

**James C. Sidlofsky**  
T 416.367.6277  
F 416.361.2751  
jsidlofsky@blg.com

Borden Ladner Gervais LLP  
Scotia Plaza, 40 King Street W  
Toronto, ON, Canada M5H 3Y4  
T 416.367.6000  
F 416.367.6749  
blg.com



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

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

**Re: Application for approval of the amalgamation of Niagara West Transformation Corporation and Grimsby Power Inc. under subsection 86(1)(c) of the *Ontario Energy Board Act, 1998* and related relief – Board File No. EB-2014-0344**

We are counsel to Niagara West Transformation Corporation (“NWTC”) and Grimsby Power Incorporated (“GPI”) in the above-captioned matter. We have received copies of a request dated December 12, 2014 from Niagara Peninsula Energy Inc. (“NPEI”) for intervenor status; and a request dated December 13, 2014 from David Kelly for intervenor status and eligibility for a cost award in this proceeding. We are writing to you today in respect of these requests. NWTC and GPI offer the following comments in this regard.

**The Kelly Request for Intervenor Status:**

Mr. Kelly has advised that he is a resident of Grimsby and that his interest in this application “is as an affected electricity consumer and the effect of this application on long-term rates”.

As part of the relief requested in the Application, NWTC and GPI have asked that the Board permit the amalgamated GPI to:

- charge Niagara Peninsula Energy Inc. (“NPEI”) the Board-approved NWTC transmission rate of \$1.77/kW as a distribution rate from the completion of the proposed transaction until GPI’s next rebasing (GPI currently does not have an Embedded Distributor rate class but intends to seek Board approval for the establishment of that class as part of its next cost of service distribution rate application, to be filed in 2015 for rates effective January 1, 2016); and
- continue to charge its customers other than NPEI a retail transmission rate that includes the NWTC transmission assets for the period from the completion of the proposed

transaction until GPI's next rebasing. In this regard, please note that there is a typographical error at page 4, line 13 and page 6, line 2 of the Application. The phrase "customers other than GPI" should have referred to "customers other than NPEI".

In that way, GPI will be in a position to continue recovering the revenue requirement related to the TS from both NPEI and GPI's other customers until GPI's next rebasing.

As the Applicants noted in the Application, potential rate making implications of the proposed amalgamation are provided for the Board's assistance in section 1.6.2 of the Application Form, and the Applicants anticipate that those matters will be addressed in GPI's next cost of service application.

Accordingly, it is not clear at this time what contribution Mr. Kelly will be in a position to make to the current proceeding when the current proceeding seeks to maintain the status quo with respect to rates until GPI's next cost of service application. As can be seen in the CV filed with his letter, Mr. Kelly indicates that he has been employed from 2011 to 2014 as a Financial and Regulatory Analyst for GPI, and he should be well aware that this Application contemplates that any changes to rates would be addressed in a different proceeding. However, the Applicants will not object to the granting of intervenor status to Mr. Kelly.

#### **The Kelly Request for Confirmation of Eligibility for a Cost Award:**

Mr. Kelly has requested an award of costs for his participation in this proceeding as an analyst/consultant. He asserts that as a customer of the Applicant, he meets the Board's eligibility criteria for a cost award. In the circumstances of Mr. Kelly's intended participation, the Applicants respectfully disagree. Mr. Kelly is not a representative of, or consultant to a rate payer group, nor is he proposing to retain a consultant or counsel to represent or assist him in this matter – those are the typical situations in which cost awards would be permitted. The awards are granted in order to assist a party in paying the costs of counsel and/or a consultant. In this case, Mr. Kelly is seeking to be paid for his own participation in this proceeding. That is not the purpose of a cost award.

As noted above, the extent of Mr. Kelly's contribution to this proceeding is not clear at this time. The Applicants submit that at most, in the event that the Board wishes to recognize his efforts in preparing an intervention, submission or written comments, an honorarium might be warranted under section 3.08 of the Board's *Practice Direction on Cost Awards*. However, it is premature for the Board to determine at this time that Mr. Kelly will be eligible for an honorarium. That determination should not be made until the conclusion of the proceeding. At that time, the Board will be in a position to assess Mr. Kelly's contribution to this process and the appropriateness of an honorarium, if any.

For these reasons, the Applicants respectfully request that the Board reject Mr. Kelly's request for a cost award.

#### **The NPEI Request for Intervenor Status:**

As with Mr. Kelly's request for intervenor status, is not clear at this time what contribution NPEI will be in a position to make to the current proceeding when the current proceeding seeks to

maintain the status quo with respect to rates until GPI's next cost of service application. However, NWTC and GPI do not object to the NPEI request for intervenor status.

Should you have any questions or require further information, please do not hesitate to contact me.

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

*Original signed by James C. Sidlofsky*

James C. Sidlofsky

Copy to        Doug Curtiss, CEO, GPI  
                  Shafee Bacchus, Chair, NWTC  
                  Brian Wilkie, NPEI  
                  Scott Stoll, Aird & Berlis LLP  
                  David Kelly

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