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**Via E-mail**

November 30, 2010

Michael Millar  
Legal Counsel  
Ontario Energy Board  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, ON M4P 1E4

Dear Mr. Millar:

**RE: Motion by the Consumer's Council of Canada ("CCC") and Aubrey LeBlanc in relation to s. 26.1 of the *Ontario Energy Board Act, 1998* (the "Act") and Ontario Regulation 66/10**

**Board File No.: EB-2010-0184, Schedule**

**Attorney General of Ontario's Answers to Undertakings and matters taken Under Advisement, from the Cross-Examination of the Government's Witness, November 16, 2010**

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Further to Mr. Warren's letter dated November 19, 2010, the Attorney General of Ontario is writing to provide the Board with an update in respect to Undertakings and matters taken Under Advisement during the cross-examination of the Government's witness on November 16, 2010.


On November 26, 2010, the Attorney General answered all of its Undertakings provided to opposing counsel during the cross-examination of the Government's witness. In that correspondence, counsel for the Attorney General advised the parties that the response to questions from Mr. Warren, counsel for the Moving Party, taken Under Advisement were not yet available.

Following further communication with individuals at the Ministry of Energy, we understand that there are particular documents which, upon preliminary review, appear responsive to the questions of Mr. Warren taken Under Advisement during the cross-examination (namely JT 1.4, 1.5, 1.5(B) p.78, 1.6 and 1.7), subject to the relevant claims of privilege and/or relevance. However, these documents include sensitive information from very senior levels of government.

Proceeding to get instructions whether or not to disclose such material, subject to redactions, if any, requires obtaining directions from senior levels of government. We have communicated with Mr. Warren that obtaining such instructions may take an additional period of a few weeks, and that following the receipt of instructions, counsel may refuse production. Mr. Warren advised that his preference is to obtain the Attorney General's final position with respect to all matters taken Under Advisement before proceeding with scheduling the next steps in this proceeding, and consented to an extension of time that would permit the Attorney General to provide a complete response.

In the result, we respectfully request that the Board decline to issue a scheduling order in this matter until such time as counsel communicates the Attorney General's response to all matters taken under advisement from the cross-examination of the Government's witness, and counsel for the Moving Party has determined what position he will take respecting the response. It is unlikely that this will be resolved between the Attorney General and the Moving Party prior to January 2011, however counsel will of course make best efforts to provide this response to Mr. Warren on an expedited basis.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Janet E. Minor".

Janet E. Minor  
General Counsel

cc: Robert Warren, counsel for the Moving Party  
All Intervenors (by email)  
Kirsten Walli, Board Secretary