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June 20, 2016  
Our File No. 65152

**VIA RESS & COURIER**

Ontario Energy Board  
23 Yonge Street, Suite 2700  
Toronto ON M4P 1E4

Attention: Ms. Kristen Walli, Board Secretary

Dear Ms. Walli:

**Re: EB-2016-0004**  
**NOACC Coalition response submissions to Procedural Order No. 3**

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Enclosed please find the NOACC Coalition's submission in response to the Ontario Energy Board's ("OEB" or the "Board") procedural Order No. 3, dated May 30, 2016, in the above noted proceeding.

Yours very truly,

WEILER, MALONEY, NELSON

Per: 

NICK A. MELCHIORRE

NAM/hs  
Enclosure

Copy: Khalil Viraney, Case Manager (by email only)  
Michael Millar, Board Counsel (by email only)  
All Parties in EB-2016-0004 (by email only)

**AND IN THE MATTER OF** Application under the Ontario Energy Board's own motion to consider potential alternative approaches to recover costs of expanding natural gas service to communities that are not currently served.

WRITTEN SUBMISSION OF THE NOACC COALITION:  
(The Northwestern Ontario Associated Chamber of Commerce, the Northwestern Ontario Municipal Association and Common Voice Northwest)

June 20, 2016  
WEILER, MALONEY, NELSON  
Barristers and Solicitors  
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1    **1       INTRODUCTION**

2    Expansion of natural gas into rural and remote communities under the current regulatory  
3    framework, is unfairly prejudicial to rural and remote communities, particularly in  
4    Northwestern Ontario, because the economies needed to connect a geographically remote  
5    community with a low population density cannot be achieved.<sup>1</sup> The financial cost to a new  
6    individual or business customer in their capacity as ratepayers in a Northwestern Ontario  
7    community that wants to connect to natural gas is unreasonably high.<sup>2</sup> In addition, the cost  
8    to Northwestern Ontario individuals or businesses to heat their homes and businesses with  
9    alternative fuel sources available is disproportionately higher than what current natural gas  
10   customers pay in Ontario.<sup>3</sup>

11  
12   The current regulatory framework undermines the long term viability and growth of many  
13   individuals and businesses located in these communities and the north in general. As an  
14   example, the Northwest is on the verge of, quite literally, a massive growth in many of its  
15   industries, including, it's mining industry. However, the cost and availability of existing fuel  
16   sources make such growth a significant challenge. The Ontario Energy Board (the "OEB"  
17   or the "Board") has the ability and the obligation to ensure that all rural and remote  
18   businesses and individuals in Ontario have the ability to obtain and benefit from the  
19   expansion and use of natural gas. Such benefits will include but are not limited to providing  
20   the above noted individuals and businesses with a reliable, economically feasible  
21   alternative source of fuel, which will in turn provide those businesses and individuals with  
22   lower costs and increased economic opportunities.

23    **2       SUMMARY OF NOACC COALITION SUBMISSION**

24  
25    NOACC proposes:

26

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<sup>1</sup> Line 1, page 6 of 38. Exhibit A, Tab 1 of Union Gas Evidence filed in the within Proceeding;

<sup>2</sup> See NOACC Evidence Submission filed March 21, 2016 page 3 of 6 line 7-23;

<sup>3</sup> Exhibit S10 NOACC Response to Interrogatories of Environmental Defence, page 2 of 4, 1(b) filed April 22, 2016

- 1 • use of a surcharge or subsidy on the commodity cost of natural gas to system  
2 expansions to rural and remote communities who do not currently have access to  
3 natural gas;
- 4 • maximum of 2% surcharge be applied to each customer's bill regardless of utility or  
5 supplier. 2% is proposed as it should not be so excessive that it becomes an undue  
6 burden to gas ratepayer;
- 7 • a formula should be developed to ensure that, on a per-customer basis, direct  
8 purchase customers are treated the same as those who pay for their gas through a  
9 utility;
- 10 • the above noted surcharge should be applied to existing and future natural gas  
11 customers and paid into an expansion fund (the "Fund");
- 12 • the Fund should be designed to provide a subsidy for the cost of providing the  
13 service from the closest bulk transmission facility to the property line of the new  
14 customer;
- 15 • natural gas is required in all of the communities in Northwestern Ontario and that  
16 the method of delivering the gas to each community should be incorporated into the  
17 overall funding approach. Specifically, where it is extremely expensive to connect a  
18 community to the bulk gas transmission pipeline, such as the North Shore of Lake  
19 Superior, the cost of establishing a liquefied natural gas ("LNG") or compressed  
20 natural gas ("CNG") delivery service should be eligible to access and use the Fund.  
21 Where there is no access to natural gas, and where there is opportunity for the  
22 creation of an in-community piped distribution system for the delivery of heat, such  
23 projects should also be eligible for the Fund;
- 24 • the Fund be managed by a committee (the "Expansion Fund Committee") consisting  
25 of representatives from bodies such as the Association of Municipalities of Ontario  
26 (AMO), the Ontario Chamber of Commerce, Consumers Association of Canada,  
27 Union of Ontario Indians, Metis Nation of Ontario, the Ontario Indigenous Friendship

1 Centres, the individual utilities and other organizations that the OEB deems  
2 appropriate to include;

- 3 • the Expansion Fund Committee should be provided with the ability to borrow funds,  
4 secured by future ratepayer payments into the Fund, in order to support the pent up  
5 demand for connections to the natural gas system;
- 6 • those communities with plans for expansion that triggered the within proceeding  
7 should be the first to have their projects implemented;
- 8 • the second wave should be those communities, including those in Northwestern  
9 Ontario, who have been in formal discussions with one of the utilities (existing or  
10 new) and are well advanced in the planning;
- 11 • There should be a provision to establish priority expansions where an existing or  
12 new industry (mine, forest operation etc.) proposes to expand or locate in a  
13 community and requires natural gas service to enable the project to proceed. Such  
14 projects, where there is significant economic impact beyond the borders of the  
15 community, should receive priority support for access to the Fund;
- 16 • the Province's existing \$30 million grant funding and \$200 million loan fund are  
17 important elements to facilitate the expansion of natural gas to rural and remote  
18 communities. The above noted grants and loans must be recognized as an  
19 important and integral part of expansion and factored into the amount that is  
20 required to complete expansion projects, specifically in the Northwest. The \$30  
21 million grant funding, \$200 million loan fund and the Fund will be required to  
22 proceed with the rational expansion of natural gas service to rural and remote  
23 communities. As indicated in the evidence filed by the NOACC Coalition, costs in  
24 Northern Ontario, both relating to distance and construction are well above what the  
25 Ontario Government is providing through the \$30 million grant funding and \$200  
26 million loan fund;

- 1 • provision of an allowance for the recovery of the revenue requirement associated  
2 with expansion costs in rates prior to the end of any incentive regulation plan term  
3 once the assets are used and useful;
- 4 • use of regulatory economic tests that provide the flexibility needed to take a long-  
5 term view or manage additions on a portfolio basis; and
- 6 • accept the potential consideration of individual projects with a “Profitability Index” of  
7 1 less than 0.8 and/ or a portfolio of expansion projects with a PI of less than 1.0.

### 8 **3 SUBMISSIONS OF THE NOACC COALITION**

9

#### 10 Disproportionate Affect on Northwestern Ontario

11

12 Amendments to the regulatory framework regarding cost recovery of the expansion of the  
13 natural gas transmission and distribution system to rural and remote communities, as  
14 proposed by the OEB in the within Proceeding, will have a material and disproportionate  
15 affect on Northwestern Ontario and the members of the NOACC Coalition specifically.  
16 Within the respective membership of the NOACC Coalition there are at least 13  
17 communities, including 521 member businesses, which do not have access to natural gas  
18 and a further 13 communities that require expansion to the existing natural gas distribution  
19 system.<sup>4</sup>

20

#### 21 What is considered a community in the context of this proceeding?

22

23 The definition of “community” for the purpose of this proceeding should be broadly defined.  
24 That said, a one-size-fits-all framework for Ontario is not mandatory or ideal. The current  
25 regulatory framework for expansion of natural gas does not sufficiently consider or  
26 address, the needs, challenges, and geography of consumers in Northern Ontario,  
27 specifically, Northwestern Ontario. Accordingly, the definition of “community”, while broadly

1 defined to include all communities not connected to natural gas should include specific  
2 reference to “rural and remote” communities, to ensure their needs, challenges and  
3 interests are specifically considered and front of mind going forward.

4  
5 Does the OEB have the legal authority to establish a framework whereby the customers of  
6 one utility subsidize the expansion undertaken by another distributor into communities that  
7 do not have natural gas service?

8  
9 The OEB, in carrying out its responsibilities relating to natural gas, include, inter alia, the  
10 following objectives set out in section 2 of the Ontario Energy Board Act (the “Act”):

- 11
- 12 • *To protect the interests of consumers with respect to prices and the reliability and*  
13 *quality of gas service; and*
  - 14
  - 15 • *To facilitate rational expansion of transmission and distribution systems,*  
16  
17 *(collectively the “Gas Objectives”)*

18  
19 The scope of the OEB’s powers and jurisdiction over natural gas has been interpreted by  
20 the Courts as being broad in scope. For example, in *Union Gas Ltd v. Dawn (Township)*<sup>5</sup>  
21 the Court stated the following:

22  
23 *“It is clear that the legislature intended to vest in the Ontario Energy Board the*  
24 *widest powers to control the supply and distribution of natural gas to the people of*  
25 *Ontario “in the public interest” ...”*

26  
27 The Court in *Union Gas Ltd v. Dawn* went on to state:  
28

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<sup>4</sup> Evidence of the NOACC Coalition dated March 21, 2016, Tab 1, titled “Coalition Member Communities without Natural Gas Service”, 2016

<sup>5</sup> (1977), 76 D.L.R. (3d) 613 (Ont. H.C.J.) at page 625);

1           *“In my view the statute makes it crystal clear that all matters relating to or incidental*  
2           *to the production, distribution, transmission or storage of natural gas, including the*  
3           *setting of rates, location of lines and appurtenances, expropriation of necessary*  
4           *lands and easements, are under the exclusive jurisdiction of the Ontario Energy*  
5           *Board...<sup>6</sup>”*

6  
7 Accordingly, the OEB not only has the legal authority to establish a framework whereby  
8 consumers of one utility subsidize the expansion undertaken by another distributor into  
9 communities that do not have natural gas services, it has a statutory obligation and the  
10 exclusive jurisdiction to do so, flowing from the Gas Objectives.

11  
12 None of the cases tied to section 2 of the OEB Act define “rational” as set out in section  
13 2.3.

14  
15 “Rational” yields three results via the WestlawNext (eCarswell) “Words & Phrases” Search,  
16 “Rational Conclusion”, “Rational Connection”, and “Rational Discussion”. Only “Rational  
17 Connection” could be applied to the situation at hand, as below:

18  
19           ... [A] “rational connection” is just that - not a “proven connection” or an “established  
20           connection” but a “rational connection” ... legislation will be rationally connected to  
21           its intended objective if it (a) is designed to meet its objective, (b) is not arbitrary;  
22           and, (c) is based on assumptions which, logically applied, further the objective.<sup>7</sup>

23  
24 The most applicable definition of “rational” is as follows:

- 25  
26           • 2. Based on logic rather than emotion; attained through clear thinking; not  
27           absurd, preposterous, foolish, or fanciful <a rational conclusion.<sup>8</sup>

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<sup>6</sup> *Supra*, at page 622;

<sup>7</sup> *Sauvé v. Canada (Chief Electoral Officer)*, 29 C. (5th) 242, 180 DLR (4th) 385, at para 47.

<sup>8</sup> *Black’s Law Dictionary*, 10<sup>th</sup> ed, *sub verbo* “rational”.



1 Based on the above definitions, “rational expansion” of natural gas into remote and rural  
2 communities should be expansion that is well thought-out and reasoned, is not arbitrary,  
3 and is based on assumptions, which, logically applied, further the objective. Incorporating  
4 such a definition would also overcome barriers to expansion such as the higher capital  
5 costs attributable to expansion caused by distance, geography and population density.  
6 “Rational” expansion would not only connect rural and remote communities, but also  
7 supplement renewable energy projects and connect new and existing consumer loads (e.g.  
8 mining and forestry loads).

9  
10 Financial Contribution to Expansion

11  
12 The NOACC Coalition submits that the rational expansion of natural gas service be  
13 achieved by use of a surcharge or subsidy on the commodity cost of natural gas to fund  
14 system expansions. That said, the NOACC Coalition is also open to other options, such as:

- 15  
16 - provide the potential allowance for recovery of the revenue requirement associated  
17 with expansion costs in rates prior to the end of any incentive regulation plan term  
18 once the assets are used and useful;
- 19 - use regulatory economic tests that provide the flexibility needed to take a long-term  
20 view or manage additions on a portfolio basis;
- 21 - accept the potential consideration of individual projects with a “Profitability Index” of  
22 less than 0.8 and/ or a portfolio of expansion projects with a PI of less than 1.0<sup>9</sup>;  
23 and
- 24 - creation of a specific designated fund to support the cost of natural gas expansion  
25 to rural and remote communities with a PI of less than .8 (or a PI less than the PI  
26 which is ultimately decided, as a result of this Proceeding,) and the contribution to  
27 said fund by all gas ratepayers in Ontario.

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<sup>9</sup> Evidence of the NOACC Coalition dated March 21, 2016, Tab 11, being KPMG Report titled “Jurisdictional Review of Natural Gas Distribution System Expansion” dated March 31, 2015

1 Not applying any of the above noted options to the current regulatory framework with  
2 respect to cost recovery of the expansion of natural gas service would result in many rural  
3 and remote communities in the Northwest, including businesses and residents within those  
4 communities, not being able to receive natural gas service, due to, for example, not  
5 meeting current Profitability Index requirements. As a result, individuals and businesses of  
6 Northwestern Ontario communities are forced to bear the burden of contributing to the cost  
7 of such expansion which is much greater than the cost which some of those communities  
8 can reasonably afford, or find and use more expensive alternatives (e.g. electricity, oil,  
9 diesel, propane and/or a combination).

10

11 The above noted options, if ordered by the OEB, will foster competition between gas  
12 utilities in Ontario and ensure the continued financial feasibility of gas expansion projects.  
13 Such options will facilitate and protect the interests of consumers, specifically those  
14 consumers in rural and remote communities, with respect to prices, reliability and quality of  
15 gas service. In addition, the economic benefits to Ontario as a whole, in the form of  
16 increased businesses located in areas with natural gas, increased tax revenue, decreased  
17 operating costs (in the form of energy savings to businesses and individuals), and other  
18 economic benefits are numerous.<sup>10</sup>

19

20 For example, in 2012, Union Gas expanded natural gas service to the Municipality of Red  
21 Lake.<sup>11</sup> The above noted expansion resulted in social and economic benefits both to  
22 businesses (for<sup>12</sup> and not-for profit<sup>13</sup>) and individual community members.<sup>14</sup> However, the  
23 expansion of natural gas service to the Municipality of Red Lake, due to the Current

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<sup>10</sup> Evidence of the NOACC Coalition dated March 21, 2016, Tab 6, titled “Union Gas Presentation - Important Role of Natural Gas in Ontario's Energy Future”.

<sup>11</sup> Evidence of the NOACC Coalition dated March 21, 2016, Tab 7, being Union Gas News Release – October 30, 2012 – Completion of Red Lake Pipeline Project.

<sup>12</sup> Evidence of the NOACC Coalition dated March 21, 2016, Tab 8, being Goldcorp Inc. News Release – November 1, 2012 – Going Greener in Red Lake.

<sup>13</sup> Evidence of the NOACC Coalition dated March 21, 2016, Tab 9, being Red Lake Hospital Media Release – Gas – dated April 10, 2014.

<sup>14</sup> See video Youtube, “An energy game changer in Red Lake”, (November 19, 2014), online: [www.youtube.com/watch?v=qLqosnmkcA8](http://www.youtube.com/watch?v=qLqosnmkcA8).

1 Regulatory Framework, required a tremendous amount of time and resources and the  
2 cooperative partnership involving the private sector and three orders of government.<sup>15</sup>

3

4 Exemptions or Changes to the EBO 188

5

6 The NOACC Coalition submits that the following are exemptions to the EB 188 guidelines  
7 that should be considered:

8

- 9 - the acceptance of individual projects with a “Profitability Index” of less than 0.8 and/  
10 or a portfolio of expansion projects with a PI of less than 1.0; and
- 11 - the creation of a specific designated fund to support the cost of natural gas  
12 expansion to rural and remote communities (and Projects) with a PI of less than .8.  
13 (or a PI less than the PI which is ultimately decided, as a result of this Application,  
14 and the contribution to said fund by all gas ratepayers in Ontario.

15 The NOACC Coalition submits that the criteria for projects/communities to take advantage  
16 of the above noted revisions to the EB 188 guidelines should include financial  
17 considerations (i.e. Profitability Index), but also:

18

- 19 - the needs of rural and remote communities;
- 20 - the availability or lack of availability of alternate fuel or power sources;
- 21 - the reliability and security of the aforesaid alternate fuel or power sources  
22 (compared to natural gas);
- 23 - the environmental impact of the aforesaid alternate fuel or power sources  
24 (compared to natural gas);
- 25 - the economic benefit and impact to the region and Ontario as a whole of the  
26 expansion of natural gas to the communities;

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<sup>15</sup> Evidence of the NOACC Coalition dated March 21, 2016, Tab 10, being FEDNOR Article/Report – Gold and Natural

- 1 - planning and timing considerations to ensure those projects/communities with the  
2 highest non financial considerations, are made a priority; and  
3 - the availability of funding for the expansion of natural gas.

4 NOACC Coalition does not support surcharges being imposed exclusively on new  
5 individual and business customers to improve the feasibility of potential community  
6 expansion projects. Such surcharges, resulting in the creation of the expansion Fund as  
7 set out herein, should be shared by all ratepayers in Ontario, irrespective of utility. The  
8 Fund and the surcharges used to create the Fund would benefit all of Ontario and assist  
9 the OEB in meeting the Gas Objectives.

10

11 Conversely, the burden placed on rural and remote communities, and those individual and  
12 business ratepayers who are not currently connected to natural gas, if such a surcharge  
13 was exclusively imposed on them, would place an undue and impossible burden on said  
14 communities and the above noted ratepayers, act to restrict and impede the work done by  
15 the OEB and the parties to this Proceeding, and hinder, delay and encumber the OEB from  
16 fulfilling the Gas Objectives.

17

### 18 Benefits of Expansion

19

20 The quantification of the benefits of expansion of natural gas service to rural and remote  
21 communities can be found primarily in two sources, namely:

22

- 23 1. The annual residential energy savings<sup>16</sup> (see the application and pre-filed evidence  
24 by Union Gas Limited for its proposed Community Expansion Program (EB-2015-  
25 0179, Exhibit A, Tab 1, Table 1, P. 18, filed 2015-07-23), which were applied to the  
26 projected number of potential customers over a period of 25 years; and

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Gas: Building a Pipeline to Better Business in Red Lake, dated 2015-08-31.

<sup>16</sup> Application and pre-filed evidence of Union Gas Limited for its proposed Community Expansion Program (EB-2015-0179, Exhibit A, Tab 1, Table 1, P. 18, filed 2015-07-23);

1 2. Findings by the Conference Board of Canada that every dollar of investment in  
2 natural gas exploration, production, transportation, distribution, and consumption is  
3 expected to generate approximately one dollar in real GDP growth over a period of  
4 25 years.<sup>17</sup> (Further study would be required to provide more precision related to  
5 the costs and benefits associated with expanding natural gas service to  
6 communities on the North Shore or in Central Ontario).

### 7 Greenhouse Gas Reduction

8  
9 It is the position of the NOACC Coalition that there will be a net reduction in Ontario's  
10 Greenhouse gas emissions as residential, commercial and industrial users of heating fuel  
11 are able to convert to natural gas. For example, the Municipality of Red Lake, which  
12 includes Balmertown and Cochenour, saw natural gas service introduced recently to 856  
13 homes, 83 commercial customers and 2 industrial customers. It is projected that an  
14 additional 400 homes and businesses will be converted over the next few years. The  
15 Economic Development Officer for Red Lake reported that "fuel oil was the prominent fuel  
16 in Red Lake." Other fuel sources included electricity and propane. Electrical customers are  
17 subject to regular outages due to the inadequate transmission infrastructure currently in  
18 place (radial line service).

19  
20 For a number of the communities and portions of communities in the Northwest without  
21 natural gas service, the installation of large scale piped natural gas is the most efficient  
22 way to bring down green house gas emissions in a large scale manner. The other options  
23 while valid but not as sufficient in energy production, can be implemented in the more  
24 scattered portions of the Northwest, are unlikely to be selected by individual consumers  
25 unless there are significant government subsidies to make the options affordable.

26  
27 NOACC Coalition calculations indicate that fuel oil costs in the vicinity of \$34.32 per million  
28 Btu (Greenstone price), electricity at \$64.48 per million Btu, electricity for a geothermal

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<sup>17</sup> The Role of Natural Gas in Powering Canada's Economy, December 2012, <http://www.integritybc.ca/wpcontent/uploads/2012/12/13-181 NaturalGasInCanada.pdf> .

1 heat pump at \$21.93 per million Btu while the costs of natural gas total \$2.35 per million  
2 btu.<sup>18</sup> Fuel oil is 14 times more expensive and electricity is 27 times more expensive than  
3 natural gas to generate the same amount of heat in an area of the province where long  
4 periods of minus 30 degrees Celsius or lower temperatures occur weekly in the winter  
5 months. The electricity required for a geothermal heat pump is 9 times more expensive  
6 than natural gas.

7

### 8 Cost of Living

9

10 The cost to live and do business in small Northwestern Ontario communities is very high  
11 and a significant reason for this high cost is the expense of heating with fuel oil or  
12 electricity. It is important to note that the Northwest does not have sufficient electrical  
13 power to meet the growing industrial needs of the region. Shifting home heating from  
14 electrical to natural gas will free up some of the electrical load that can then be made  
15 available to new mines and a resurgent forest industry. For example, connecting Red Lake  
16 to natural gas has/will make available 30 MW of load which can be shifted from electricity  
17 to natural gas in order to ensure that some of the new electrical consumers can be  
18 accommodated and ease the burden on existing inadequate transmission infrastructure.

19

### 20 Cost of Connection

21

22 The distances between communities and First Nations in Northwestern Ontario are  
23 significant and as a result the cost of providing access to natural gas to these communities  
24 is well beyond the ability of the residents, businesses, institutions and the few remaining  
25 industries to fund. Northwestern Ontario has not recovered from the decimation of the  
26 forest industry. The majority of communities lost their main forest industry employer and  
27 with it a major part of their property tax base. The population of many of these communities  
28 has declined. The way to connect these communities in the same way that most of the  
29 communities in Ontario are connected is through a capital subsidy based on a levy on each

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<sup>18</sup> Exhibit S10 NOACC Response to Interrogatories of Environmental Defence, page 2 of 4, 1(b) filed April 22, 2016

1 of the existing natural gas consumers in the province as well as the new consumers  
2 connected through this process.

3  
4 For example, the Municipality of Neebing, which has been advised by Union Gas that it  
5 would cost \$76.5 million to provide natural gas service to 249 of its residents (with the  
6 possibility of 150 additional customers), operates with a total annual budget of \$3.7 million  
7 with revenues of \$3.9 million (2014). Based on the current approved (Ontario Energy  
8 Board) formula, the cost that the 249 customers would be required to share equates to  
9 over \$307,000.00 per property owner (excluding the 150 potential customers). Even if  
10 those potential customers came "on board", the cost per owner would be \$191,804.00.  
11 Neither the municipality nor the potential individual and business customers are in a  
12 position to finance the expansion.

13  
14 Provincial Policy

15  
16 The energy system requirements of the Northwest have in part been subject to many  
17 reports, studies, assessments<sup>19</sup>, plans<sup>20</sup> and directives<sup>21</sup>. NOACC submits and requests  
18 that the Board incorporate, where practical, the findings, conclusions and scenarios of the  
19 aforementioned reports into the assessment methodology.

20  
21 Conclusion

22  
23 The NOACC Coalition respectfully requests that the OEB incorporate and adopt the  
24 submissions of the Coalition, as set out above, into its decision in the within Proceeding.

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<sup>19</sup> Ontario Power Generation's Request for Approval of a Reliability Must Run Agreement for the Thunder Bay Generating Station, EB-2013-0061, includes a Technical Assessment in relation to de-registering the Thunder Bay Generating Station beginning at page 56 of 98

<sup>20</sup> Ministry of Infrastructure and Ministry of Northern Development and Mines "Growth Plan for Northern Ontario 2011"

<sup>21</sup> The Ministry of Energy Supply Mix Directive dated February 17, 2011