



EB-2017-0269

**Newmarket-Tay Power Distribution Ltd.  
Midland Power Utility Corporation**

**Application by Newmarket-Tay Power Distribution Ltd.  
for approval to purchase Midland Power Utility  
Corporation**

**PROCEDURAL ORDER NO. 1**

**October 30, 2017**

Newmarket-Tay Power Distribution Ltd. (Newmarket-Tay Power) and Midland Power Utility Corporation (Midland Power) filed an application on July 18, 2017 under section 86 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B) (Act), requesting approval for the:

- Acquisition of all of the shares of Midland Power by Newmarket-Tay Power
- Transfer of Midland Power's distribution system to Newmarket-Tay Power
- Amalgamation of Newmarket-Tay Power and Midland Power, following the share purchase

As part of the proposed consolidation transaction, the applicants are requesting approval for:

- Transfer of Midland Power's rate order to Newmarket-Tay Power, under section 18 of the Act
- Cancellation of Midland Power's electricity distribution licence, under section 77(5) of the Act
- Amendment of Newmarket-Tay Power's electricity distribution licence, under section 74 of the Act

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The OEB issued a Notice of Hearing on August 31, 2017.

Capredoni Enterprises Ltd. (CEL) applied for intervenor status and eligibility for cost awards. The letter from CEL states that intervenor status is being sought by Mr. Capredoni on behalf of his own small business and as a representative/advocate for other small business owners in the Greater Niagara Chamber of Commerce and Ontario Chamber of Commerce. School Energy Coalition (SEC) filed a late intervention request.

On September 19, 2017, Newmarket-Tay Power filed a response objecting to CEL's intervention request. Newmarket-Tay Power submitted that Mr. Capredoni or CEL has not provided information describing the intervenor, its membership (as applicable), the interest of the intervenor in the proceeding and grounds for the intervention in order to demonstrate a "substantial interest" in the proceeding as is required under Rule 22.03 of the OEB's *Rules of Practice and Procedure*.

Newmarket-Tay Power argued that CEL will not be affected by the outcome of this proceeding as CEL is not a customer of either of the applicants in this proceeding. Newmarket-Tay Power further submitted that no evidence has been provided to demonstrate that Mr. Capredoni or CEL has been authorized or appointed by the Greater Niagara Chamber of Commerce or the Ontario Chamber of Commerce or the members of these organizations.

Newmarket-Tay Power objected to CEL's request for cost award eligibility, submitting that the CEL is not a ratepayer of either of the applicants, does not represent ratepayers in either of their service areas and has not identified an interest or policy perspective relevant to the OEB's mandate and to this proceeding.

In a letter dated October 6, 2017, the OEB sought additional information from CEL in relation to CEL's mandate and objectives, its authorization to represent the members of the noted Chambers of Commerce and a description of CEL's substantial interest. CEL was required to provide this information by October 13, 2017.

The OEB has not received the additional information that was requested of CEL. Accordingly, CEL's request for intervenor status and cost eligibility is denied. It is unclear from the notice of intervention whether CEL or Mr. Capredoni has been formally appointed to represent or advocate on behalf of the Greater Niagara Chamber of Commerce and Ontario Chamber of Commerce. Where an individual claims to represent the interests of other individuals or businesses, evidence must be provided to support this. The OEB also notes that CEL's notice of intervention does not state whether CEL is a customer of the applicants, nor does it adequately explain how CEL or

any of the members that CEL claims to represent has a substantial interest in the outcome of the proceeding. The OEB does not therefore have any basis upon which to approve the intervention request as filed.

SEC is approved as an intervenor and is eligible to apply for an award of costs under the OEB's *Practice Direction on Cost Awards*. The list of parties in this proceeding is attached as Schedule A to this Procedural Order.

Cost eligible intervenors should be aware that the OEB will not generally allow the recovery of costs for the attendance of more than one representative of any party, unless a compelling reason is provided when cost claims are filed.

Being eligible to apply for recovery of costs is not a guarantee of recovery of any costs claimed. Cost awards are made by way of OEB order at the end of a hearing.

### **Interrogatories**

At this time, provision will be made for written interrogatories. Parties should not engage in detailed exploration of items that do not appear to be relevant and material to the OEB's review of a consolidation application. In developing interrogatories, parties should refer to the OEB's Handbook to Electricity Distributor and Transmitter Consolidations, for what the OEB considers in its review. In making its decision on cost awards, the OEB will consider whether intervenors made reasonable efforts to ensure that their participation in the hearing was focused on material issues.

Parties should consult sections 26 and 27 of the OEB's Rules of Practice and Procedure regarding required naming and numbering conventions and other matters related to interrogatories.

It is necessary to make provision for the following matters related to this proceeding. The OEB may issue further procedural orders from time to time.

### **IT IS THEREFORE ORDERED THAT:**

1. OEB staff and SEC shall request any information and material from the applicants that is in addition to the evidence already filed and that is relevant to the hearing by written interrogatories filed with the OEB and served on all parties by **November 17, 2017**.

2. The applicants shall file with the OEB complete written responses to the interrogatories and serve them on all parties by **December 8, 2017**.

All filings to the OEB must quote the file number, **EB-2017-0269** and be made electronically in searchable/unrestricted PDF format 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.oeb.ca/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 Board 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, Judith Fernandes at [judith.fernandes@oeb.ca](mailto:judith.fernandes@oeb.ca) and OEB Counsel, Ljuba Djurdjevic at [ljuba.djurdjevic@oeb.ca](mailto:ljuba.djurdjevic@oeb.ca).

### **ADDRESS**

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Attention: Registrar

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Tel: 1-888-632-6273 (Toll free)  
Fax: 416-440-7656

**DATED** at Toronto, **October 30, 2017**

**ONTARIO ENERGY BOARD**

**By delegation, before: Kristi Sebalj**

*Original signed by*

Kristi Sebalj  
Registrar

**SCHEDULE A**  
**PROCEDURAL ORDER NO. 1**  
**LIST OF PARTIES**  
**NEWMARKET-TAY POWER DISTRIBUTION LTD.**  
**MIDLAND POWER UTILITY CORPORATION**  
**EB-2017-0269**  
**October 30, 2017**

**Newmarket-Tay Power Distribution Ltd. &  
Midland Power Utility Corporation  
EB-2017-0269**

**APPLICANT & LIST OF INTERVENORS**

October 30, 2017

**APPLICANT**

**Rep. and Address for Service**

**Newmarket-Tay Power  
Distribution Ltd.**

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**Newmarket-Tay Power  
Distribution Ltd.**

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**Midland Power Utility  
Corporation**

**Phil Marley**

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**APPLICANT & LIST OF INTERVENORS**

October 30, 2017

**APPLICANT**

**Rep. and Address for Service**

**APPLICANT COUNSEL**

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**Midland Power Utility  
Corporation**

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**APPLICANT & LIST OF INTERVENORS**

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**INTERVENORS**

**Rep. and Address for Service**

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