

**ONTARIO ENERGY BOARD**

IN THE MATTER OF an application made by Hydro One Inc. for leave to purchase all of the issued and outstanding shares of Orillia Power Distribution Corporation, made pursuant to section 86(2)(b) of the Ontario Energy Board Act, 1998.

AND IN THE MATTER OF an application made by Orillia Power Distribution Corporation seeking to include a rate rider in the current Board-approved rate schedules of Orillia Power Distribution Corporation to give effect to a 1% reduction relative to their Base Distribution Delivery Rates (exclusive of rate riders), made pursuant to section 78 of the Ontario Energy Board Act, 1998.

AND IN THE MATTER OF an application made by Orillia Power Distribution Corporation for leave to transfer its distribution system to Hydro One Networks Inc., made pursuant to section 86(1)(a) of the Ontario Energy Board Act, 1998.

AND IN THE MATTER OF an application made by Orillia Power Distribution Corporation seeking cancellation of its distribution licence, made pursuant to section 77(5) of the Ontario Energy Board Act, 1998.

AND IN THE MATTER OF an application made by Hydro One Networks Inc. seeking an order to amend its distribution licence, made pursuant to section 74 of the Ontario Energy Board Act, 1998, to serve the customers of the former Orillia Power Distribution Corporation.

AND IN THE MATTER OF an application made by Orillia Power Distribution Corporation for leave to transfer its rate order to Hydro One Networks Inc., made pursuant to section 18 of the Ontario Energy Board Act, 1998.

AND IN THE MATTER OF an application made by Hydro One Networks Inc., seeking an order to amend the Specific Service Charges in Orillia Power Distribution Corporation's transferred rate order made pursuant to section 78 of the Ontario Energy Board Act.

## **SUBMISSION OF ENERGY PROBE IN SUPPORT OF THE MOTION BY THE SCHOOL ENERGY COALITION**

Energy Probe Research Foundation (“Energy Probe”) supports the motion of School Energy Coalition (“SEC”) to dismiss the application of Hydro One Inc. (“Hydro One”) and Orillia Power Distribution Corporation (“OPDC), individually or collectively “the Applicants”, to the Ontario Energy Board for approval for the purchase of OPDC by Hydro One.

1. The Applicants are abusing the regulatory process of the OEB by repeatedly filing the same application until they get a Board panel that will approve it. This amounts to “shopping for Board panels” and amounts to gaming of the regulatory process. Although it is an established rule that a panel of the Board is not bound by a decision of a previous panel, its purpose is clearly not to encourage applicants to game the system by repeatedly filing the same or nearly identical applications until they come before a Board panel that will issue a decision they like.
2. For the OEB decisions to have any meaning, there must be finality to the regulatory process. If the OEB allows its decisions to be simply reversed by subsequent identical or nearly identical applications, its decisions will have no meaning and it will lose public confidence. If the Board loses the confidence of the public, its very existence as a regulator with the mandate to protect public interest will be in question.
3. The application in the EB-2018-0270<sup>1</sup> proceeding is identical to the previously denied application in the EB-2016-0276<sup>2</sup> proceeding. This can readily be seen by comparing the two applications.
4. There evidence filed by the applicants in support of the EB-2018-0270 application does not include any new information that was not available to the Applicants in the EB-2016-0276 proceeding. The Applicants simply attempted to embellish their evidence from the EB-2016-0276 proceeding by rephrasing it and by including material that they neglected to file in that proceeding. It should be noted that the OEB directed the Applicants to file new evidence in support of the application in Procedural Order No.7 in the EB-2016-0270 proceeding, and the Applicants chose not to file any new evidence.<sup>3</sup>

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<sup>1</sup> EB-2018-0270 Exhibit A, Tab 1, Schedule 1

<sup>2</sup> EB-2016-0276 Exhibit A, Tab 1, Schedule 1

<sup>3</sup> EB-2016-0276 Decision and Order, April 12, 2018, page 10

5. There have been no changes in circumstances since the issuance of the EB-2016-0276 decision. Hydro One has not improved its offer to purchase. There have no changes in the Ontario government's policy or OEB guidelines regarding distributor amalgamations. Absolutely nothing has changed that would affect mergers in the electricity distribution sector since the EB-2016-0276 proceeding.
  
6. The OEB has already ruled on an identical application by the Applicants in its EB-2016-0276 decision issued on April 12, 2018<sup>4</sup>. The EB-2018-0270 application is simply a second attempt by the Applicants to obtain a decision that is to their liking.

For these reasons Energy Probe believes that the Board should approve the SEC's motion to dismiss the EB-2018-0270 application.

Respectfully submitted,

January 11, 2018

*Originally signed by*

Tom Ladanyi

Consultant to Energy Probe

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<sup>4</sup> EB-2016-0276 Decision and Order, April 12, 2018