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September 26, 2014

Delivered by RESS, Email and Courier

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
26th Floor, Box 2319
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: EB-2014-0002
Horizon Utilities Corporation – Five Year Custom Distribution Rate
Application
City of Hamilton’s (“COH’s”) Notice of Motion and Amended Notice of
Motion**

We are in receipt of Mr. Warren’s September 26 letter wherein the City of Hamilton (COH) now seeks adjournments to the hearing of the COH Motion and to the oral hearing itself on the unresolved issue before the Board (Cost Allocation and Rate Design).

Horizon urges the Board to deny Mr. Warren’s request and to maintain the current hearing schedule already approved by the Board.

The Basilio Affidavit constitutes no valid basis to adjourn the proceedings. Mr. Basilio’s Affidavit contains a series of statements which describe basic facts that involve Mr. McGuire as a direct participant. Mr. McGuire should have absolutely no difficulty considering Mr. Basilio’s Affidavit. Mr. McGuire will have the opportunity to respond directly to Mr. Basilio’s Affidavit through my cross examination of Mr. McGuire scheduled for September 30.

On September 24, two days after the COH filed its Amended Notice of Motion, Horizon advised the Board and all parties that Mr. Basilio would be filing an affidavit on September 25: some 5 days before the commencement of the hearing. Horizon submits that 5 days is more than adequate time to provide a fair opportunity for Mr. Warren, or in his absence for another member of Mr. Warren’s large law firm, to discuss and meet with Mr. McGuire concerning the Basilio Affidavit.

The COH, in bringing forward its Notice of Motion and Amended Notice of Motion, was fully aware that cross-examination of Mr. McGuire was possible and entirely foreseeable. The COH should not now be permitted to delay the hearing through an adjournment arising from a course of action which the COH itself launched.

We would also remind the COH that by letter dated September 22, 2014, and well before the filing of Mr. Basilio's affidavit, Horizon afforded an opportunity to the COH to withdraw its Motion given the Board's unequivocal denial of the same COH Motion it brought forward in the Hydro One proceeding.

Horizon respectfully submits that the public interest will not be served by a delay in the hearing, and for all these reasons Horizon requests that the Board deny the COH's adjournment requests.

**Yours very truly,
BORDEN LADNER GERVAIS LLP**

A handwritten signature in black ink, appearing to read 'J. Mark Rodger', with a long horizontal flourish extending to the right.

J. Mark Rodger
Incorporated Partner*
*Mark Rodger Professional Corporation

Encl.

copy to: John G. Basilio, Horizon Utilities Corporation
 Indy J. Butany-DeSouza, Horizon Utilities Corporation
 Intervenors
 Maureen Helt, OEB
 Christie Clark, OEB

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