

July 27, 2018

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File 18867.38675

Kirsten Walli
Board Secretary
Ontario Energy Board
Suite 2701
2300 Yonge Street
Toronto ON M4P 1E4

Dear Ms Walli:

Re: EB-2017-0182/EB-2017-0194

We are counsel to Hydro One Networks Inc. in this matter.

We write to express concern over Undertaking response JD1.2, filed by NextBridge ("NB") on July 23, 2018.

As the hearing panel will recall, NB was asked to provide the actual amounts spent in 42 categories for which only budgeted amounts were available. The response should have consisted of two columns of figures, one for the budgeted amounts and one for the corresponding actual amounts. Respectfully, it is our view that NB has filed what amounts to a fresh or perhaps more accurately reconstituted version of its entire developments costs evidence, complete with a new argument, namely that NB has somehow saved money.

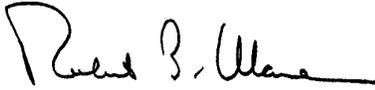
The Undertaking response is inappropriate in that it uses the response to an undertaking to file fresh evidence. In addition, it is filed after cross-examination. This is incongruent with the hearing process. For that reason alone the Undertaking response should be struck.

Beyond that, the Undertaking response puts the intervening parties in an unfair position. The information in the Undertaking response cannot be challenged in argument because there is no evidentiary record for doing so absent cross-examination. It is also unfair to the hearing panel whose members cannot themselves ask questions about the Undertaking response.

It is our position that the undertaking response should be struck. If it is to be allowed in the record it should only be on the basis that parties have an opportunity to cross-examine on it.

Yours truly,

WeirFoulds LLP

A handwritten signature in black ink, appearing to read "Robert B. Warren". The signature is fluid and cursive, with a long horizontal stroke at the end.

Robert B. Warren

RBW/dh

cc: Aird Berlis LLP, Attention: Fred Cass
cc: Michael Engelberg, Hydro One Networks Inc.
cc: Lawren Murray, OEB Counsel
cc: All Parties

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