



**COLLUS Power Corp**  
**P.O. Box 189, 43 Stewart Road**  
**Collingwood ON L9Y 3Z5**  
**Phone: (705) 445-1800**  
**Operations Department Fax: (705) 445-0791**  
**Finance Department Fax: (705) 445-8267**  
**www.collus.com**

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Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto ON M4P 1E4

April 27, 2009

Dear Ms. Walli:

Re: Innisfil Hydro Distribution Systems Limited (Board File No. EB-2008-0233)  
VECC Notice of Motion for Review dated April 24, 2009

COLLUS Power Corp (COLLUS) is submitting this letter in response to the filing by PIAC on behalf of VECC a Notice of Motion to Review the Boards April 6, 2009 Decision on Innisfil Hydro Distribution Systems Electricity Distribution Rate Application. PIAC has indicated in their letter that COLLUS will be receiving a similar motion in respect of the Board's Decision on COLLUS' 2009 rate application (EB-2008-0226).

Accompanying this letter is a copy of a letter submitted by Borden Ladner Gervais LLP on behalf of Innisfil dated April 27, 2009. COLLUS takes this opportunity to indicate its support of Innisfil's objection to the VECC Motion. COLLUS determined that it should register support due to the fact VECC has identified COLLUS as a party in this matter in their letter. In particular, COLLUS agrees with Innisfil and its counsel that the matter being raised by VECC is primarily a generic issue related to the management of unissued debt and as such should not be dealt with specifically within the Cost of Capital rate applications of two individual LDC's. COLLUS may have further comments to offer following its receipt of VECC's motion if the VECC motions proceed.

If you have any further questions, please do not hesitate to contact me.

Sincerely,

Mr. T. E. Fryer CMA  
Chief Financial Officer  
COLLUS Power Corp

E-Mail: [lauriec@innisfilhydro.com](mailto:lauriec@innisfilhydro.com)  
[jsidolfsky@blgcanada.com](mailto:jsidolfsky@blgcanada.com)



Borden Ladner Gervais LLP  
Lawyers • Patent & Trade-mark Agents  
Scotia Plaza, 40 King Street West  
Toronto, Ontario, Canada M5H 3Y4  
tel.: (416) 367-6000 fax: (416) 367-6749  
www.blqcanada.com

**JAMES C. SIDLOFSKY**  
direct tel.: 416-367-6277  
direct fax: 416-361-2751  
e-mail: jsidlofsky@blqcanada.com

April 27, 2009

**Delivered by Courier and E-mail**

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

Dear Ms. Walli:

**Re: Innisfil Hydro Distribution Systems Limited  
Application to the Ontario Energy Board for 2009 Electricity Distribution  
Rates effective May 1, 2009 (Board File No. EB-2008-0233) -  
VECC motion for review of Decision**

We are counsel to Innisfil Hydro Distribution Systems Limited ("Innisfil") in the above-captioned matter. We understand that on Friday, April 24, 2009, the Vulnerable Energy Consumers Coalition ("VECC") delivered a motion to the Ontario Energy Board (the "Board") for a review of the Board's April 6, 2009 Decision in respect of Innisfil's 2009 Electricity Distribution Rate Application. VECC has indicated in its letter that the Board's Decision in respect of the application of COLLUS Power Corp. for 2009 distribution rates (Board File No. EB-2008-0226) will be the subject of a similar request. A copy of the April 24th VECC letter is enclosed for your reference.

As noted in its letter, VECC is requesting that both motions be addressed by way of a combined proceeding. Innisfil considers it imperative that this letter be delivered in response to VECC's motion on its Decision rather than waiting for VECC to complete a formal notice regarding COLLUS. We also expect COLLUS to file a letter in response to the VECC motion material on the COLLUS application when that motion material is received, unless the Board determines that it will not conduct a review of these Decisions.

As discussed below, Innisfil does not believe that the Board should conduct a review of either of these Decisions. Rather, Innisfil submits that pursuant to Rule 45 of its *Rules of Practice and Procedure* (the "Rules"), the Board should determine in the negative the threshold question of whether these matters should be reviewed. However, if the Board determines that the matters should be reviewed, Innisfil anticipates that it will have an opportunity to respond to the VECC motion, which will include a reasonable period of time in which to prepare and file responding material and submissions.

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Montréal  
Calgary

At page 24 of the Board's Innisfil Decision, the Board determined that "Innisfil should use the Board's current deemed long term debt rate of 7.62% as the imputed rate on its new bank loan in determining the cost of debt for regulatory purposes rather than its proposed rate of 5.08%, since as of the completion of the record for this proceeding, Innisfil has not issued its new bank loan and as such, the rate on this instrument is unknown." We understand that COLLUS has also not yet issued its new bank debt, and the debt rate on the COLLUS instrument that is yet to be negotiated with its lender is unknown.

The Board's Rules require that every notice of a review motion shall set out the grounds for the motion that raise a question as to the correctness of the order or decision, which grounds may include (i) error in fact; (ii) change in circumstances; (iii) new facts that have arisen; and (iv) facts that were not previously placed in evidence in the proceeding and could not have been discovered by reasonable diligence at the time. Innisfil has considered these grounds, and fails to see how VECC has satisfied them. There is no error in fact – the Board found that the debt had not been issued as of the completion of the record, and it has still not been issued. Similarly, there has been no change in circumstances, nor have new facts arisen – the facts and circumstances are as the Board found them in its Decision, and there has been no suggestion that there are any facts that were not already on the record and could not have been discovered by reasonable diligence at the time. The Board had all the relevant facts before it, and made its Decision based on those facts.

VECC now appears to want to assign a debt rate to Innisfil and COLLUS as if loans had been actually entered into, when they have not. It is Innisfil's understanding that the VECC approach is not consistent with the Board's 2006 Report on Cost of Capital and 2nd Generation IRM. Innisfil does not understand why VECC would be attempting to modify the Board's findings in that Report for two utilities out of the dozens that have now rebased under the terms of that Report. Even VECC's (and other intervenors') insistence on using shorter term debt rates for the anticipated new Innisfil and COLLUS debt appears inconsistent with the Board's Report, in which (at page 12) the Board notes that "for ratemaking purposes the term of the debt should be assumed to be compatible with the life of the asset." Innisfil does not understand why, where the Board developed a mechanism for establishing a rate for long term debt almost 2½ years ago, the intervenors would have the Board shop for short term rates to apply to long term debt in these two applications.

If VECC has issues with the way in which the deemed long term debt rate is determined for debt that has not yet been issued, Innisfil respectfully suggests that this is a generic issue that is not specific to either Innisfil or COLLUS, and the Board should not consider this issue in the context of the applications of these two utilities. The Board recognizes that certain matters raise generic policy issues, and are beyond the scope of decisions on individual applications – for example, in the Innisfil Decision itself (at page 22), the Board wrote:

"The Board notes VECC's request that the Board should work with distributors and the IESO to establish a common approach to determining what elements of the RPP Price Report should be included in the cost of power for purposes of determining working capital allowances. The Board views this matter as a generic policy issue that is not within the scope of this Decision."

Innisfil submits that VECC's issues with treatment of long term debt that has not yet been issued is similarly beyond the scope of this proceeding. Innisfil's customers will already be bearing costs related to its 2009 forward test year cost of service application. Innisfil is very concerned that its customers should not have to bear the cost of the additional process that would have to be undertaken at VECC's request. The Decisions have already awarded cost recovery of rebasing costs, and those costs do not include the addressing of generic issues in the context of a review motion.

Innisfil also notes that the Decision has been rendered on a forward test year basis, and Innisfil understands that many of the elements of an application of this kind will be based on estimates. The process has taken a lengthy period of time (during which Innisfil has met all deadlines and Board requirements), and is just now on the verge of meeting the May 1, 2009 rate implementation goal. VECC would like to see the Board revise one of the estimates that formed part of the Application, but Innisfil notes that there has been no mention at this time of changes in other estimates made as part of the Application. For example:

1. The load forecast for the Test Year was made approximately a year ago with projections based on past trends. An economic downturn as is currently being displayed was not considered. All indications from the current governments are that the impact will be far more extensive than initially forecasted. This raises potential issues about the load and customer forecasts, and about Innisfil's ability to meet its revenue requirement.
2. Similarly, one of the implications of the downturn is that customer payment of accounts may not be as timely as originally projected – this in turn will affect the cash balance used to project the Interest Revenue in Innisfil's Revenue Offsets calculation.
3. Interest rates used to calculate Interest Revenue appear to be lower than originally forecasted. Specifically, the interest rate used to calculate Innisfil's Interest Revenue in the Test Year was based on the Board's 3.35% quarterly rate at the time. The short term rates are now down to under 1%.
4. Innisfil has had to increase its bad debt reserve by \$25,000 as at March 31, 2009. This is equal to approximately an entire year's budget as submitted in Innisfil's August 15, 2008 Application.

As noted earlier, the Board should reject the VECC request. In the event that the Board does not make the determination, in the context of the threshold question, that the Decisions should not be reviewed, Innisfil respectfully requests that the Board issue its Rate Order immediately (Innisfil has already submitted its draft rate order, as has COLLUS), for implementation May 1, 2009. Innisfil believes that it will be better for its ratepayers if it had to reduce bills at a later date if VECC is ultimately successful, than it would be to (a) increase its customers' bills unnecessarily at a later date by introducing an adder to allow for recovery of incremental revenue back to May 1st in the event that VECC is unsuccessful; or (b) jeopardize Innisfil's ability to recover its full revenue requirement by delaying the implementation of its rate order due to the VECC motion.

As mentioned above, if the Board determines that the matters should be reviewed, Innisfil anticipates that it will have an opportunity to respond to the VECC motion, which will



include a reasonable period of time in which to prepare and file responding material and submissions.

In addition to providing Innisfil with copies of all correspondence and orders pertaining to this proceeding, we ask that copies of all correspondence and orders be delivered to me as follows:

James C. Sidlofsky  
Partner  
Borden Ladner Gervais LLP  
Scotia Plaza, 40 King Street West  
Toronto, ON M5H 3Y4  
  
Tel: (416) 367-6277  
Fax: (416) 361-2751  
  
E-mail: jsidlofsky@blgcanada.com

Should you have any questions or require further information, please do not hesitate to contact me.

Yours very truly,

**BORDEN LADNER GERVAIS LLP**

*Original Signed by James C. Sidlofsky*

**James C. Sidlofsky**  
JCS/dp

Encl.

cc: Laurie Ann Cooledge, CFO/Treasurer, Innisfil Hydro Distribution Systems Limited  
Mr. Tim Fryer, CFO, COLLUS Power Corp.  
Bruce Bacon, BLG  
Intervenors of Record in EB-2008-0233

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**PUBLIC INTEREST ADVOCACY CENTRE**  
**LE CENTRE POUR LA DEFENSE DE L'INTERET PUBLIC**

**ONE Nicholas Street, Suite 1204, Ottawa, Ontario, Canada K1N 7B7**

Tel: (613) 562-4002. Fax: (613) 562-0007. e-mail: [piac@piac.ca](mailto:piac@piac.ca). <http://www.piac.ca>

Michael Buonaguro  
Counsel for VECC  
(416) 767-1666

April 24, 2009

**VIA MAIL and E-MAIL**

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge St.  
Toronto, ON  
M4P 1E4

Dear Ms. Walli:

**Re: Innisfil Hydro Distribution Systems Limited**  
**Application for 2009 Electricity Distribution Rates**  
**Board File No. EB-2008-0233**

Please find enclosed a Notice of Motion for a Review and Vary of the Board's decision dated April 6, 2009. The motion is filed on behalf of VECC, with the support and input of Energy Probe and the School Energy Coalition, all three of which were registered intervenors in the original rate application.

The motion for review and vary is with respect to the discrete issue of the Board's use of the deemed long term debt rate (7.62%) as the rate for forecast 3<sup>rd</sup> party non-variable debt to be issued in 2009, as opposed to the applied for rate of 5.08% as forecasted by the applicant.

To that end, we note that the decision of the Board in Collus Power Corp. (EB-2008-0226) makes similar use of the deemed long term rate in place of the forecast rate; it is VECC's intention to request a review and variance of the Collus decision on essentially identical grounds. Accordingly we would ask that the Board consider providing for a combined proceeding wherein this discrete issue can be heard once for both utilities.

Additionally, we note that the effective date of the Rate Order in this application is fast approaching. Accordingly we would ask that the Board make provision for either a stay of the Decision or for deferral account treatment of the revenue requirement impact of

the requested change in the debt rate, as requested in the Notice of Motion.

Yours truly,

Michael Buonaguro

Counsel for VECC  
Encl.