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June 19, 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 and COLLUS Power Corp.  
Applications to the Ontario Energy Board for 2009 Electricity  
Distribution Rates effective May 1, 2009 - VECC motions for review of  
Decisions – EB-2009-0130**

As previously advised, we are counsel to Innisfil Hydro Distribution Systems Limited (“Innisfil”) and to COLLUS Power Corp. (“COLLUS”) in the above-captioned matter. Procedural Order #2 (“P.O. #2”) in this matter was received by e-mail this afternoon, and further to my telephone call to Board Staff immediately upon receipt of P.O. #2, I am writing to you to address the revised timeline set out by the Board.

In my letter to you of June 10, 2009 responding to Procedural Order #1, in which the Board set June 26, 2009 as the hearing date for the VECC motions, I advised that I would be out of the country from June 25<sup>th</sup> through July 10<sup>th</sup>, and unavailable for the motion. In P.O.#2, the Board has set a deadline of June 29, 2009 for the filing of Innisfil/COLLUS material, and July 6, 2009 for the argument of the motion (at which time the threshold question of whether the Innisfil and COLLUS Decisions should be reviewed will be considered, followed immediately by the argument of the merits of the motion if the threshold question is answered in the affirmative).

I must again advise the Board that I will be out of the country from June 25<sup>th</sup> through July 10<sup>th</sup>. Accordingly, I will not be able to meet the Board’s filing deadline, nor will I be available for the motion. We will not be in a position to provide other counsel to our clients in order to meet those dates, due to other already scheduled commitments.

I acknowledge that the summer months present challenges for the Board with respect to scheduling, due to the availability of Board panels, staff and parties. As noted in our letter of June 16<sup>th</sup> and in P.O. #2, we agree with VECC that it is reasonable that any re-scheduling take VECC’s counsel’s availability into account, although it is not entirely clear from Mr. Buonaguro’s letter of June 12<sup>th</sup> that he will in fact be away for the entire month of August – I note that he asked that the Board consult directly with him “if it is

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persuaded to alter the current schedule”. In any event, though, our agreement that the Board should take Mr. Buonaguro’s availability into account should not be taken as a suggestion that I can change my plans for the June 25<sup>th</sup> – July 10<sup>th</sup> period to accommodate his potential lack of availability for the month of August – I cannot.

We also acknowledge the Board’s concern for process efficiency and “the need to deal expeditiously with the matters raised by these motions”. However, we are not seeking a lengthy or unreasonable delay in this matter. In our correspondence of June 10<sup>th</sup> and 16<sup>th</sup>, we submitted that the threshold question should be addressed prior to any hearing of the motions on their merits. We suggested that a date during the week of July 20<sup>th</sup> should be set for the filing of the Innisfil/COLLUS responding material on the threshold question. The Board has determined in P.O. #2 that it will deal with both the threshold question and (if necessary) the merits of the motions in a single session. We therefore respectfully suggest that the Board schedule Friday, July 17, 2009 as the filing deadline for the Innisfil and COLLUS material, and set a hearing date for the Thursday or Friday of the following week (July 23<sup>rd</sup> or 24<sup>th</sup>) or the week of July 27<sup>th</sup> for the argument of the threshold question and (if necessary) the motion. This is a minor adjustment to the timeline that will allow Innisfil and COLLUS access to their counsel; accommodate the current plans of counsel to VECC; and allow for the full and fair review that P.O. #2 acknowledges must take place.

In the alternative, if these dates are not suitable for the Board and counsel to VECC is not available in August, we would suggest that the Board set dates in August for the filing of the Innisfil/COLLUS material and in early September for the hearing. We again acknowledge the Board’s concern for process efficiency and the need to deal expeditiously with the matters raised by these motions, but in this matter, as we noted in our letter of June 10<sup>th</sup>, “the revision of the process for this proceeding is not prejudicial to the parties. The Innisfil and COLLUS rate orders are already in force, and the utilities will abide by the Board’s directions with respect to the tracking of differences, when those directions are received.” If Innisfil and COLLUS are ultimately required to adjust their distribution rates and provide credits to customers, we anticipate that that will be addressed promptly by these distributors.

We thank you in advance for your consideration in this matter.

Yours very truly,

**BORDEN LADNER GERVAIS LLP**

*Original Signed by James C. Sidlofsky*

**James C. Sidlofsky**

JCS/dp

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

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