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**BY E-MAIL**

February 20, 2015

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

Dear Ms. Walli:

**RE: BOARD STAFF SUBMISSION  
APPLICATIONS BY GRIMSBY POWER INC. AND NIAGARA  
WEST TRANSFORMATION CORPORATION  
EB-2014-0344**

In accordance with Procedural Order No. 2, please find attached Board Staff's submission with respect to the above referenced applications.

Yours truly,

*Original Signed by*

Judith Fernandes  
Project Advisor  
Applications Division

Attachment

cc: All Parties to the Proceeding



# **ONTARIO ENERGY BOARD**

## **Board Staff Submission**

**APPLICATION BY GRIMSBY POWER INC. AND NIAGARA WEST TRANSFORMATION CORPORATION FOR LEAVE TO AMALGAMATE AND CONTINUE AS GRIMSBY POWER INC.**

**APPLICATION BY GRIMSBY POWER INC. AND NIAGARA WEST TRANSFORMATION CORPORATION REQUESTING A DETERMINATION THAT THE NIAGARA WEST TRANSFORMATION CORPORATION TRANSMISSION SYSTEM WHICH WILL BECOME PART OF THE AMALAGAMATED DISTRIBUTOR IS DEEMED TO BE A DISTRIBUTION SYSTEM**

**APPLICATION BY GRIMSBY POWER INC. AND NIAGARA WEST TRANSFORMATION CORPORATION SEEKING APPROVAL FOR GRIMSBY POWER INC. TO CHARGE NIAGARA PENINSULA ENERGY INC THE BOARD-APPROVED NIAGARA WEST TRANSFORMATION CORPORATION'S TRANSMISSION RATE AS A DISTRIBUTION RATE FROM THE COMPLETION OF THE PROPOSED TRANSACTION UNTIL THE AMALGAMATED DISTRIBUTOR'S NEXT REBASING**

APPLICATION BY GRIMSBY POWER INC. AND NIAGARA WEST TRANSFORMATION CORPORATION SEEKING APPROVAL FOR THE AMALGAMATED DISTRIBUTOR TO CHARGE ITS CUSTOMERS OTHER THAN NIAGARA PENINSULA ENERGY INC. A RETAIL TRANSMISSION RATE THAT INCLUDES THE INCREMENTAL CONTRIBUTION OF THE NIAGARA WEST TRANSFORMATION TRANSFORMER STATION ASSETS AS IF THEY WERE PART OF THE REVENUE REQUIREMENT UNTIL THE AMALGAMATED DISTRIBUTOR'S NEXT REBASING

APPLICATION BY GRIMSBY POWER INC. AND NIAGARA WEST TRANSFORMATION CORPORATION REQUESTING CANCELLATION OF NIAGARA WEST TRANSFORMATION CORPORATION'S TRANSMISSION LICENCE, UPON COMPLETION OF THE PROPOSED TRANSACTION.

**February 20, 2015**

## INTRODUCTION

Grimsby Power Inc. (“Grimsby”) and Niagara West Transformation Corporation (“Niagara West”) filed related applications with the Ontario Energy Board (the “Board”) on November 6, 2014 seeking the following:

1. Leave to amalgamate and continue as Grimsby under section 86(1)(c) of the *Ontario Energy Board Act, 1998* (the “Act”).
2. A determination that the Niagara West transmission system which will become part of Grimsby, is deemed to be a distribution system under section 84 of the Act.
3. Approval for the amalgamated distributor to charge Niagara Peninsula Energy Inc. (“Niagara Peninsula”), an electricity distributor that will be embedded within the amalgamated distributor, the Board-approved Niagara West transmission rate as a distribution rate from the completion of the proposed transaction until Grimsby’s next rebasing under section 78 of the Act.
4. Approval for Grimsby to charge its customers, other than Niagara Peninsula, a retail transmission rate that includes the incremental contribution of the Niagara West transformer station assets as if they were part of Grimsby’s revenue requirement until Grimsby’s next rebasing.
5. Cancellation of Niagara West’s transmission licence, upon completion of the proposed transaction under section 77(5) of the Act.

The Board issued its Notice of Applications and Hearing (the “Notice”) on November 26, 2014. Intervention requests were filed by Niagara Peninsula and by David Kelly. Mr. Kelly also applied for cost award eligibility. On January 7, 2015, the Board issued Procedural Order No. 1 approving both intervention requests, confirming Mr. Kelly’s cost award eligibility and setting out dates for the filing of interrogatories and interrogatory responses. Interrogatories were filed by Board Staff and Niagara Peninsula on January 23, 2015 and were answered by the applicants on February 6, 2015.

On February 10, 2015 the Board issued Procedural Order No. 2 providing an opportunity for parties to file submissions on the applications.

## **RELEVANT REGULATORY PRINCIPLES**

### **The “No-Harm” Test**

The Board’s decision in RP-2005-0018/EB-2005-0234/EB-2005-0254 and EB-2005-0257 (the “Combined Decision”) established the scope of issues that the Board will consider in determining applications for leave to acquire shares or amalgamate (“Merger, Amalgamation, Acquisitions and Divestitures” or “MAADs”) under section 86 of the Act and ruled that the “no harm” test is the relevant test. The “no harm” test involves consideration of whether the proposed transaction would have an adverse effect relative to the status quo in relation to the Board’s statutory objectives. These objectives are set out in section 1 of the Act. According to the no-harm test, if the proposed transaction would have a positive or neutral effect on the attainment of the statutory objectives, then the application should be granted.

### **Board Report on Rate-Making Associated With Distributor Consolidation**

The Board’s policy on key rate-making issues that may be associated with consolidation in the electricity distribution sector is set out in a report of the Board titled “Rate-making Associated with Distributor Consolidation” issued July 23, 2007 (the “2007 Report”). The 2007 Report states that “distributors that apply to the Board for approval of a consolidation transaction may propose to defer the rate rebasing of the consolidated entity for up to five years from the date of closing of the transaction”. The 2007 Report also indicates that a “distributor will be required to specify its proposal for rate rebasing as part of the MAAD application”. With respect to rate harmonization, the 2007 Report indicates that “the issue of rate harmonization in the context of a consolidation transaction is better examined at the time of rebasing”. Nevertheless, the 2007 Report states that parties should indicate in the MAAD application “whether they intend to undertake a rate harmonization process after the proposed transaction is completed and, if they do, to provide a description of the plan”. This is relevant to this proceeding because Grimsby has requested that the transmission line be deemed to be a distribution asset.

## **SUBMISSION**

The Board’s statutory objectives include, among others, protection of the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity

service, and the promotion of economic efficiency and cost effectiveness. Board Staff submits that the evidence in this proceeding reasonably demonstrates that the proposed transaction will not have an overall adverse effect relative to the status quo in relation to the Board's statutory objectives.

### **Price, Economic Efficiency and Cost Effectiveness**

According to the application, the proposed amalgamation is an internal corporate reorganization caused by Niagara Power Inc. ("Niagara Power"), sole shareholder of Grimsby and Niagara West. The amalgamation is approved by the Town of Grimsby and FortisOntario, Niagara Power's shareholders. There will be no transfer of funds between the parties in relation to the amalgamation transaction.

The applicants anticipate annual cost savings from the transaction of approximately \$35,000 as a result of eliminating costs associated with a duplicate administrative structure and another layer of (transmitter-related) regulatory compliance. Grimsby has indicated that all incremental transaction costs (e.g. due diligence, negotiation and regulatory approvals) will be borne by Niagara Power and therefore will not be funded by ratepayers.

The applicants provided a breakdown of the estimated costs saving, including the assumptions used to arrive at the projected net annual savings amount. Based on the applicants' evidence, Board Staff submits that the proposed transaction can reasonably be expected to result in savings and operational efficiencies.

### **Service Quality and Reliability**

The applicants have stated that the proposed transaction will not adversely affect operational safety or system integrity. Through the proposed amalgamation, the Niagara West transmission assets will be fully integrated with Grimsby's distribution assets to ensure the safe and secure operations and system integrity of the Niagara West assets and the Grimsby distribution system as a whole.

Board Staff Interrogatory No. 2.2 requested the applicants to provide a description of Grimsby's plans to ensure the safe and secure operations of the transmission assets and Grimsby's distribution system. Grimsby has responded, confirming that it will maintain all existing third party service contracts relating to the maintenance and operation of the Niagara West transmission assets, although these contracts will likely

change over time. Grimsby has recently hired a professional engineer responsible for managing the operation of the station and the distribution assets and has stated that it can leverage its existing business processes and use its internal resources to operate the station in the electric utility environment in a safe and reliable manner.

Based on the evidence provided by the applicants, Board Staff submits that Grimsby can reasonably be expected to continue to operate the station and its distribution system in a safe and reliable manner.

### **Niagara West transmission assets and Rate Rebasing**

Niagara West and Grimsby have requested that the Board make a determination under section 84 of the Act that the Niagara West transmission assets, which will become part of the amalgamated distributor, be deemed distribution assets. The applicants have further requested approval for Grimsby to charge Niagara Peninsula a rate equal to the current Niagara West transformation rate and to continue charging Grimsby's other customers a retail transmission service rate that incorporates the Niagara West transmission rate, until Grimsby's next cost of service application, expected to be filed in the Spring of 2015 for rates effective January 1, 2016.

The applicants state that in this way, Grimsby will maintain the status quo by continuing to recover the revenue requirement related to the transformer station from both Niagara Peninsula and Grimsby's other customers until Grimsby's next rebasing. At the time of Grimsby's next rebasing, the retail transmission service rates for Grimsby's customers will no longer include the cost of the former Niagara West assets, as they will be treated as distribution assets. In addition, an embedded distributor class will be established by Grimsby to charge Niagara Peninsula an appropriate distribution charge for the services provided by Grimsby from the former Niagara West assets.

The applicants provided potential rate-making implications of the proposed amalgamation as part of their application, indicating that overall costs are anticipated to increase by a net amount of \$177,471 (after accounting for the \$35,000 in amalgamation-related savings). The applicants have stated that Niagara West has not recovered a return on the transmission assets equal to the Board's permitted return on equity for electricity utilities, nor has it recovered its full long term debt cost through its Board-approved transmission rates. The net increase of \$177,471 reflects recovery of

the current OM&A and debt servicing costs for Niagara West as well as the full allowed rate of return on equity. As well, Grimsby anticipates that charges to Niagara Peninsula for services from the former Niagara West assets will increase by 25.3% resulting from the anticipated overall cost increase as well as a proposed change in the allocation of the costs of Niagara West assets between Grimsby and Niagara Peninsula. The applicants do, however, emphasize that the proposed changes in rates and cost allocation are subject to Board approval and that Niagara Peninsula will have an opportunity to participate in the rate proceeding where these matters will be reviewed.

Board Staff supports the applicants' request for the transmission assets to be deemed distribution assets. The Board has on numerous occasions deemed assets >50kV to be distribution assets. Based on recent benchmarking work, roughly a third of distributors have some high voltage assets<sup>1</sup>. Consistent with the 2007 Report, Board Staff submits that the rate and cost allocation changes proposed by the applicants are better examined at the time of rebasing as this is when the consolidated entity would apply for its revenue requirement and the particular details of the rate and cost allocation proposals, described in this application can then be fully explored.

## **CONCLUSION**

Board Staff concludes that, based on the evidence provided by the applicants, the proposed transaction will not have an adverse effect relative to the status quo in relation to the Board's statutory objectives and therefore meets the "no-harm" test. Accordingly, Board Staff submits that the application should be approved as filed.

All of which is respectfully submitted.

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<sup>1</sup> Empirical Research in Support of Incentive Rate-Setting: 2013 Benchmarking Update Report to the Ontario Energy Board, July 2014 Benchmark Update Calculations