



February 13, 2009

Ms. Kirsten Walli, Board Secretary
Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
M4P 1E4

By RESS and Courier

**Re: Electricity Distribution Licence ED-2006-0031
Application to Amend Licenced Service Area**

Horizon Utilities Corporation is making an Application to the Ontario Energy Board to expand its licensed distribution service territory to include specific lands, currently located in the licensed distribution service territory of Hydro One Networks Inc., for the purpose of servicing these lands.

The customer, Hamilton Mountain Developments Inc., has requested Horizon Utilities Corporation to begin preparing for the installation of the electrical distribution system.

This Application for amendment has been organized and delivered to both Hydro One Networks Inc. and Counsel to the Power Workers' Union.

Hydro One Networks Inc. has consented to the Service Area Amendment and will be providing a Letter of Consent to the Board under separate cover once an OEB file number has been assigned. Therefore, Horizon Utilities Corporation requests that the Board proceed with this application in an expeditious manner without a hearing, pursuant to subsection 21(4) of the *Ontario Energy Board Act*.

Two hard copies of this Application are being submitted by courier.

Yours truly,

Original signed by Cameron McKenzie

Cameron McKenzie
Director, Regulatory Services

cc: Mr. Blair Macdonald, Senior Advisor – Regulatory Affairs, Hydro One Networks Inc.

Mr. Andrew Lokan, Counsel to the Power Workers' Union, Paliare Roland
Rosenberg Rothstein LLP



**Application to the Ontario Energy Board
by Horizon Utilities Corporation
Distribution Licence ED-2006-0031
to Amend Licensed Service Area**

February 13, 2009

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Exhibits

- Exhibit A - Overall Development Area
- Exhibit B - SmartCentres Commercial Development Area (62M) **HARD COPY**
- Exhibit C - Existing and Proposed Facilities to Supply the Area
- Exhibit D - Existing 27.6 kV Distribution
- Exhibit E - Hydro One Networks Inc. - Letter of Consent **(to be provided under separate cover to the Board)**
- Exhibit F – Hamilton Mountain Developments Inc. - Letter of Preference
- Exhibit G – Letter to Counsel for Power Workers Union

Section 1: Introduction

Horizon Utilities Corporation ("Horizon Utilities") operating the distribution service territory of the City of Hamilton as defined in Schedule 1 of its Distribution Licence is making an Application to the Ontario Energy Board ("the Board") for the purpose of amending its distribution licence to include the proposed commercial development known in part as the SmartCentres Commercial Development and is being developed by Hamilton Mountain Developments Inc.

The Hamilton Mountain Developments Inc. project (herein referred to as the "SmartCentres Commercial Development") will consist of multiple units of commercial development. The development is currently located in the licensed service territory of Hydro One Networks Inc. ("Hydro One") as described in its Licence ED-2003-0043. The Applicant proposes to expand its licensed distribution service territory to include the specific lands on which the customer is developing.

Section 2: General Information

2.1 Contact Information

The Applicant:

Horizon Utilities Corporation
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The Incumbent Distributor:

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Fax: 416 345 5866
blair.macdonald@HydroOne.com

The Developer:

Hamilton Mountain Developments Inc.
Christine Cote
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Vaughan, Ontario L4K 5X3
Tel: 905-760-6200 x 7862
Fax: 905-760-6202
ccote@smartcentres.com

The Power Workers Union:

Mr. Andrew Lokan
Counsel to the Power Workers' Union
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Toronto, Ontario
M5H 3E5
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andrew.lokan@paliareroland.com

Affected Customers:

None

Alternate Distributor:

None

2.2 Background:

Horizon Utilities Corporation was incorporated in the province of Ontario under Articles of Amalgamation on March 1, 2005. Horizon Utilities is a result of the merger of Hamilton Hydro Inc. and St. Catharines Hydro Utility Services Inc. and owns and operates the distribution systems in both service territories of the incumbent distributors under Electricity Distribution Licence number ED-2006-0031.

On November 24, 2004 the Board issued its Decision and Order to amend the distribution licence of Horizon Utilities Corporation to include the commercial development known in part as The Brooks of Rymal/20 Phase 1 in which Horizon Utilities has installed the underground distribution system.

Subsequent OEB Decisions and Orders have amended Horizon Utilities' distribution licence to include the Summit Park Phases 1 to 6 and the Gardens, also south of Rymal Road East and west of this commercial development although not contiguous.

Horizon Utilities has been requested by Hamilton Mountain Developments Inc. to provide an underground distribution system for the SmartCentres Commercial Development.

The proposed SmartCentres Commercial Development currently lies in the distribution service territory of Hydro One Networks Inc. This Application is being made to amend the distribution licence of Horizon Utilities to include the specific area required for the SmartCentres Commercial Development. Specifically excluded from this Amendment is one (1) existing Hydro One customer located at 2120 Rymal Road East, Hamilton, Ontario.

The developer, Hamilton Mountain Developments Inc. has requested that construction begin in the first half of 2009.

The developer has obtained all Municipal approvals required to proceed with the SmartCentres Commercial Development.

Horizon Utilities hereby confirms that a draft copy of this Application was delivered to Hydro One Networks Inc. and Counsel to the Power Workers' Union by e-mail and courier for comments.

2.3 Reasons why this amendment should occur:

The developer within the area of the amendment has requested Horizon Utilities to provide an underground electrical distribution system for this development. The service area amendment is uncontested by the incumbent distributor. There is one existing Hydro One customer within the area of this Amendment Application which is being excluded. Horizon Utilities has sufficient capacity on its existing distribution facilities bordering the developments to supply the proposed load for the development. Hydro One's distribution facilities in the area are not sufficient to supply the load for the development and would require additional investment. Current electricity distribution rates for the prospective general service customers are lower for Horizon than they are for Hydro One Networks. No increase in rates for either Horizon Utilities or Hydro One will be required as a result of this Application. Therefore, as a result of this proposed amendment, all parties are better off and no party is disadvantaged.

There are no load transfers involved with this property and therefore no load transfers will be eliminated by the proposed amendment.

Section 3: Description of Proposed Service Area

The SmartCentres Commercial Development is a commercial development consisting of multiple units, located as shown on the attached Exhibit A (overall development area and current boundaries of Hydro One and Horizon Utilities) and Exhibit B (The SmartCentres Commercial Development details 62M). The SmartCentres Commercial Development is to the west of the existing Brooks at Rymal/20 development, to the south of Rymal Road East, and north of the Future Street B and known as SmartCentres Commercial Development on Plan 62M (Exhibit B).

The property known as – The former Township of Binbrook in the former Township of Glanbrook as of December 31, 1973, now in the city of Hamilton and described as Part of Township Lot Two (2), Blocks Three (3), Four (4), Five (5), Nine (9), Ten (10) and Eleven(11).

The attached Exhibit C is a drawing showing the existing and proposed commercial development.

Section 4: Distribution Infrastructure In and Around the Proposed Amendment Area

Horizon Utilities' distribution service territory in this area is largely urban development and supplied by 27.6 kV distribution plant. Attached is Exhibit D showing existing 27.6 kV circuits that run along the north side of Rymal Road, between Upper Mount Albion and east of Swayze Road. These circuits have additional capacity capable of supplying future development on the South side of Rymal Road. The combined available capacity is in excess of 40 MW, and the distribution plant is contiguous with the Brooks at Rymal/20 development and provides sufficient capacity for this proposed SmartCentres Commercial Development.

Section 5: Efficient Rationalization of the Distribution System

The SmartCentres Commercial Development is a commercial development consisting of multiple units of commercial development. This development is an enhancement to the utilization of Horizon Utilities' existing urban distribution system.

A schematic of the 27.6 kV plant that supplies the existing Brooks at Rymal/20, contiguous with the proposed SmartCentres Commercial Development, is provided in Exhibit D. The 27.6 kV distribution system in the Brooks at Rymal/20 was designed and installed with the expectation of servicing future phases of development. The construction of the SmartCentres Commercial Development distribution system will begin in the first half of 2009.

Horizon Utilities' Application provides for natural economic efficiencies as considered in the Board's Decision With Reasons RP-2003-0044 at paragraph 87 *"builds upon existing, well developed electricity distribution assets from high or medium density systems."* This Application favours the "extension of an existing local distribution system into a contiguous area."

The Board findings in paragraph 200 of the above Decision With Reasons state, *"the Board discourages the creation of new points of supply to facilitate the distribution of electricity to an existing or new customer by an incumbent distributor, when a bordering and contiguous distributor can provide the same distribution service more efficiently"*.

The facts of this Application are such that Horizon Utilities is the most cost-effective distributor for the area that is the subject matter of this Application. Below, Horizon Utilities describes the facilities that would need to be built for Horizon Utilities to service the SmartCentres Commercial Development and for Hydro One to service these areas.

The SmartCentres Commercial Development is a natural extension to Horizon Utilities' existing urban distribution system. As explained above, Horizon Utilities has surplus capacity on two existing 27.6 kV circuits on the North side of Rymal Road and contiguous to the Brooks at Rymal/20 development. In addition, Horizon Utilities has constructed a 27.6kV underground distribution system in the Brooks at Rymal/20 designed to accommodate the future phases of the commercial development.

The existing distribution system in Brooks at Rymal/20 and the proposed new distribution system for the SmartCentres Commercial Development are underground construction thereby reducing public safety issues and enhancing system reliability.

Horizon Utilities has advised Hamilton Mountain Developments Inc. of the requirement to provide Hydro One with the opportunity to provide an Offer to Connect for the SmartCentres Commercial Development. However, due to the fact that Horizon Utilities has an existing distribution system already constructed in the Brooks at Rymal/20, all of which is contiguous with, Hamilton Mountain Developments Inc. did not approach Hydro One for an Offer to Connect and has requested servicing only from Horizon Utilities (see attached Exhibit F, Letter from Hamilton Mountain Developments Inc.). However, Hydro One agrees that given the above facts and given the fact that Hydro One would need to

extend its 27.6 kV circuit in order to serve the proposed developments, it is obvious that the connection costs offered by the Horizon Utilities proposal will be substantially below those that could be offered by Hydro One.

Horizon Utilities' existing general service rates for 2008 are favourable compared to the Hydro One 2008 rates. A comparison of actual distribution charges to customers is dependent on the requirements of the customers (such as <50 kW or >50 loads and whether the service is single phase or three phase) and is therefore not currently known.

A comparison of Hydro One Service Quality Indicators and the Total Loss Adjustment Factor may not be indicative of the service quality for Hydro One urban distribution systems as Hydro One reports these statistics based on Province wide data and therefore, this comparison is not included as part of this Application.

The amount of the capital contribution required from the customer has not yet been calculated however due to the proximity of Horizon Utilities' lines to the development and the fact that Hydro One's would have to be extended by approximately 2 km, Horizon Utilities' connection costs will be much less than that required by Hydro One.

This Application will not reduce the number of Hydro One customers from Hydro One's existing 8 kV system and therefore will not result in the stranding of Hydro One assets.

Section 6: Description of Impacts

There is one existing electricity customer of Hydro One within the proposed SmartCentres Development area. This Application excludes that customer. Therefore, there are no impacts on the costs, rates, service quality or reliability of any customers in the Service Area Amendment area or in the surrounding area.

Because no existing Hydro One customers will be affected by this application, there will be no impact on Hydro One. Because sufficient system capacity is already available from Horizon Utilities to supply this development, there will be no negative impact on Horizon Utilities.

No assets will become stranded as a result of this application.

No assets are proposed to be transferred to or from the applicant.

No customers are proposed to be transferred to or from the applicant.

No existing load transfers or points of retail supply will be eliminated as a result of this application.

No new load transfers or retail points of supply will be created as a result of this application.

The applicant has communicated the details of this application with Hydro One and the Power Workers Union which are the only other affected persons. Hydro One has indicated support for the application and will provide the Board with a Letter of Consent once an Ontario Energy Board file number has been assigned for this application.

Section 7: Customer Preference

Exhibit F, attached, is a letter from the developer, Hamilton Mountain Developments Inc., indicating that it prefers to be supplied by Horizon Utilities.

Section 8: Additional Information Requirements for Contested Applications

This application is uncontested.

Section 9: Conclusion

Horizon Utilities Corporation is filing an Application to amend its distribution licence to include the Hamilton Mountain Developments Inc. SmartCentres Commercial Development.

Throughout this Application, Horizon Utilities has addressed the Board's filing requirements for Service Area Amendments.

Hydro One has consented to this Application.

The Developer prefers to be supplied by Horizon Utilities.

This Application does not result in overlapping service areas.

This Application does not result in the embedding of any Hydro One customers.

Horizon Utilities has provided Exhibits demonstrating the location and proximity of the SmartCentres Commercial Development to Horizon Utilities' existing distribution system and in particular, the proximity of the SmartCentres Commercial Development to the existing 27.6 kV distribution system in the Brooks at Rymal/20. Horizon Utilities has shown that the expansion of this system is a natural extension of Horizon Utilities' available capacity and that Horizon Utilities' rates are in the public interest.

Horizon Utilities has received confirmation from Hydro One and Hamilton Mountain Developments Inc. confirming their support and consent.

As detailed throughout this Application, Horizon Utilities has a well-defined 27.6 kV distribution system that is not only contiguous to, but is actually installed in, the existing phases of the Brooks at Rymal/20 development.

This service area amendment enhances the "*economic efficiency*" of Horizon Utilities' expansion of its existing distribution system to the south side of Rymal Road and supply to the SmartCentres Commercial Developments as well as providing the capacity to supply future development.

Section 10: Application for an Order or Orders

Horizon Utilities Corporation is making this Application for amendment to the respective distribution licences under section 28 of the *Electricity Act*, which states:

- 28. A distributor shall connect a building to its distribution system if,*
- a) the building lies along any of the lines of the distributor's distribution system;*
 - and*
 - b) the owner, occupant or other person in charge of the building requests connection in writing.*

Horizon Utilities submits that granting the licence amendment meets the Board's objectives set out in the *Ontario Energy Board Act*, section 1, specifically subsections 2 and 4 in relation to electricity, which read as follows:

- *"To provide generators, retailers, and consumers with non-discriminatory access to transmission and distribution systems in Ontario" and*
- *"To promote economic efficiency in the generation, transmission, and distribution of electricity."*

Horizon Utilities also submits that it not only represents the least-cost alternative to Hamilton Mountain Developments Inc. based on the existence of a new distribution system installed in the existing phase of the Brooks at Rymal/20 development, but that it has also met all the requirements of the Five Board Principles for Dealing With Service Area Amendments and that it is economically efficient for Horizon Utilities to connect the customer.

Horizon Utilities requests that the Board proceed with this Application in an expeditious manner without a hearing, pursuant to subsection 21(4) of the *Ontario Energy Board Act*, which reads as follows:

- Despite section 4.1 of the Statutory Powers Procedure Act, the Board may, in addition to its power under that section, dispose of a proceeding without a hearing if,*
- a) no person requests a hearing within a reasonable time set by the Board after the Board gives notice of the right to request a hearing; or*

- b) *the Board determines that no person, other than the applicant, appellant or licence holder will be adversely affected in a material way by the outcome of the proceeding and the applicant, appellant or licence holder has consented to disposing of a proceeding without a hearing.*

Horizon Utilities Corporation requests:

- a) That its distribution licence ED-2006-0031 be amended to include the property described as: The former Township of Binbrook in the former Township of Glanbrook as of December 31, 1973, now in the City of Hamilton and described as:
- Part of Township Lot Two (2), Blocks Three (3), Four (4), Five (5), Nine (9), Ten (10) and Eleven (11), in the First Concession of the Geographic Township of Binbrook on Plan 62M ; bounded by Rymal Road East along the north, Hydro One existing service territory to the west, the future 'Street B' to the south, Horizon Utilities existing service area to the east; and
- b) That the property described in a) be included in the Horizon Utilities Corporation's Distribution Licence, ED-2006-0031; and
- c) That the Board dispose of this proceeding without a hearing, pursuant to s. 21(4) of the *Ontario Energy Board Act*.

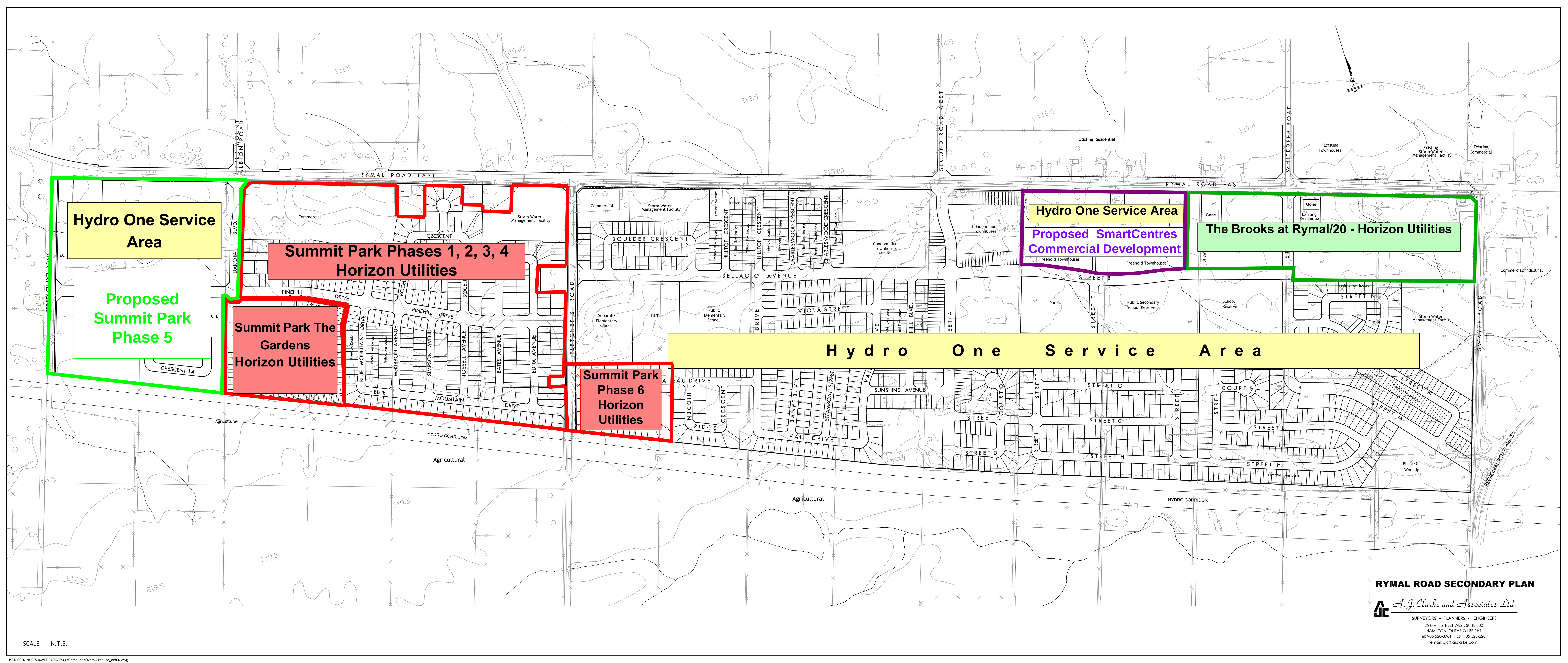
Horizon Utilities Corporation requests that the Board approve this Application under section 21(4) of the *Ontario Energy Board Act*, as indicated above.

Horizon Utilities further requests that Hydro One receive any and all future documentation that may be filed, by any party, with the Board in this proceeding by providing observer status to Hydro One which we understand will entitle Hydro One to such documentation. Please provide Hydro One with such documentation as follows –

Blair MacDonald
Senior Advisor, Regulatory Affairs
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483 Bay Street
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M5G 2P5
Telephone: 416-345-5067
Fax: 416-345-5866
blairmacdonald@HydroOne.com

Horizon Utilities Corporation has also delivered this Application to counsel to the Power Workers' Union, requesting a response to the Board in order to expedite the Board's decision making process. This Application was delivered to the PWU as follows -

Mr. Andrew Lokan
Counsel to the Power Workers' Union
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Suite 501
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M5H 3E5
Telephone: 416-646-4324
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SCALE : N.T.S.

RYMAL ROAD SECONDARY PLAN

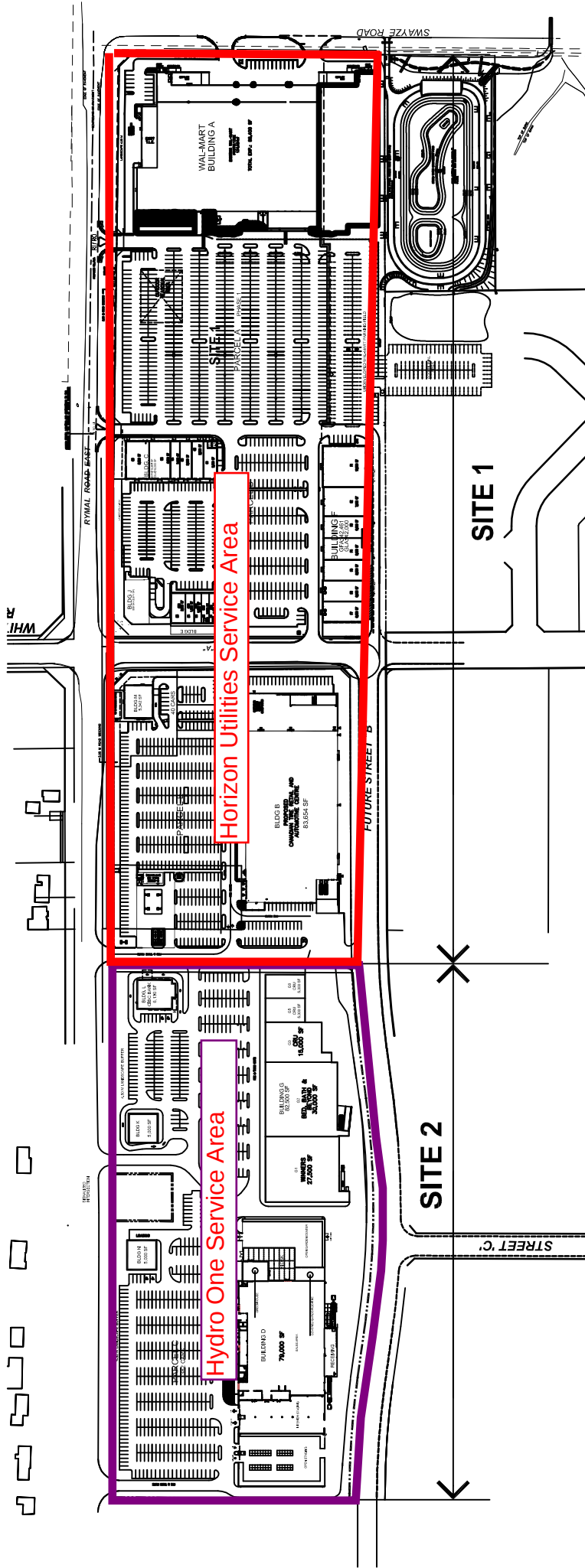
A.J. Clarke and Associates Ltd.

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EXHIBIT B

SmartCentres Commercial Development 62M

(to be provided cover with HARD COPIES submitted)



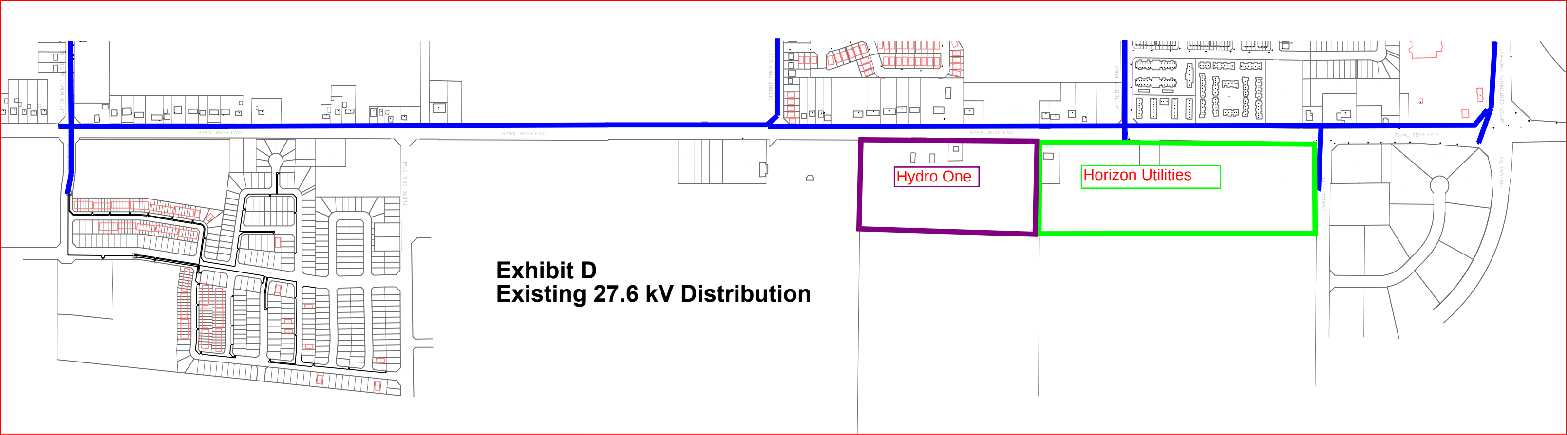


EXHIBIT E

Hydro One Letter of Consent

(to be provided under separate cover)



SmartCentres

700 Applewood Crescent, Vaughan, ON, L4K 5X3

Telephone (905) 760-6200 Fax (905) 760-6202

January 27, 2009

Horizon Utilities Corporation
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Hamilton, ON
L8N 3E4

Attention: Cameron McKenzie
Director, Regulatory Services

**Re: Electricity Service to SmartCentres Commercial Development
Hamilton Mountain Developments Inc.**

Dear Mr. McKenzie,

Hamilton Mountain Developments Inc. has not approached Hydro One Networks Inc. for an Offer to Connect and prefers instead to receive service from Horizon Utilities Corporation through their existing distribution system, which supplies the Brooks at Rymal/20 development and is contiguous with the SmartCentres Commercial Development.

Yours Truly,

Hamilton Mountain Developments Inc.

Christine Cote
Land Development Manager
(905) 760-6200 ext 7862
ccote@smartcentres.com



January 26, 2009

Mr. Andrew Lokan
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Toronto, Ontario
M5H 3E5

**Re: Electricity Distribution Licence ED-2006-0031
Application to Amend Licensed Service Area – “Smart Centres Commercial
Development”**

Enclosed please find Horizon Utilities Corporation's Application to amend its licensed service area for the purposes of servicing the Hamilton Mountain Developments Inc. "Smart Centres Commercial Development". Hydro One Networks Inc. has provided support for the aforementioned Application.

Horizon would respectfully request that an acknowledgement or response be sent to the Ontario Energy Board as a means of advancing this Application quickly through the Board's process.

Should you have any questions on our Application please contact me at 905-317-4785 or by e-mail at chmckenzie@horizonutilities.com.

Yours truly,

Cameron McKenzie
Director, Regulatory Affairs
Horizon Utilities Corporation

attachment