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August 24, 2016

**Delivered by RESS and Courier**

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street  
26th Floor, Box 2319  
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Enersource Hydro Mississauga Inc., Horizon Utilities Corporation,  
PowerStream Inc. (collectively, the “Applicants”) – Application under  
Section 86 of the *Ontario Energy Board Act, 1998***

**Board File No. EB-2016-0025**

We, together with Aird & Berlis LLP, are counsel to the Applicants in the above-captioned matter. In its Decision on Confidentiality dated August 12, 2016, the OEB determined that certain portions of the pre-filed evidence that had initially been filed in confidence should be made public. In accordance with that Decision, please find accompanying this letter the following public unredacted items:

- Merger Participation Agreement (“MPA”) Section 1.1 – extracts from Definitions
- MPA Section 2.1(13)
- MPA Section 5.5
- MPA Section 7.1(1)(d), 7.1(3)(d) and 7.1(5)(d)
- MPA Appendix C, Section 2(16)

The final item the OEB determined would be made public was MPA Schedule 5.4(15) – the Financing Commitment Letter and related correspondence from two Canadian financial institutions that confirms that financing related to the purchase of HOBNI will be made available, and the terms under which the funds will be made available.

The Applicants had requested confidential treatment of this material because (among other reasons) the financial institutions had provided these documents in confidence; because disclosure may reasonably be expected to prejudice the competitive positions of both the institutions providing the financing and the Applicants and their parent corporations in subsequent negotiations for the provision of financing and (in the case of the financial institutions) negotiations for the provision of financing to other utilities. The OEB determined that this material, and the other items listed above, should be made public. Specifically, the OEB found that “...the documents referred to in paragraphs (b), (d), (e), (h) and (j) noted above are ones for

which the claim for confidentiality is denied as these documents either have a potential impact on ratepayers or go to the heart of the business transaction and should be produced.”

The Applicants acknowledge the OEB’s finding that this material should be made public. The Applicants advised representatives of the two financial institutions of the OEB’s Decision, and the Applicants have been asked to request that the OEB reconsider its Decision with respect to one portion of the material – specifically, the pricing and upfront fees sections found at p.2 of the Summary of Terms and Conditions of the Credit Facility, consisting of a pricing table and related text setting out the pricing for the services being provided to the Applicants. That information is highly commercially sensitive, as prices and fees are negotiated individually with borrowers, and the release of this information can reasonably be expected to adversely affect the financial institutions’ ability to negotiate pricing with other borrowers. There is no prejudice to the intervenors in keeping this information confidential. Counsel and consultants to intervenors may file executed copies of the OEB’s Declaration and Undertaking with respect to confidentiality in order to obtain access to the information, and it may be addressed in the upcoming Technical Conference and oral hearing, subject to appropriate measures being taken to safeguard its confidentiality.

We ask that the OEB review and vary its Decision on Confidentiality as it pertains to the pricing and upfront fees information for the credit facility, and that the OEB allow that information to remain confidential. For the time being, we have enclosed a copy of MPA Schedule 5.4(15) with only the pricing and upfront fees information redacted. If necessary, we will file a formal motion in this regard, but we respectfully submit that it is also open to the OEB to treat this letter as a motion for a review and variance of the Confidentiality Decision under Rule 40.01 of the *Rules of Practice and Procedure*, or to vary the Decision on its own motion under Rule 41.01.

We thank you for your consideration in this matter.

Yours very truly,

**BORDEN LADNER GERVAIS LLP**

Per:

*Original signed by James C. Sidlofsky*

James C. Sidlofsky

Encls.

cc: G. DeJulio, Enersource  
I. Butany-DeSouza, Horizon Utilities  
C. Macdonald, PowerStream  
Intervenors of Record