



National Energy  
Board

Office national  
de l'énergie

# How to file confidential information?

2017



# Outline

This presentation provides a brief overview regarding the type of information the Board may consider for a request for confidentiality and how to request that specific information be kept confidential.

**This presentation includes information on:**

- What is the record?
- What is the public registry?
- How do I make a request for confidentiality?
- What does the Board consider confidential?
- How will my information be kept confidential?
- How do I file a request for confidentiality?

# What is the record?

- **What is the record?**

- The record contains all information collected during a NEB hearing process.
- The source of the information collected is identified.
- This is the official collection of all documents that will be reviewed and considered as part of the hearing process.
- The NEB makes its recommendations and decisions based on the information on the record.

# What is the public registry?

- **What is the public registry?**
  - **The public registry contains the majority of the record of the proceeding.**
    - In exceptional circumstances, the Board may decide that some information can be filed confidentially.
    - This information is not found in the public registry, but is still “on the record”. This means that the information will still be considered as part of the hearing process, but won’t be available for the public to see.
  - **The information placed on the public registry is available for anyone to view on the NEB’s website (online registry) or in the NEB library (hard copy).**
    - In some instances, information can be too large (for example, large maps or diagrams) to be placed on the online registry. This information is publically available at the NEB library. It too forms part of the record and can be viewed by the public.

# What if the evidence I wish to submit contains Confidential Information?

- **Can I ask that certain portions of my evidence not appear on the public registry?**
  - You may make a request for confidentiality if the documents you wish to file contain confidential or proprietary information such as:
    - certain commercial, scientific or technical information, and
    - traditional land use information.

# How do I make a request for confidentiality?

- **How do I file Confidential Information?**
  - You must file a motion to the Board requesting to file Confidential Information.
  - As the Board needs to see your proposed Confidential Information in order to rule on your motion:
    - You must send the Board a paper copy of your motion and the document(s) you want kept confidential.
    - If you want a document to be partially confidential, send the Board the document with the portions you would like to keep confidential redacted along with a copy of the same document with no redactions.

# What information is needed?

- **Your motion should include information that describes the evidence you want kept confidential and demonstrates that:**
  - disclosure of the information could reasonably be expected to result in a material loss or gain to a person directly affected by the proceedings, or could reasonably be expected to prejudice the person's competitive position; or
  - It is financial, commercial, scientific or technical information that has been supplied to the Board in confidence and
    - (i) the information has been consistently treated as Confidential Information by a person directly affected by the proceedings, and
    - (ii) the Board considers that the person's interest in confidentiality outweighs the public interest in disclosure of the proceedings.
- **Consult the document “How to prepare a Motion?” for tips on how to prepare and submit your motion.**

# How does the Board make a decision on my request?

- **What is the process to grant a request for confidentiality?**
  - The Board will assess if you have met the test outlined in the previous slide.
  - The Board can take different approaches to gather the information it needs to assess your request.
    - For example, the Board may or may not ask for comments from other Parties.



# How will my information be kept confidential?

- **If your request is granted:**
  - You will be informed on how to file the information confidentially.
  - The Board will keep it confidential and will only allow the following people to see it:
    - the panel members,
    - legal counsel, and
    - selected technical staff to the Board.
  - Your information will be kept under lock and key.
  - It will be returned to you when the Board has completed its hearing.

# How will my information be kept confidential? (cont'd)

- **If your request is denied:**
  - You may choose whether or not to file the evidence on the Public Registry.
  - If you choose to file your information:
    - It **will not** be kept confidential.
    - It will be available to the public to see via the electronic Public Registry located on the NEB's website and in the NEB library.

# How do I submit a request or a motion?

- **If you have internet access and can access the public registry, you are expected to submit all documents electronically.**
  - The Participation Portal is a web based tool used to facilitate electronic submissions and distribution of the documents filed in a hearing process.
  - Consult the document “How to submit documents with the Participation Portal?” to view the step-by-step process on how to submit hearing documents with the NEB Participation Portal.
- **If you are unable to use the internet and cannot file your documents electronically, you can file documents to the Board in person, by mail, or by fax.**
  - Consult the Hearing Order to view details regarding the filing requirements attached to the hearing you registered to participate in.

# What is a Process Advisor?

- The Board assigns Process Advisors (PAs) to each hearing to assist you to better understand the hearing process for a specific project, and how to participate in it effectively.
- The Process Advisors are available by telephone and email. Visit the project page of the hearing you registered to participate in at [www.neb-one.gc.ca](http://www.neb-one.gc.ca) to find the contact information of your Process Advisors.
- Process Advisors also offer workshops, usually on-line, to assist participants in specific parts of the hearing.
- The Process Advisors can only discuss process matters with you and cannot advise you on how to make your case to the Board.

# Where to find more information

- **Website:** [www.neb-one.gc.ca](http://www.neb-one.gc.ca)
- **General Inquiries:** Phone (toll free) 1-800-899-1265

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