

## ONTARIO ENERGY BOARD

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

**AND IN THE MATTER OF** an application by Canadian Niagara Power Inc. for an Order or Orders pursuant to subsection 74(1)(b) of the *Ontario Energy Board Act, 1998* to amend its electricity distribution licence ED-2002-0572 by removing various out-dated provisions.

### APPLICATION

1. The Applicant, Canadian Niagara Power Inc. ("CNPI"), is an electricity distributor operating under Electricity Distribution Licence ED-2002-0572 (the "Licence"). CNPI hereby applies to the Ontario Energy Board (the "Board") for an amendment to remove various out-dated provisions.

### BACKGROUND:

2. On July 19, 2001, CNPI and Port Colborne Hydro Inc. ("PCHI") entered into an agreement whereby CNPI would lease the distribution assets of PCHI for ten years and CNPI would operate PCHI' electricity distribution facilities within the Town of Port Colborne. On April 12, 2002, the Board issued a Decision and Order approving the lease arrangement (RP-2001-0041).
3. CNPI's Licence was amended to reflect this arrangement by including the following provisions (collectively the "PCHI Provisions"):

#### *1 Definitions*

*In this Licence:*

*"Lease" means the Master Implementation Agreement and the Lease Agreement, both dated as of July 19, 2001, between Port Colborne Hydro Inc. as Lessor, the Corporation of the City of Port Colborne as Shareholder*

*of the Lessor, Canadian Niagara Power Inc. as Lessee, and FortisOntario Inc. (formerly Canadian Niagara Power Company Limited) as the Lessee Guarantor;*

-and-

### **3 Authorization**

*3.1 The Licensee is authorized, under Part V of the Act and subject to the terms and conditions set out in this Licence:*

*b) to operate the distribution system located within the municipal boundaries of the City of Port Colborne, as described in part 8 of Schedule 1 of this Licence, in accordance with the Lease, provided that in the event of an inconsistency between a provision of the Lease and a condition of this Licence, the condition of this Licence shall prevail;*

4. On October 19, 2011, PCHI filed an application (the "MAADs Application") with the Board, under section 86(1)(a) of the *Ontario Energy Board Act, 1998*, (the "Act"), seeking leave to sell its distribution system in its entirety to CNPI (EB-2011-0367).
5. The Board approved PCHI's MAADs Application in a Decision and Order (the "MAADs Decision") dated March 19, 2012, in which among other things, it cancelled PCHI's electricity distribution licence ED-2003-0042.
6. The lease between CNPI and PCHI expired on April 15, 2012.
7. It recently came to CNPI's attention that although its Licence includes the Town of Port Colborne in *Schedule 1: Definition of Service Area*, the Licence still contains the PCHI Provisions regarding the PCHI lease.

**AMENDMENT REQUESTED:**

8. CNPI requests that its Licence be amended to remove the PCHI Provisions as defined above. Specifically, we request the removal of the definition of "Lease" in Section 1 and that Section 3.1(b) be removed.

Dated at Toronto, Ontario, this 30th day of September, 2016.

Canadian Niagara Power Inc.  
By its counsel

A handwritten signature in black ink, appearing to read "Andrew Taylor", written over a horizontal line.

Andrew Taylor