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Ministère du
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BY E-MAIL and FAX (416) 440-7656

February 22, 2011

Ms. Kirsten Walli, Board Secretary
Mr. Michael Millar, Legal Counsel
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Walli and 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

CCC Motion for production of Unredacted Material

We write in response to the letter of today's date from Mr. Warren, respecting the Procedural Motion wherein the CCC is seeking production of unredacted copies of the documents provided in response to questions taken under advisement during the cross-examination of the Attorney General's witness, Mr. Barry Beale.

It is incorrect to assert that counsel for the Attorney General is not seeking instructions quickly respecting the assertion of an additional ground of privilege, further to our letter of 11 February 2011.

As noted, the documents at issue include material provided to both the Minister of Energy, and the Cabinet of the Government of Ontario, that were redacted on the bases of solicitor-client privilege and irrelevance. Obtaining such instructions requires the receipt of directions from very senior levels of government given the nature of the documents at issue. As indicated in our letter dated 11 February 2011, (the contents of which Mr. Warren vetted and agreed to) obtaining such instructions will require an additional period of several weeks, and that following the receipt of instructions, the Attorney General may be required to file an additional affidavit. Further, in our view, written submissions will significantly assist the Board's determination of

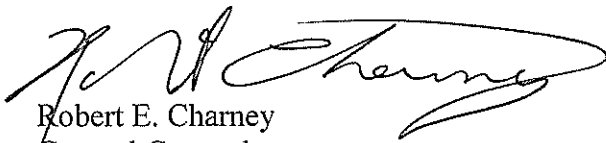
the Procedural Motion. As in the normal course in civil litigation, and to ensure the fairness of the proceeding is not compromised, the CCC, as the moving party, should be required to file its written submission first, to which the Attorney General would then be entitled to respond.

In the result, the Attorney General respectfully requests the CCC's Motion for Production be scheduled in accordance with the following timetable.

- a) The moving party, the CCC, shall file its written submission with respect to the Procedural Motion on or before **March 14, 2011**. These materials must be filed with the Board, and served on the Attorney General of Ontario, and all intervenors in this proceeding;
- b) Any party wishing to file responding materials with respect to the Procedural Motion, including the Attorney General of Ontario, and any intervenor, shall file its written submission and any additional responding materials on or before **March 21, 2011**. These materials must be filed with the Board, and served on the CCC, and all other parties in this proceeding;
- c) The moving party, the CCC, and the responding party, the Attorney General of Ontario, shall file written submissions in reply, if any, with respect to the Procedural Motion on or before **March 28, 2011**. These materials must be filed with the Board, and served on all other parties in this proceeding;
- d) The Board will hear oral argument on the Procedural Motion on **March 30, 2011**, or as soon thereafter as may be convenient for the Board. The oral hearing will commence at 9:30am in the Board's hearing room at 2300 Yonge St., 25th Floor, Toronto, Ontario.

Please note that Ms. Janet Minor no longer has carriage of this file. Further communications on this matter should be addressed to both Mr. Robert Charney, General Counsel, Constitutional Law Branch, at the co-ordinates above, together with Mr. Arif Virani.

Yours very truly,



Robert E. Charney
General Counsel

REC/av

cc: Robert Warren, Counsel for the Moving Parties, Consumer's Council of Canada &
Aubrey LeBlanc (by email)

All Intervenors (by email)