



February 5, 2010

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

Dear Ms Walli:

**Re: Board File No. EB-2008-0381 (Deferred PILs Account 1562 Disposition)**

Hydro One Brampton Networks Inc. ("Brampton"), one of the intervenors, requests clarification of a portion of the Board's Decision with Reasons issued on December 18, 2009. In that Decision, the Board wrote the following on page 7:

*In particular, the issue raised by Hydro One Brampton [in Brampton's submission dated November 20, 2009, regarding the threshold question stated in Procedural Order 6] is a fact issue to be determined later...*

Brampton is unclear as to whether the words "to be determined later" mean "later in this proceeding" or "later, in another proceeding." If what was meant is the latter, Brampton requests that it be made clear now that determinations of principles made in the present proceeding will not bind Brampton so as to preclude Brampton from raising its own facts and circumstances in a future proceeding, given the fact that Brampton's facts and circumstances were never in evidence before the Board in this proceeding.

However, if the words "to be determined later" mean "later in this proceeding," Brampton requests leave the Board's leave to file limited evidence in this proceeding.

The Draft Issues List compiled at the Issues Conference held on January 27, 2010, includes Issue #14, which reads as follows:

*Should the maximum interest expense allowable in rates be used as the threshold to determine the excess interest clawback? What is the consequence, if any,*

*where actual debt levels exceeded deemed levels used for ratemaking purposes, resulting in the accumulation of a liability?*

Although Brampton is unsure as to whether Issue #14 captures the situation of any of the named applicants in this proceeding, Brampton submits that:

- (a) Issue #14 is intertwined with the subject matter of this proceeding;
- (b) Brampton will be affected by the determination of Issue #14; and
- (c) Brampton has relevant facts and circumstances that will shed light on this issue and therefore be of assistance in this proceeding.

Brampton is concerned that if it cannot file limited evidence (relating to Issue #14) in this proceeding, a finding that affects Brampton may be made in this proceeding without the benefit of a consideration of Brampton's facts and circumstances; and Brampton is concerned that if that occurs, Brampton may be barred from raising the matter in a future proceeding despite the fact that Brampton's facts and circumstances were never in evidence before the Board.

In summary, then, Brampton respectfully requests the Board's clarification of the Decision with Reasons passage set out in the first paragraph of this letter. If the Board's response is that the word "later" means "later in another proceeding," Brampton requests the Board to make it clear now that determinations of principles made in the present proceeding will not bind Brampton so as to preclude Brampton from raising its own facts and circumstances in a future proceeding. If the Board's response is that the word "later" means "later in this proceeding," Brampton request the Board's leave to file limited evidence in this proceeding, concerning Issue #14 on the Draft Issues List, unless it will be open to Brampton to raise its (Brampton's) own facts and circumstances in a future proceeding that will not be bound by the determination of principles in the present proceeding.

Sincerely,



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