I do, however, agree that there are pathways available to the Commission that would provide access for all interveners to the entire range of information in dispute, and yet can respect the concerns of MECL to obligations in existing contracts with third parties. While I have confidence in the abilities of the Commission to adjudicate this matter, other tribunals have rejected requests for confidentiality against interveners on the basis that tribunals are not infallible and that interveners should have access to the information necessary to build their case.¹ However, if the Commission disagrees with my view that the documents should be public, the Commission should nevertheless have regard to the range of orders available to it under Rule 54. The Commission is not required to choose between placing a document in the public record or withholding it entirely; middle-ground remedies are available, including providing access to a party on such terms as the Commission considers appropriate.

Confidentiality undertakings, a remedy permitted under the Rules,² are appropriate where a party or intervenor does not have a conflict but has an interest in the proceeding.³ Being forcibly excluded from a technical session which, as MECL describes it, would capture “an important part of the justification for the Project”⁴ would undermine my ability to act as a Friend of the Commission, particularly in light of Order UE25-03, which authorizes me to submit a post-hearing written submission. Excluding me from these proceedings and denying me access to relevant information “would impede the search for truth”.⁵

As a Friend of the Commission and in my role as an elected MLA, I must insist that the information surrounding Maritime Electric’s application — particularly the economic modeling and rate impacts — be subject to the greatest permissible scrutiny. This project will affect every Islander’s electricity bill for decades. There is insufficient justification for keeping this information from the public. To allow confidentiality here would erode transparency and weaken the public’s trust in the regulatory process.

Thank you for your consideration.

Sincerely,

¹ *Nova Scotia Power Inc, Re*, 2005 NSUARB 92 (CanLII) at paras [4-5](#).

² IRAC Rules of Practice and Procedure, rule 54(d).

³ *Nova Scotia Power Incorporated (Re)*, 2014 NSUARB 5 (CanLII) at para [23](#).

⁴ Michelle Francis, “On-Island Capacity for Security of Supply - Require for Confidentiality: Docket UE-20742” (May 28, 2025) at 2.

⁵ *Sierra Club of Canada v Canada (Minister of Finance)*, 2002 SCC 41 at para [76](#).

A handwritten signature in black ink, reading "Peter Bevan-Baker" with a period at the end. The signature is fluid and cursive.

Peter Bevan-Baker, MLA
New Haven - Rocky Point