Ontario Energy Board

Commission de l'énergie de l'Ontario

EB-2014-0204

IN THE MATTER OF AN APPLICATION BY

CANADIAN NIAGARA POWER INC.

FOR APPROVAL OF ITS TRANSMISSION REVENUE REQUIREMENT FOR 2015 AND 2016

DECISION AND ORDER

May 14, 2015

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Ontario Energy Board

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EB-2014-0204

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B);

AND IN THE MATTER OF an application by Canadian Niagara Power Inc. seeking changes to its electricity transmission revenue requirement for 2015 and 2016 to be effective January 1, 2015 and January 1, 2016 and the approval of its customer delivery point standards.

BEFORE: Ellen Fry
Presiding Member

Marika Hare
Member

DECISION AND ORDER
May 14, 2015

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INTRODUCTION AND SUMMARY

Canadian Niagara Power Inc. (CNPI Transmission) operates a 115 kV Transmission system which is interconnected with the Hydro One Networks transmission system in Niagara Falls and the National Grid transmission system in Buffalo, New York. CNPI Transmission supplies the distribution system in Fort Erie, which Canadian Niagara Power Inc. also owns and operates.

CNPI Transmission is one of four transmission companies whose revenue requirements are aggregated to calculate uniform transmission rates, which are recovered from all provincial ratepayers. In its application, the company requested the following approvals:

- Approval of revenue requirements of $4,530,710 and $4,818,057 for 2015 and 2016, respectively
- Approval of operating costs of $2,968,381 and $3,072,214 for 2015 and 2016, respectively
- Approval of capital expenditures of $5,852,942 and $740,000 for 2015 and 2016, respectively
- An update to the uniform transmission rates to allow recovery of the proposed revenue requirements for 2015 and 2016, effective January 1 of each of these years
- Approval of its customer delivery point performance standards

CNPI Transmission revised some aspects of its application in its argument-in-chief, which resulted in revised proposed revenue requirements of $4,467,388 and $4,843,623 for 2015 and 2016, respectively.

The Process

The OEB process for this proceeding included written interrogatories, a transcribed technical conference and an oral hearing. Following the oral hearing, parties provided written submissions. The only intervenor in this proceeding, the Independent Electricity System Operator, did not actively participate. OEB staff was an active participant in all aspects of the proceeding.

Issues

This Decision will address the following issues:

- International Power Line
- Customer Delivery Point Performance Standards
- 25 Hertz Cycle Transmission Line – Tower Removal
- Salaries and Wages
- Project Fortran Costs
- Regulatory Expenses
- Cost of Capital
- Regulatory Accounting Issues

1.0 International Power Line

Introduction

A significant component of the capital expenditures planned for 2015 reflects CNPI's proposal to rebuild the International Power Line (IPL). Originally constructed in 1916, the IPL connects the CNPI Transmission system with the National Grid transmission system in Buffalo, New York. The IPL provides an alternative source of power to the CNPI Transmission system during outages and planned maintenance.

Because of its poor condition, the IPL was temporarily removed from service in 2011, and subsequently placed in a state of forced outage in 2013. The IPL Queen Street and Buffalo High Towers were demolished in 2014.

The estimated cost of the project is approximately $6.9M, with $1.8M spent in 2014 and the balance to be spent in 2015. CNPI Transmission expects to complete the project in 2015 and accordingly is proposing to include the total $6.9M in expenditures in its rate base in 2015.

The IPL facility, prior to its forced outage in 2013, was available to serve CNPI Transmission's customer on an as-needed basis. Actual use has been infrequent; it occurred only once in the recent past, on a planned basis, for eight hours during a 2006 ice storm. Due to its removal from service in 2011, the IPL was unavailable to be energized as needed for an event in May 2012, resulting in an outage time of 9.7 hours. This exceeds the 8 hour load restoration criteria established by the IESO (the ORTAC[1] criteria).

Using the IPL to supply CNPI Transmission's customers requires the isolation from the Ontario grid and connection into the New York transmission system. While this activity takes a few hours to coordinate, CNPI reported that the IPL nevertheless enabled quicker restoration times than the operational alternatives, and thereby enhanced overall reliability and security of supply.

To address the state of the IPL, CNPI Transmission considered doing nothing, rebuilding the IPL, replacing it with enhanced functionality, or removing the facilities entirely. CNPI submitted that its preferred alternative, the like-for-like replacement of the

[1] Ontario Resource and Transmission Assessment Criteria, August 2007

IPL was the most prudent option, as it is the most cost-effective solution that allows CNPI Transmission to comply with the ORTAC criteria.
OEB staff did not oppose CNPI Transmission's proposal to rebuild the IPL; however, it expressed concerns with CNPI Transmission's ability to order materials and complete construction, inspection and testing in time to include the project costs in its 2015 rate base.

CNPI Transmission proposes to order the materials for construction upon OEB approval of the project. CNPI Transmission estimated the total time to complete construction from that point to be 6.3 months, resulting in an estimated in-service date of December 31, 2015. However, CNPI Transmission proposed to establish a variance account to track the revenue requirement impacts of a later in-service date, should it turn out that construction is not completed by December 31, 2015.

Findings

The evidence indicates that the IPL is the only alternative source of electricity for CNPI's customers when the Hydro One supply is not available. Although the need for the IPL occurs infrequently, the OEB accepts the evidence that CNPI Transmission may not be able to meet the IESO load restoration standard without the IPL. The OEB notes that prior to its removal from service the IPL was an inherent element of the reliability that CNPI has historically provided to its customers. In particular, the OEB notes that in 2012, when the IPL was not operational, there was an outage which lasted 9.7 hours, which exceeds IESO's 8 hour standard.

The OEB accepts CNPI Transmission's assessment of rebuilding as the most appropriate option. It accepts the evidence of CNPI Transmission that removal of the remaining elements of the IPL would be a more expensive alternative, due to the location of these elements. The OEB also accepts the evidence of CNPI Transmission that leaving the remaining IPL elements in place would pose a safety risk inconsistent with good utility practice, since they cross several major intersections, two of which involve major highways.

Given all of the above considerations, the OEB agrees with CNPI Transmission and OEB staff that CNPI Transmission should rebuild the IPL on a like-for-like basis and approves the related capital expenditures.

The OEB approves the project for inclusion in rate base in 2015, with the half-year rule applying in that year, based on the premise that the project will be used or useful in 2015. However, given the possibility that the project may not be used or useful until

2016, the OEB approves the establishment of a variance account as proposed by CNPI to make any adjustments necessary to reflect any such delay. These adjustments would then include the application of the half-year rule to 2016.

2.0 Customer Delivery Point Performance Standards

Introduction

Section 4.5 of the Transmission System Code requires a transmitter to develop performance standards that apply at the customer delivery point level, and to file those performance standards for the OEB's approval.

CNPI Transmission has applied for approval of these Customer Delivery Point Performance Standards, based on the standard applicable to Hydro One Networks Inc. (Hydro One). CNPI Transmission submitted that this standard was appropriate, since its system is an extension of Hydro One's transmission system and therefore its performance is dependent upon the performance of Hydro One's transmission system.

OEB staff submitted that the proposed approach did not reflect the intent of the Transmission System Code requirements to maintain historical reliability performance at each delivery point. OEB staff noted that CNPI Transmission's actual performance exceeds the performance levels applicable to Hydro One, in that its frequency of outages is significantly lower. Under these circumstances, OEB staff submitted that CNPI Transmission should propose its performance standards on a basis that both includes and excludes outages caused by lack of Hydro One supply. This would enable CNPI Transmission to focus on outages solely attributable to its own system.

CNPI Transmission had no objection to OEB staff's proposals and filed an updated Customer Delivery Point Performance Standards document[2] incorporating them in its reply submission.

[2] EB-2014-0204, CNPI Reply Submission, Appendix B

Findings

The OEB agrees that the intent of the Transmission System Code is for each transmitter to develop performance standards based on its own historical performance. The OEB finds that the revised Customer Delivery Point Performance Standards proposed by CNPI Transmission is a reasonable way to apply this approach and it is therefore approved.

3.0 25 Hertz Cycle Transmission Line – Tower Removal

Introduction

CNPI Transmission proposes to recover OM&A expenses of $150,000 per year in each of 2015 and 2016 to continue the removal of the towers of its 25 hertz transmission line that was decommissioned in 2009. These expenditures are part of a removal program that began in 2010 and is detailed in the table below:

Table 4.3.1.2 25-cycle Transmission Line Removal Project

Year		Cost	Towers Removed
2010	Actual	$ 57,000	10
2011	Actual	$ 52,800	10
2012	Actual	$ 82,000	15
2013	Actual	$ 84,300	15
2014	Forecast	$ 99,000	15
2015	Test Year	$ 150,000	30
2016	Test Year	$ 150,000	30
2017	Forecast	$ 150,000	30
2018	Forecast	$ 150,000	30
Total		**$ 975,100**	**185**

CNPI Transmission stated that the acceleration of the program in 2015 was to address the poor condition of the towers in residential areas, first noted in 2012. CNPI Transmission stated that it was prevented from earlier acceleration of the program due to internal budgeting and resource constraints. CNPI Transmission submitted that doubling the pace of tower removal over the next 4 years would result in cost savings through economies of scale.

OEB staff questioned the urgency that required a doubling of the pace of the program between 2014 and 2015. Given that CNPI Transmission acknowledged that, over the

past four or five years, it earned a rate of return well in excess of the benchmark return on equity set by the OEB for inclusion in rates, OEB staff submitted that CNPI Transmission would have had sufficient funds available to address a priority program. OEB staff submitted that the proposed OM&A expenses should be reduced by $58,000 to reflect the actual recent pace of the program.

Findings

The OEB agrees that CNPI Transmission's historic pace of tower removal to date does not indicate the same view of urgency as is being put forward in this application. Although CNPI Transmission identified safety concerns in 2012 and 2013, it dealt with the tower removal through its normal budgeting process. If CNPI Transmission had truly considered tower removal to be an urgent safety issue, the OEB has no doubt that it could have found a way to accelerate the program, outside of normal processes, in 2012, 2013 and 2014. The OEB notes that, as pointed out by OEB staff, CNPI Transmission earned a rate of return significantly greater than that set by the OEB during those years and hence would likely have been able to make funds available for this purpose.

However, the OEB accepts the evidence that the removal of these towers is required, and that failure to remove them could potentially pose a safety risk.

CNPI Transmission submits that it will take an additional four years to remove the towers if the OEB does not approve the accelerated removal schedule. It also submits that its proposed accelerated schedule would yield some economies of scale, resulting in a total saving of $168,000.

Considering the evidence concerning potential safety risk and economies of scale the OEB agrees that CNPI Transmission's proposed acceleration of the program is reasonable. Accordingly, the OEB approves CNPI Transmission's proposed expenditures for 2015 and 2016 for removal of these towers. The OEB hopes that in future CNPI will give greater consideration to potential priority safety matters as soon as they are identified.

4.0 Salaries and Wages

Introduction

CNPI Transmission's application proposed an OM&A budget for salary and wage increases for its unionized staff of 3% (June 2014) and 3.1% (June 2015). The corresponding budget increase for non-unionized employees was 3% in each of 2015 and 2016.

CNPI Transmission subsequently revised its total 2015 salary and wage forecast expense by $40,000 to reflect temporarily vacant positions[3].

OEB staff submitted that the provision for salaries and wages should be limited to the forecast rate of inflation of 2%. This would reduce CNPI Transmission's OM&A budget by $10,000 and $20,000 for 2015 and 2016, respectively.

Findings

OEB staff submitted that CNPI's salary and wage expenses should be held to the rate of inflation. However, this issue was not pursued in any detail in the proceeding. Although the rate of inflation may serve as a useful starting point for a review of expenses in a rates proceeding, it is not the OEB's practice to automatically tie any increases to the rate of inflation. The OEB does not consider that the evidence in this case supports the conclusion that increases should be tied to the rate of inflation. Further, the OEB notes the submission by CNPI Transmission that the difference in dollar terms between CNPI's forecast increases and the increases that would result if only inflation were applied is minimal.

Accordingly, the OEB approves CNPI's salary and wage expenses underpinning the operating costs of $2.9M as revised by CNPI in its reply submission.

[3] EB-2014-0204, CNPI Reply Submission, pg. 8

5.0 Project Fortran

Introduction

CNPI Transmission proposes to recover $1.2M in preliminary costs incurred for feasibility and impact studies to support a leave to construct application to the OEB for a synchronous interconnection between Fort Erie and the United States (Project Fortran). These preliminary costs were incurred between 2003 and 2010 and recorded in CNPI Transmission's construction work in progress account. The leave to construct application was denied.

Upon denial of the application, in 2010 CNPI Transmission applied to the OEB for permission to record the preliminary costs in a deferral account for future disposition. The OEB denied the request for a deferral account.

OEB staff submitted that CNPI Transmission's request to recover the Project Fortran preliminary costs should be denied for two reasons: i) it would amount to retroactive ratemaking, and ii) the OEB has already denied the request.

Findings

CNPI Transmission submits that under normal circumstances the amounts claimed would be recorded as capital work in progress and capitalized once the asset being constructed was used or useful. This is correct.

However, because the OEB did not approve CNPI Transmission's leave to construct application for Project Fortran, this did not occur.

The OEB also denied CNPI Transmission's 2010 request to transfer these costs into a deferral account for later disposition.

The OEB decision denying the deferral account indicated that "CNPI submitted that it should have the opportunity, at its next transmission cost of service rate application, to establish that the Preliminary Costs were prudent"[4]. However the OEB in its decision in that proceeding did not accept this argument.

The OEB noted in that decision that CNPI Transmission had not appeared before the OEB with an application to reset rates since 2001 and that if it "foresaw expenses that it

[4] EB-2010-0159, Decision With Reasons, pg. 4

could not afford within its current revenue envelope it should have applied to the OEB prior to incurring the expense to have the merits of the new revenue requirement tested"[5]. Accordingly it is clear from the OEB's decision that the OEB did not leave the door open to seeking recovery of these expenses in the current rates application. Furthermore, the OEB agrees with OEB staff that to do so would amount to retroactive ratemaking, given that the expenses were incurred from 2003 to 2010.

The OEB therefore denies this request.

6.0 Regulatory Expenses

Introduction

CNPI Transmission proposed to recover $180,125 in one-time regulatory expenses for this proceeding, amortized over 5 years. The cost proposed to be recovered in each of 2015 and 2016 is therefore $36,025.

OEB staff submitted that, since there were no active intervenors and the level of activity in this case was relatively low, the amount to be recovered in each of 2015 and 2016 should be reduced by $16,849.

Findings

The materiality threshold specified in the OEB's *Filing Requirements for Electricity Transmission Applications* is $50,000 for CNPI Transmission, because it has a revenue requirement of $10 million or less. OEB staff's proposed decrease is below this level. Although this is a materiality guideline for filing purposes, the OEB can take it into consideration when judging whether an amount in issue is significant enough to be addressed in a proceeding. In this case the OEB does not consider the amount significant enough to address.

The OEB therefore approves the amount of regulatory expense as proposed by CNPI. However, the OEB requires this amount to be amortized over the two years covered by this application, rather than over the five years proposed by CNPI Transmission, and to be reflected in the rates for 2015 and 2016 only. CNPI Transmission shall remove

[5] EB-2010-0159, Decision With Reasons, pg. 7

$180,125 from its OM&A costs and establish a deferral account to record these costs for recovery in 2015 and 2016.

7.0 Cost of Capital

Introduction

CNPI Transmission's application is based on the OEB's cost of capital parameters for 2014. CNPI Transmission has stated its expectation that these parameters will be updated at the time of the OEB's decision.

On November 20, 2014, the OEB issued a letter establishing the cost of capital parameters for 2015 applications. A comparison of the cost of capital parameters for 2014 applications as contained in the application and as determined by the OEB for 2015 applications is shown below:

Cost of Capital Parameters

Cost of Capital Parameter	CNPI Application (2014 Parameters)	2015 Parameters
Return on Equity	9.36%	9.30%
Deemed Long Term Debt Rate (Affiliated Debt)	4.88%	4.77%
Deemed Short Term Debt Rate	2.11%	2.16%

CNPI Transmission's weighted long term debt as contained in its application is 6.08%, based on a combination of third party and affiliated debt. The components of CNPI's long term debt are as follows:

Affiliated or Third Party	Principal	Interest Rate
Third Party	30,000,000	7.092%
Affiliate	20,000,000	4.88%
Affiliate	8,000,000	4.88%

CNPI Transmission's affiliated debt consists of a promissory note of $20M, issued on January 1, 2013 at an interest rate of 4.03%, in accordance with the OEB's Cost of Capital Parameters issued November 1, 2012. CNPI Transmission has calculated its weighted average cost of long term debt based on an interest rate of 4.88% for this instrument. CNPI Transmission plans to borrow a further $8M in affiliated debt in early 2015.

Findings

The Board notes that the Cost of Capital Report specified that the approved cost of long term debt at the time of issuance is the maximum rate that may apply to affiliated debt:

> For affiliate debt (i.e., debt held by an affiliated party as defined by the Ontario *Business Corporations Act, 1990*) with a fixed rate, the deemed long-term debt rate at the time of issuance will be used as a ceiling on the rate allowed for that debt.[6]

The OEB will approve a weighted average long term debt rate for CNPI Transmission that incorporates an interest rate of 4.03% for its $20M promissory note. The approved long term debt rate of 4.77% for 2015 is appropriate for the planned $8M promissory note to be issued in 2015.

CNPI Transmission shall recalculate its cost of capital using the 2015 cost of capital parameters shown above, and recalculating its cost of long term debt to reflect an interest rate on its 2013 affiliated debt of 4.03%.

8.0 Regulatory Accounting Issues

a) Effective Date of Changes in Accounting Policy

Introduction

In a July 2012 letter, the OEB made it mandatory for electricity distributors to implement certain regulatory accounting changes for depreciation expense and capitalization policies effective January 1, 2013.

[6] *Report of the Board on Cost of Capital for Ontario's Regulated Utilities*, December 11, 2009, pg. 53

The only regulatory accounting changes that CNPI Transmission needed to make to be consistent with these requirements were changes to the useful lives of its assets. In this application, CNPI Transmission seeks OEB approval to make changes to the useful lives of its assets effective January 1, 2015 rather than January 1, 2013. It submits that these proposed changes are consistent with the 2010 Asset Depreciation Study for the OEB.

Had CNPI Transmission implemented the changes to the useful lives of its assets as at January 1, 2013, it estimates that its property, plant and equipment balance would be approximately $465,000 greater. The resulting higher rate base and increased returns in future years would be offset by a corresponding $465,000 credit balance in deferral Account 1576 to be disposed of to customers.

CNPI Transmission states that it did not make the regulatory accounting changes effective January 1, 2013 because the OEB's July 2012 letter was directed to distributors, rather than transmitters. CNPI Transmission also submitted that it could not have made the changes earlier without the OEB's authorization to do so, and that making the change effective January 1, 2013 would constitute retroactive ratemaking.

OEB staff submitted that the OEB may wish to consider the applicability to CNPI Transmission of the January 1, 2013 effective date for accounting changes. OEB staff noted that other transmitters have already made these changes and submitted that the intent of the OEB's policy in this area had been to apply these accounting changes uniformly. OEB staff also noted that these accounting changes have been made effective January 1, 2013 to certain assets allocated to transmission by CNPI's distribution business.

Findings

The OEB approves CNPI Transmission's request to make the proposed accounting changes effective January 1, 2015 rather than January 1, 2013. The OEB did not explicitly direct transmitters to make this change and the OEB agrees with CNPI Transmission that it would have required the OEB's authorization to do so. The OEB also notes that distributors, unlike transmitters, were authorized to use a deferral account to record these accounting changes, and accordingly agrees with CNPI Transmission that to require these adjustments effective January 1, 2013 would constitute retroactive ratemaking.

b) Account 1592 PILs and Tax Variances for 2006 and Subsequent Years, Sub-Account HST/OVAT Input Tax Credits

Introduction

In 2010 the OEB directed distributors to record in a deferral account the incremental tax savings received on distribution revenue requirement items that were previously subject to PST and became subject to HST. CNPI Transmission submitted that it was not required to do this, because the direction from the OEB applies to electricity distributors and not transmitters. CNPI Transmission also submitted that the total savings that would have been recorded in the deferral account would have been only $16,000 and hence immaterial. OEB staff agreed that the amount which would have been recorded in the account was immaterial.

Findings

The OEB will not require CNPI Transmission to record the balance in a deferral account, because the OEB did not direct transmitters to do so. The OEB notes that the amount that would be so recorded would be immaterial.

9.0 Other Issues

For all other issues not specifically addressed above, the OEB accepts the proposals as submitted by CNPI Transmission and as revised or updated over the course of this proceeding.
The OEB notes that CNPI Transmission's last rates application to the OEB was in 2001. The OEB has indicated its interest in conducting a consultation process to apply its Renewed Regulatory Framework to the Transmission Filing requirements. The OEB encourages CNPI to participate in this process and to take note of any new expectations that arise from it, including with respect to the frequency of applying for approval of its revenue requirements.

10.0 Implementation

The OEB declared CNPI Transmission's current revenue requirement to be interim, effective January 1, 2015. The OEB approves an effective date of January 1, 2015 for

2015 rates and January 1, 2016 for 2016 rates. The OEB notes that CNPI filed its application in mid-November, and should have been aware that to have had new rates in place for January would normally have required a filing at least 6 months earlier than its actual filing date. However, given that the result of this proceeding is a decrease in revenues, the OEB will approve a January 1, 2015 implementation date which will be of benefit to its customers.

On January 8, 2015, the OEB established the uniform transmission rates to be in effect for 2015. CNPI Transmission is to establish a deferral account to record foregone revenue for 2015 in accordance with its Draft Accounting Order referred to below. CNPI Transmission is to inform the OEB of the forecast balance in the account as at December 31, 2015 by December 1, 2015 in order to incorporate this amount for recovery in 2016.

In its reply submission, CNPI Transmission provided a Draft Accounting Order[7] to record foregone revenue for 2015. The OEB notes that the Draft Accounting Order provided does not contain a statement of how carrying charges will be calculated and applied to the balances in the account, nor does it contain sample journal entries for carrying charges.

The OEB directs CNPI Transmission to file a Draft Rate Order complete with detailed supporting material, including all relevant calculations and Draft Accounting Orders for the IPL Variance Account and the Regulatory Costs Deferral Account. CNPI Transmission shall also provide a revised Draft Accounting Order for its 2015 Foregone Revenue Deferral Account. Supporting documentation shall include, but not be limited to, the filing of completed versions of the Revenue Requirement Work Form Excel spreadsheet.

IT IS THEREFORE ORDERED THAT:

1. CNPI Transmission shall file with the OEB, and also forward to the IESO a draft Rate Order reflecting the OEB's findings in this Decision and Order, within **10 days** of the date of this Decision and Order. The draft Rate Order shall include detailed supporting information showing the calculation of the final revenue requirement and a completed version of the Revenue Requirement Work Form Excel spreadsheet.

2. OEB staff and the IESO shall file any comments on the draft Rate Order with the

[7] EB-2014-0204, CNPI Reply Submission, Appendix F

OEB, and forward them to CNPI Transmission within **5 days** of receipt of the Draft Rate Order.

3. CNPI Transmission shall file with the OEB and forward to the IESO any responses to any comments on its draft Rate Order within **5 days** of the date of receipt of the submission.

All filings to the OEB must quote the file number, EB-2014-0204 and be made in searchable / unrestricted PDF format electronically through the OEB's web portal at https://www.pes.ontarioenergyboard.ca/eservice/. Two paper copies must also be filed at the OEB's address provided below. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at http://www.ontarioenergyboard.ca/OEB/Industry. If the web portal is not available parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the OEB Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Martha McOuat at martha.mcouat@ontarioenergyboard.ca and OEB Counsel, Michael Millar at michael.millar@ontarioenergyboard.ca.

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DATED at Toronto, May 14, 2015

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary