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Delivered by RESS, Email & Courier

Ms. Kristen Walli, Board Secretary
Ontario Energy Board
2300 Yonge Street
Suite 2701
Toronto, ON M4P 1E4

Dear Ms. Walli:

Re: **Hydro One – Norfolk MAAD Application**
OEB File: EB-2013-0196, EB-2013-0187 and EB-2013-0198
Norfolk Submissions

Further to Procedural Order No. 6, Norfolk provides the following submissions in response to those received from Board Staff, the School Energy Coalition (“SEC”), and the Essex Powerlines, Bluewater Power and Niagara-on-the-Lake group (“EBN”).

There is no need for additional interrogatories

In essence, Board staff indicated, and Norfolk agrees, that an additional round of interrogatories is not necessary or warranted. In their submissions Board staff acknowledges that the relief sought by the Applicants is essentially the same as that described in the original application filed almost 7 months ago. Board staff concludes that they do not have substantial new interrogatories as a result of Hydro One’s amendments. Norfolk supports Board staff’s suggestion that any clarification questions concerning the relief sought could be put to Hydro One at the outset of the hearing of the SEC motion.

School’s submission generally supports the conclusions of Board staff. EBN disagrees with the conclusions reached by Board staff and Schools since EBN seeks a new and expanded round of additional interrogatories and to postpone the hearing of the SEC motion on the grounds that this second round of interrogatories may yield a second round of refusals. Norfolk submits that this

approach is improper. EBN is attempting to rely on a minor modification in the relief sought to justify a new round of interrogatories. EBN's request will contribute nothing of value to the proceeding and only cause further delay and impose higher costs on all parties.

Norfolk urges the Board to reject EBN's suggestions on the need for additional interrogatories.

The Intervenors seek to have the Board make fundamental changes to its no harm test. This should be firmly and clearly rejected.

The SEC submissions go beyond the issue of further interrogatories to suggest that "further discovery will almost certainly be required in this proceeding, either through a technical conference or more likely in an oral hearing." SEC makes reference to matters such as Hydro One's "business judgement" supposedly to justify the need for an oral hearing. Similarly, EBN intimates that further discovery is needed because of "a further degree of uncertainty as to what are the Applicant's plans in respect of any future harmonization of rates the impact on Norfolk's customers".

In my July 25, 2013 correspondence to the Board with respect to the intervenors' submissions on confidentiality I stated:

The Parties' (SEC & EBN) submissions reveal a loss of perspective concerning the overall context within which the Application will be decided and advance incorrect interpretations of the Board's "no harm" test.¹

In their most recent submissions, the intervenors continue to identify matters that clearly are not relevant to the no harm test, inconsistent with previous Board MAAD application findings and practice, or simply constitute speculation about future distribution rate scenarios. What continues to be ignored is the fact that the immediate rate impact resulting from the approval of the Application will be a distribution rate decrease for all Norfolk Power customers.

Norfolk is increasingly concerned that SEC and EBN are attempting to fundamentally transform the nature and scope of this proceeding from what it is – a MAAD application review - into an unconstrained, all-encompassing review on LDC sector consolidation. Under the guise of requesting a new round of interrogatories, it appears to Norfolk that an ulterior, but unstated purpose is to have the Board facilitate a policy debate on LDC consolidation through an oral hearing. This outcome would have nothing to do with the adjudication of the Hydro One-Norfolk Application and the application of the no-harm test (which is well understood by the industry having been applied by the Board in scores of previous MAAD applications).

¹ Letter from Mark Rodger to OEB dated July 25, 2013

A completely improper outcome would result if a party were able to contort the OEB's regulatory process as a "back door" means to advance their own policy agenda on LDC consolidation. In addition, attempts by parties who seek to have the Board change it's no harm test could have harmful effects on distribution sector consolidation, specifically with respect to multiple ongoing and pending voluntary LDC transactions (which reflect Ontario's policy on consolidation). This would occur if LDC acquisition, lease or merger participants (both public and private investors) perceive any new uncertainty, instability in regulatory policy, or a potential change in approach concerning how the Board applies its no harm test.

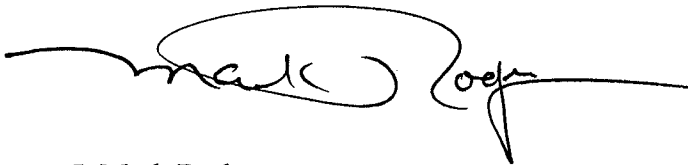
Norfolk intends to expand upon these serious concerns in greater detail at the hearing of the motion, which we submit should be held orally.

Finally, Norfolk urges the Board to schedule the hearing of the SEC motion as soon as possible so these matters can be adjudicated without further delay.

All of which is respectfully submitted.

Yours truly,

BORDEN LADNER GERVAIS LLP

A handwritten signature in black ink, appearing to read "Mark Rodger", with a large, sweeping flourish extending to the left and a vertical line extending downwards from the end.

J. Mark Rodger
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Copy to: Mayor Dennis Travale, Norfolk County
Norfolk County councillors
Jody McEachran, Norfolk Power
Michael Engelberg, counsel, Hydro One
Gordon M. Nettleton, counsel, Hydro One
Parties of Record

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