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VIA COURIER, EMAIL AND RESS

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

Dear Ms. Walli:

**Re: Essex Powerlines Corporation
2015 IRM Rate Application & Smart Meter Recovery Application
Request for Immediate Relief
Board File No. EB-2014-0072 & EB-2014-0301**

We have just been retained by the Applicant, Essex Powerlines Corporation ("EPL"), in the above noted matter. Please copy the undersigned on all future correspondence on this matter.

We are writing to request an **immediate** change to the current rate order effective **February 1, 2015**. EPL has not yet issued any invoices to customers relating to the consumption of electricity for the month of February 1, 2015 which would eliminate the mistake from customers' bills at the earliest possible time. We would further request that the Board establish a process to provide for a fulsome review of the evidence in relation to the mistake. If the Board were to grant such relief EPL would not need to file reply submissions on February 27, 2015.

As part of the IRM Application, EPL identified an error which provides over-recovery from one segment of customers and under-recovery from other customers. The Board, and intervenors in the rate application were made aware of the mistake on January 12, 2015. This mistake began to impact customers in respect of the consumption of electricity on May 1, 2014 pursuant to the existing rate order ("**EB-2013-0128**"). To EPL's knowledge, neither Board Staff nor the intervenors (Schools Energy Coalition, Energy Probe and Vulnerable Energy Consumers Coalition) dispute the fact that an error has occurred nor have they disputed the magnitude of the error.

If the Board grants EPL the requested immediate relief, it will reduce the impact of the mistake by eliminating the mistake being passed onto customers for consumption for the months of February, March and April. The parties have accepted that the error implemented in the current rate order for an entire year is \$5,178,750. As such, eliminating the mistake immediately would still be material if one assumes approximately one quarter of the \$5,178,750 would be covered during these three months.

The Board has the power under the *Ontario Energy Board Act, 1998*, section 21(4)(b), reproduced below, to issue an order where no party will be adversely affected in a material way. We would request the Board use its authority under this section for the immediate order. In the alternative, we would request the Board use its authority to make interim orders to grant the requested relief.

(4) Despite section 4.1 of the Statutory Powers Procedure Act, the Board may, in addition to its power under that section, dispose of a proceeding without a hearing if,

(a) no person requests a hearing within a reasonable time set by the Board after the Board gives notice of the right to request a hearing; or

(b) the Board determines that no person, other than the applicant, appellant or licence holder will be adversely affected in a material way by the outcome of the proceeding and the applicant, appellant or licence holder has consented to disposing of a proceeding without a hearing.

If the Board grants the requested relief it will prevent EPL from issuing customer bills containing an error. EPL would submit it would be improper for the Board to allow the current situation, issuing bills with known errors, to be continued. We would suggest that any customer that is over-paying will be protected from continuing to overpay while the issue is finally determined. Further, customers that are currently underpaying will not pay more than their fair share. As such, no person is harmed as a result of the request.

EPL has considered the impact of its request on customers. Customers currently overpaying will obviously see immediate reductions. Customers that have been underpaying will not pay any more than their proper share after a complete review. Further, a known mistake is not perpetuated. As such, EPL submits the Board should use its authority to grant the immediate relief.

It appears that parties are aware of the potential impacts to EPL of the mistake and do not want to “disable” or harm the utility. Again, EPL’s request is consistent with this goal.

EPL is conscious of the impact on ratepayers and the need to avoid rate shock. As such, a fulsome review, including impacts on various customer groups, would allow a fully considered implementation. Granting the requested immediate relief mitigates the aggregate impact.

As such, EPL is requesting an immediate Order(s):

- (a) Approving the attached tariff sheet effective February 1, 2015;
- (b) Setting a procedure for a complete review of the error and the proper final resolution; and
- (c) Amend the procedural order requiring submissions from EPL on February 27, 2015.

EPL would submit the above request is not only reasonable, within the Board's authority, and provides a fair interim resolution of the matter for all parties but removes a known error from being continued.

If there are any questions, please contact the undersigned.

Yours very truly,

AIRD & BERLIS LLP



Scott Stoll

SAS/bm

cc: OEB, G. Vlahos (*via email*)
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