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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: Horizon Utilities Corporation – Z-Factor Application
Board File No.EB-2009-0332**

We are counsel to Horizon Utilities Corporation (“Horizon Utilities”) in the above captioned matter. As we advised in our cover letter to the public versions of Horizon Utilities’ responses to the interrogatories of Board Staff and the intervenors in this matter, delivered by e-mail yesterday, Horizon Utilities is filing the following responses in confidence, in accordance with the Board’s *Practice Direction on Confidential Filings* (the “Practice Direction”):

Board Staff: #1; #2(a); #3; #4; #5; #6; #8(b); and #10(b) and (d)

CCC: #7

Energy Probe: #2(a)

School Energy Coalition: #1; #4; #5; #14 and #15

U.S. Steel Canada Inc.: #4

VECC: #3(b) and (c); #4; #5(b); and #9

Horizon Utilities has grouped the responses into three categories for the purpose of addressing the grounds for this request:

Group 1: Confidential Customer Information

Interrogatories:

Board Staff: #1; 2(a); #3; #6; #8(b); and #10(b) and (d)

CCC: #7

School Energy Coalition: #1; #4; #5; and #15

VECC: #3(b) and (c); and #4

In these interrogatories, Horizon Utilities has been asked to provide certain information with respect to the Subject Customer. This includes:

Vancouver
•
Toronto
•
Ottawa
•
Montréal
•
Calgary

- Revenue deficiency information [Staff 1, 6, 10(b) and (d); CCC 7; Schools 4, VECC 4];
- Load information [Staff 6; Schools 1, 5; VECC 3(b) and (c)];
- Information related to the cost of servicing the Subject Customer [Staff 2(a)];
- Bill impacts related to the Large User Class if the revenue decline related to the Subject Customer were allocated entirely to that class [Staff 8(b)]; and
- Information related to the Subject Customer's conservation and demand management activities [Schools 15].

In Board Staff Interrogatory #3, Horizon Utilities has been asked to provide monthly load information not only for the Subject Customer, but for all of its Large Use customers.

While we have broken this group of interrogatories into the bulleted categories set out above for the Board's assistance, Horizon Utilities submits that all of these interrogatories require disclosure of the Subject Customer's load information, both past and anticipated. While Horizon Utilities had included historical and projected load information for the Subject Customer in its Application, Horizon Utilities has been advised by the Subject Customer of its concerns with respect to the release of information of that kind.

The projection of the Subject Customer's load from July 2009 through April 2011 has been amended from that shown in the Application, and Horizon Utilities is not prepared to place the revised projection on the public record. Many of the interrogatories relating to the Subject Customer's projected load also pertain to the Subject Customer's historical load. Horizon Utilities submits that the further public disclosure of information regarding the Subject Customer's load (both historical and projected) could reasonably be expected to prejudice the economic interest of, significantly prejudice the competitive position of, cause undue financial loss to, and be injurious to the financial interest of the Subject Customer since it may assist competitors in ascertaining its future plans with respect to its operations. Horizon Utilities submits that a similar risk exists with respect to the other large use customers whose load information is requested in Board Staff Interrogatory #3. The OEB's Practice Direction on Confidential Filings (the "Practice Direction") recognizes that these are among the factors that the Board will take into consideration when addressing the confidentiality of filings. They are also addressed in section 17(1) of the *Freedom of Information and Protection of Privacy Act* ("FIPPA"), and the Practice Direction notes (at Appendix C of the Practice Direction) that third party information as described in subsection 17(1) of FIPPA is among the types of information previously assessed or maintained by the OEB as confidential. Horizon Utilities understands that the Subject Customer has requested that the information be kept in confidence.

Accordingly, Horizon Utilities requests that the Subject Customer's and other individual large use customers' load information as provided in Horizon Utilities' interrogatory responses be kept confidential.

Group 2: Information regarding the business activities of the Subject Customer

Interrogatory:

U.S. Steel Canada Inc.: #4

In this interrogatory, Horizon Utilities has been asked to provide, in confidence, information pertaining to its understanding of the Subject Customer's business activities. Horizon Utilities cannot provide this information without disclosing the identity of the Subject Customer. Accordingly, Horizon Utilities requests that the information provided in response to this interrogatory be kept confidential.

Group 3: Future oriented financial information

Interrogatories:

Board Staff: #4; and #5
Energy Probe: #2(a)
School Energy Coalition: #14
VECC: #9

In these interrogatories, Horizon Utilities has been asked to provide certain future oriented financial information with respect to 2009, 2010 and 2011, including information related to shareholder returns and revenue sufficiency and deficiency. This information includes:

- Revenue deficiency calculations [Staff 4; VECC #9];
- Planned changes in capital projects and anticipated changes in cash flow and revenue sufficiency/deficiency [Staff 5];
- Projections with respect to Horizon Utilities' anticipated returns on equity [Energy Probe #2(a)]; and
- Changes in working capital calculations resulting from changes in the Subject Customer's characteristics [Schools 14].

Horizon Utilities submits that the public disclosure of its future oriented financial information could reasonably be prejudicial to Horizon Utilities with respect to its financial stakeholders including its shareholders, lenders, and rating agency. Such could cause undue economic loss and be injurious to Horizon Utilities. The OEB's Practice Direction recognizes that these are among the factors that the Board will take into consideration when addressing the confidentiality of filings. They are also addressed in section 17(1) of the FIPPA, and the Practice Direction notes (at Appendix C of the Practice Direction) that third party information as described in subsection 17(1) of FIPPA is among the types of information previously assessed or maintained by the OEB as confidential. Accordingly, Horizon Utilities requests that the applicable interrogatory responses be kept confidential.

Horizon Utilities is prepared to provide copies of its responses to the interrogatories noted above to parties' counsel and experts or consultants provided that they have



executed the Board's form of Declaration and Undertaking with respect to confidentiality and that they comply with the Practice Direction, subject to Horizon Utilities' right to object to the Board's acceptance of a Declaration and Undertaking from any person. In keeping with the requirements of the Practice Direction, Horizon Utilities is filing with the Board confidential unredacted versions of the responses to these questions. These have been placed in a sealed envelope marked "Confidential".

Yours very truly,
BORDEN LADNER GERVAIS LLP

Original signed by James C. Sidlofsky

James C. Sidlofsky
JCS

cc. Max Cananzi, Horizon Utilities Corporation
John Basilio, Horizon Utilities Corporation
Indy Butany-DeSouza, Horizon Utilities Corporation
Intervenors of Record

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