

26 September 2014

Kirsten Walli
Board Secretary
Ontario Energy Board
Suite 2701
2300 Yonge Street
Toronto ON M4P 1E4

Robert B. Warren
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File 01626.00019

Dear Ms Walli:

Re: EB-2014-0002/Horizon Utilities Corporation

We are counsel to the City of Hamilton in this matter. By this letter we are requesting that the hearing of our client's motion, now scheduled for September 30, 2014, be adjourned to permit our client to file materials in response to the affidavit of John Basilio filed on September 25, 2014.

Our client filed its motion on September 8, 2014, supported by the affidavit of Gord McGuire sworn September 8. Although our client filed an amended motion on September 22, 2014, supported by a further affidavit of Gord McGuire, the Basilio affidavit is responsive entirely to the original affidavit filed two weeks ago.

The Basilio affidavit deposes to what was ostensibly said to and by representatives of our client at meetings held in 2013. The alleged statements are supported by no meeting notes or minutes. The alleged statements by our client include suggestions that our client agreed to matters related to the development of certain rates. The alleged statements are, thus, prejudicial to our client and its position in this matter.

As a simple matter of fairness our client must be given the opportunity to respond to the Basilio affidavit. Doing so requires our client to review records and prepare a response. The delay in filing the Basilio affidavit leaves our client but two business days to do all of that.

The writer is out of the country until September 29, and will be unable to meet with our client and review records until that day at the very earliest. In the circumstances it is unrealistic to expect that a responding affidavit could be filed until October 1.

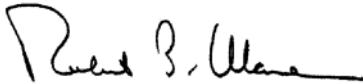
To require our client to proceed with the motion on September 30 would effectively prevent us from filing responding materials. That would be unfair to our client and a denial of natural justice.

We ask that the hearing of the motion be delayed to a date after October 1, 2014.

Since the issues on the motion are related to the contested cost allocation issues, now scheduled to be heard on September 30, we respectfully suggest that the hearing of those issues be adjourned as well.

Yours truly,

WeirFoulds LLP



Robert B. Warren

cc: All Parties

cc: Maureen Helt

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