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January 30, 2018

Ontario Energy Board
2300 Yonge Street
P.O. Box 2319
Suite 2700
Toronto, ON M4P 1E4

Attention: Ms Kirsten Walli
Board Secretary

Dear Ms. Walli:

Re: EB-2017-0269 – Newmarket-Tay Power Distribution Ltd. and Midland Power Utility Corporation application under section 86 of the *Ontario Energy Board Act, 1998* and application for other related relief (the “Application”)

Objection to Board Staff request dated January 29, 2018 re further interrogatories

Newmarket-Tay Power Distribution Ltd. and Midland Power Utility Corporation (“**NT Power**” and “**MPUC**” respectively, and together the “**Applicants**”) are in receipt of Ontario Energy Board Staff (“**Staff**”)’s letter dated January 29, 2018 in which Staff requests that the Ontario Energy Board (“**OEB**” or the “**Board**”) provide for supplementary interrogatories.

The Applicants object to the above-noted request, for the reasons set out below.

The Applicants filed the Application in this proceeding with the OEB on July 14, 2017. The Board’s *Performance standards for processing applications*¹ state that the performance standard for a section 86 application (written hearing) is 130 days. The Application was filed with an intended closing date that took into account the 130-day performance standard.

It has now been 200 days since the Application was filed and the proceeding has not even progressed to the stage of final submissions.

On November 14, 2017, NT Power filed a letter (the “**November 14 Letter**”) in which it expressed concern with the slow timing of the proceeding. The November 14 Letter also requested that interrogatories be filed as early as possible. As a result, the School Energy

¹ Available at <https://www.oeb.ca/industry/applications-oeb/performance-standards-processing-applications>

Coalition filed its interrogatories two days early and the Applicants filed their replies to interrogatories two days early, that is, on December 6, 2017.

Staff has taken almost two months to determine that Staff would like to request the Board to provide for supplementary interrogatories. The Applicants respectfully submit that all parties in a proceeding are required to follow a reasonable schedule, regardless of whether or not there has been a procedural order which sets out a specific schedule. Deliberation by Staff for almost two months to make this determination is disconcerting as all transactions of the nature of this application require a reasonable level of regulatory timeliness. The Applicants further submit that Staff's request should have been made within a time period that is in keeping with the Board's performance standards.

Moreover, Staff have provided no specific reasons as to why Staff – or any other party, as presumably the request is that other parties also be permitted to file supplementary interrogatories – requires answers to supplementary interrogatories other than to say these are required in relation to the no-harm test. Staff have also provided no reasons to explain why it was not possible to make this determination at an earlier date.

Finally, as noted above, this proceeding has already far surpassed the Board's own timeline for a s. 86 application.

In light of the above considerations, the Applicants submit that Staff's request for additional interrogatories should not be accepted

Please do not hesitate to contact the undersigned if you have any questions in relation to the foregoing.

Sincerely,

Signed in the original

George Vegh

cc. J. Mark Rodger, counsel to Midland Power Utility Corporation