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BY E-MAIL

October 5, 2018

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto ON M4P 1E4

Dear Ms. Walli:

Re: OEB Staff Submission

Application by Erie Thames Powerlines Corporation and West Coast Huron Energy Inc. for approval to amalgamate and continue operations as a single electricity distribution company

OEB File Number: EB-2018-0082

In accordance with the OEB's directions, please find attached OEB staff's submission with respect to the above referenced application.

Yours truly,

Original Signed by

Andrew Bishop

Project Advisor
Applications Division

ONTARIO ENERGY BOARD

OEB Staff Submission

EB-2018-0082

October 5, 2018

1 INTRODUCTION & SUMMARY

Erie Thames Powerlines Corporation (ETPL) and West Coast Huron Energy Inc. (WCHEI) (collectively, the Applicants) filed an application on March 14, 2018 under sections 18 and 86 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B) (the Act), for approval to amalgamate and continue operations as a single electricity distribution company. To enable the proposed amalgamation, WCHEI and ETPL requested the following OEB approvals:

a. The acquisition by ERTH Corporation (ERTH) of all shares of WCHEI pursuant to section 86(2)(a) of the OEB Act.[1]
b. Leave for WCHEI and ETPL to amalgamate and continue as a corporation, pursuant to Section 86(1)(c) of the OEB Act.
c. Leave for WCHEI to transfer its distribution systems to ETPL pursuant to Section 86(1)(a) of the OEB Act.
d. Leave for WCHEI to transfer its distribution licenses and rate orders to ETPL, pursuant to Section 18 of the OEB Act.
e. The amendment of the distribution licence for ETPL under Section 18 of the OEB Act to include the service area of WCHEI no later than 120 days after the approval of this Application (to be followed immediately by the cancellation of the distribution licence of WCHEI).
f. Such necessary rate orders to transfer the existing WCHEI rate orders to ETPL.
g. The ability to continue to track costs to the regulatory asset accounts currently approved by the OEB for each of ETPL and WCHEI and to seek disposition of their balances at a future date.[2]

To complete the amalgamation, the Applicants propose to execute the following two transactions sequentially:

1. ERTH[3] and the Town of Goderich[4] will execute a share purchase agreement, pursuant to which ERTH will acquire all of the shares of WCHEI. In return, the Town of Goderich will receive shares in ERTH.

[1] The Applicants confirmed that they were requesting this approval in their response to OEB staff interrogatory No. 3
[2] Application, Exhibit B, Tab 2, Schedule 1, p. 6
[3] ETPL is a wholly-owned subsidiary of ERTH Corp., a holding company owned by the following eight Ontario Municipalities: Town of Ingersoll, Township of East Zorra-Tavistock, Township of Zorra, Municipality of Central Elgin, Township of South-West Oxford, Town of Aylmer, Municipality of West Perth, and Township of Norwich.
[4] WCHEI is wholly-owned by the Town of Goderich. In consideration for their shares in WCHEI, the Town of Goderich will be granted a 22.5% ownership stake in ERTH.

2. Immediately upon closing of the transaction above, WCHEI and ETPL will be amalgamated via a short-form amalgamation under section 177(2) of the *Business Corporations Act* (Ontario). The articles of amalgamation for the merged entity will, in substance, contain the provisions of the articles of incorporation of ETPL.

2 RELEVANT REGULATORY PRINCIPLES

2.1 The "No Harm" Test

The OEB applies the "no harm" test when assessing applications that seek approval for regulated entities to consolidate. The "no harm" test was first established by the OEB in 2005 through its decision in an adjudicative proceeding (the Combined Proceeding),[5] and has been used to guide OEB decision making on merger, acquisition, amalgamation, and divestiture (MAADs) applications since then.

The *Handbook to Electricity Distributor and Transmitter Consolidations* (the Handbook), issued by the OEB on January 19, 2016, confirmed that the OEB will continue its practice of applying the "no harm" test when adjudicating utility consolidation requests. The OEB considers whether the "no harm" test is satisfied based on an assessment of the cumulative effect of the transaction on the attainment of its statutory objectives. Those objectives are set out in section 1 of the OEB Act as follows:

> **Board objectives, electricity**
> 1 (1) The Board, in carrying out its responsibilities under this or any other Act in relation to electricity, shall be guided by the following objectives:
>
> 1. To protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service.
>
>   1.1 To promote the education of consumers.
>
> 2. To promote economic efficiency and cost effectiveness in the generation, transmission, distribution, sale and demand management of electricity and to facilitate the maintenance of a financially viable electricity industry.
>
> 3. To promote electricity conservation and demand management in a manner consistent with the policies of the Government of Ontario, including having regard to the consumer's economic circumstances.

[5] RP-2005-0018/EB-2005-0234/EB-2005-0254/EB-2005-0257

4. To facilitate the implementation of a smart grid in Ontario.

5. To promote the use and generation of electricity from renewable energy sources in a manner consistent with the policies of the Government of Ontario, including the timely expansion or reinforcement of transmission systems and distribution systems to accommodate the connection of renewable energy generation facilities. 2004, c. 23, Sched. B, s. 1; 2009, c. 12, Sched. D, s. 1; 2015, c. 29, s. 7.

If the proposed transaction has a positive or neutral effect on the attainment of these objectives, the OEB will approve the consolidation.[6]

2.2 OEB Policy on Rate-Making Associated with Consolidations

To encourage electricity distributor consolidations, the OEB introduced policies that provide consolidating distributors with an opportunity to offset merger-related transaction costs with any achieved savings through deferral of the rebasing of the consolidated entity.

The OEB's policies on rate-making associated with consolidations are set out in the *Report of the Board – Rate-making Associated with Distributor Consolidation*, issued July 23, 2007 (the 2007 Report) and a further report issued under the same name on March 26, 2015 (the 2015 Report). The 2007 Report permits a deferred rebasing period of five years. The 2015 Report extended the deferred rebasing period, permitting consolidating distributors to defer rebasing for up to ten years from the closing of the transaction.

Consolidating distributors are required to select a definitive timeframe for the deferred rebasing period. The OEB's expectation is that, when consolidating distributors select a deferred rebasing period, they have committed to a plan based on the circumstances of the consolidation and that, if an amendment to the selected deferred rebasing period is requested, the OEB will need to understand whether any change to the proposed rebasing timeframe is in the best interests of customers.

The OEB requires consolidating entities that propose to defer rebasing beyond five years to implement an earnings sharing mechanism (ESM) for the period beyond five years to protect customers and ensure that they share in any increased benefits from consolidation during the deferred rebasing period. The Applicants have proposed a nine-year rebasing deferral period and will therefore be required to establish an ESM.[7]

[6] Handbook, pp. 3-4
[7] Application, Exhibit B, Tab 2, Schedule 1, p. 4

3 OEB STAFF SUBMISSIONS

In its review of the application, OEB staff has considered the requirements described in the Handbook and other applicable OEB policy as described herein.

3.1 Application Performance against the "No Harm" Test

The Handbook provides guidance to applicants and stakeholders on how the OEB reviews consolidation transactions proposed under Section 86 of the Act. As noted above in Section 2.1, the Handbook confirms that the OEB applies the "no harm" test in its assessment of Section 86 applications. If the proposed transaction has a positive or neutral effect on the attainment of the OEB's statutory objectives, the OEB will approve the application. While the OEB has broad statutory objectives, in applying the "no harm" test the OEB has primarily focused its review on the impacts of the proposed transaction on price and quality of service to customers, and the cost effectiveness, economic efficiency, and the financial viability of the consolidating utilities.

Submission

OEB staff submits that the amalgamation proposed by the Applicants meets the "no harm" test as described in the Handbook.

For the reasons discussed in Section 3.3 below, OEB staff submits that for a three-year period post-amalgamation, reliability measures should continue to be tracked and reported on by the current, pre-amalgamation service areas (i.e., WCHEI and ETPL), as well as at the combined service territory level. OEB staff notes that the reasons for this request do not relate to the consolidation. Rather, OEB staff submits that it is necessary to have the consolidated utility continue to report reliability metrics for each of the ETPL and WCHEI service areas separately for a short time following the amalgamation in order to continue monitoring a reliability matter identified in the OEB's 2016 Electricity Utility scorecard for ETPL.

3.2 Impact on Price, Economic Efficiency and Cost Effectiveness

The Applicants state that "The proposed consolidation is expected to deliver material electricity ratepayer savings relative to the *status quo*, i.e., in the absence of the consolidation."[8] Further, the Applicants state that these financial benefits will occur in both the near- and longer-term. The drivers of these benefits, identified by the Applicants to include, but not be limited to, both operational and capital expenditures, are discussed below.

[8] Application, Exhibit B, Tab 5, Schedule 1, p. 1

The Applicants selected a nine-year rate rebasing deferral period from the closing of the proposed transactions, consistent with the 2015 Report and the Handbook. During this time, the Applicants indicate that the pre-existing rate plans for WCHEI[9] and ETPL[10], both effective May 1, 2018, will remain in effect until their expiry and rate adjustments will then take place under Price Cap Incentive Rate Mechanism (the "Price Cap IR") through to the first rebasing of the amalgamated entity.[11]

The Applicants submit that in absence of the consolidation, WCHEI and ETPL would file cost of service applications in 2019 and 2023, respectively. The Applicants state that the projected rate increases resulting from those filings would be greater than under Price Cap IR.[12] Thus, the Applicants contend that the proposed amalgamation will result in lower rates than the *status quo* during the rebasing deferral period from the time each utility's rate plan expires.[13]

The Applicants' evidence also indicates that "Ratepayers are also expected to experience greater savings in comparison to the status quo from the time of the first anticipated rebasing, nine years following the completion of the consolidation, due to cost savings resulting from synergies."[14]

The Applicants' evidence states that the amalgamation will financially benefit ratepayers by eliminating, among other items, the need for approximately $1.9 million in capital spending over the nine-year rebasing deferral period. If not for the amalgamation, the undertaking of capital projects, and the subsequent related costs, would be reflected in each utility's next cost of service filing. Examples of capital expenses identified by the Applicants as being eliminated by the amalgamation include:

- WCHEI's construction of a new service centre in Mitchell
- Truck replacements (avoided as a result of fleet consolidation)
- WCHEI's significant investment in IT infrastructure (i.e., a needed financial system conversion)

In addition to the capital savings, the Applicants indicate that amalgamation-related cost savings are also anticipated to arise from efficiencies in business operations through reductions in staff via attrition (retirement and employee departures), the elimination of

[9] WCHEI's May 1, 2018 rates, set in accordance with the Annual Incentive Rate Index (IR) option, were approved by the OEB through EB-2017-0083.
[10] ETPL's May 1, 2018 rates are not yet approved. ETPL filed a cost-of-service application on September 15, 2017 to establish new rates effective May 1, 2018 (EB-2017-0038), and that proceeding is ongoing.
[11] Application, Exhibit B, Tab 5, Schedule 1, p. 1
[12] Application, Exhibit B, Tab 5, Schedule 1, p. 1
[13] Application, Exhibit B, Tab 5, Schedule 1, p. 2
[14] Application, Exhibit B, Tab 5, Schedule 1, p. 1

duplicate memberships and professional fees, and reduced professional services fees (e.g., audit, actuary and consulting fees).[15]

The Applicants have estimated that the efficiencies arising from the proposed amalgamation will result in cumulative savings, net of transition costs, of $7.6 million[16] (pre-tax) in the first nine years following the transaction.[17] Further, the Applicants state that following the first nine years post-amalgamation, a sustained annual savings of $879,000[18] will occur.

Figure 1, extracted from Exhibit B, Tab 6, Schedule 1, Page 2 of the application, compares the *status quo* revenue requirement of each utility to the amalgamated utility's revenue requirement. The Applicants show that the 2026 revenue requirement of the merged entity is forecast to be approximately $14.9 million. Absent the merger, the combined revenue requirement of both utilities is forecast to total approximately $16.3 million in 2026. As demonstrated in Figure 1, the Applicants indicate that the savings, approximately $1.4 million, or 9% of the projected 2026 combined *status quo* revenue requirement, represent the economic efficiencies enabled by the amalgamation in 2026.

Figure 1: Merged vs. Status Quo Revenue Requirement[19]

	Merged Revenue Requirement			Status Quo Revenue Requirement				
Total Revenue Requirement	ETPL	WCHE	Total	ETPL	WCHE	Total	Savings	Cumulative Savings
2017	$10,614,293	$2,416,936	$13,031,229	$10,614,293	$2,416,936	$13,031,229	$ -	$ -
2018	$10,785,164	$2,453,190	$13,238,354	$10,785,164	$2,453,190	$13,238,354	$ -	$ -
2019	$10,946,941	$2,489,988	$13,436,929	$10,946,941	$2,759,623	$13,706,565	-$ 269,635	-$ 269,635
2020	$11,111,146	$2,527,338	$13,638,483	$11,111,146	$2,801,017	$13,912,163	-$ 273,680	-$ 543,315
2021	$11,277,813	$2,565,248	$13,843,061	$11,277,813	$2,843,033	$14,120,845	-$ 277,785	-$ 821,100
2022	$11,446,980	$2,603,726	$14,050,706	$11,446,980	$2,885,678	$14,332,658	-$ 281,952	-$1,103,051
2023	$11,618,685	$2,642,782	$14,261,467	$12,362,738	$2,928,963	$15,291,702	-$1,030,235	-$2,133,286
2024	$11,792,965	$2,682,424	$14,475,389	$12,609,993	$2,972,898	$15,582,891	-$1,107,502	-$3,240,788
2025	$11,969,859	$2,722,660	$14,692,520	$12,862,193	$3,151,272	$16,013,465	-$1,320,945	-$4,561,733
2026	$12,149,407	$2,763,500	$14,912,908	$13,119,437	$3,198,541	$16,317,978	-$1,405,070	-$5,966,803

The Applicants suggest that the savings generated by the amalgamation will benefit both current ETPL and WCHEI customers. As illustrated in Figure 1 above, the *status quo* revenue requirements of both utilities are shown to be higher individually than they are forecasted to be with amalgamation.

[15] OEB staff IRs 4(b), 7(b)
[16] The $7.6 million is comprised of $5.7 million in operating expenses and $1.9 million in capital costs.
[17] Application, Exhibit B, Tab 6, Schedule 1, p. 1
[18] Application, Exhibit B, Tab 6, Schedule 1, p. 3
[19] Application, Exhibit B, Tab 6, Schedule 1, p. 2

The Handbook states that the OEB will assess the impact of the proposed transaction on the economic efficiency and cost effectiveness of the amalgamating parties. This assessment is based on the various aspects of utility operations the Applicants identify as achieving sustained operational efficiencies, both quantitative and qualitative, as a result of consolidation.

Submission

As part of its review of consolidation proposals, the OEB examines the underlying cost structures of the consolidating utilities. As distribution rates are based on a distributor's current and projected costs, the OEB has stated that it is important for the OEB to consider the impact of a transaction on the cost structure of consolidating entities both now and in the future, particularly if there appear to be significant differences in the size or demographics of consolidating distributors.[20]

OEB staff accepts the Applicants' claim that the amalgamation will offset the need for sizable operating and capital expenditures that will, in turn, benefit customers through reduced cost structures beginning in 2019. OEB staff is therefore reasonably satisfied that the amalgamation will not result in the customers of WCHEI or ETPL experiencing negative price implications. Therefore, from a price, economic efficiency and cost effectiveness standpoint, OEB staff believes that the Applicants have met the requirements of the "no harm" test.

OEB staff anticipates that in their first cost of service application following the selected nine-year rebasing deferral period, the Applicants will report on the savings that have resulted from the amalgamation, and how these savings have been incorporated into the harmonized rate structure of the amalgamated entity. This anticipated reporting is consistent with the provisions of the OEB's October 13, 2016 *Handbook for Utility Rate Applications* (the Rate Handbook), which states, in part:

> ***In the first cost of service or Custom IR application following the consolidation the OEB will scrutinize specific rate-setting aspects of the MAADs transaction*** [emphasis added], including a rate harmonization plan and/or customer rate classifications post consolidation.
>
> This will include consideration of:

[20] Handbook, p. 6

- The treatment of any premium above book value paid as part of a consolidation (no premium is to be recovered from customers).
- ***The savings that have been generated through the consolidation*** [*emphasis added*].
- Whether there were any inducements or incentives beyond the purchase price to encourage a shareholder to agree to the consolidation and if so whether there is any intent to recover the costs of those inducements or incentives from customers. Any costs incurred will be reviewed to ensure that the costs incurred are delivering the best value to customers.
- Whether the rate harmonization plan includes a detailed explanation and justification for the implementation plan, and an impact analysis. For acquisitions, distributors can propose plans that place acquired customers into an existing rate class or into a new rate class. ***Regardless of the option adopted, the OEB will assess whether the proposed harmonized rates will reflect the cost to serve the acquired customers, including the anticipated productivity gains resulting from consolidation*** [emphasis added].[21]

At Exhibit B, Tab 7, Schedule 1 of the application, the Applicants state:

> …the pre-existing rate plans for WCHEI Effective May 1st, 2018 (2018 IRM application filed in November of 2017 EB-2017-0083) and ETPL Effective May 1st, 2018 (as proposed in its current Cost of Service application, EB-2017-0038) will continue until their expiry and the Parties would maintain Price Cap IR until the end of the Nine year rebasing deferral period.

OEB staff interprets this to mean that beginning in 2019 and continuing until the end of the nine-year rebasing deferral period, the Applicants propose that the rates of both current WCHEI and ETPL customers will be set in accordance with Price Cap IR.

Based on the OEB's policy as set out in Table 1 of the Handbook[22], it is acceptable that ETPL set rates in accordance with the Price Cap IR option throughout the rebasing deferral period given their 2018 rates will be set through a cost of service. However, the Handbook prescribes that WCHEI, whose current rates have been set in accordance with the Annual IR option, must remain on Annual IR throughout the nine-year rebasing deferral period. Accordingly, if the Applicants' intent is to set current WCHEI customer rates during the rebasing deferral period using a Price Cap IR approach, OEB staff submits that the OEB should deny this request. In order to comply with the Handbook, the OEB should require the Applicants to set current WCHEI customer rates in accordance with the Annual

[21] Handbook for Utility Rate Application, p. 21
[22] Handbook, p. 15

IR option for the duration of the rebasing deferral period. OEB staff notes that for utilities with service areas under the Annual IR method, an incremental capital module is available during the deferral period.

OEB staff supports the Applicants' request to establish an ESM for years six through nine following the amalgamation. OEB staff notes that the Applicants state the ESM will be operated in a manner consistent with the requirements described in the 2015 Report.[23]

3.3 Impact on Service Quality and Reliability

The Handbook requires consolidating utilities to indicate the impact that the proposed transaction will have on consumers with respect to reliability and quality of electricity service. The Handbook also provides that in considering the impact of a proposed transaction on the quality and reliability of electricity service, and whether the "no harm" test has been met, the OEB will be informed by the metrics provided by the distributor in its annual reporting to the OEB and published in its annual scorecard.[24]

The Applicants state that they are committed to maintaining the quality, reliability, and adequacy of electricity service for their customers[25] and have committed to specific actions in order to ensure this goal is achieved. This includes that Applicants' pledge to maintain an operations centre in the Town of Goderich, the purpose of which is to ensure response times for WCHEI customers will not change.[26] In total, the Applicants propose to operate three separate service centres following amalgamation that will continue to be used for decentralized functions such as construction and maintenance, trouble response, logistics, fleet services, and metering.[27] The Applicants state that "With the exception of moving ETPL's Mitchell operations centre to Goderich, from a service standpoint, very little, if anything, is changing with regard to service centres and the employees who are located at these locations."[28]

In response to OEB staff interrogatory No. 2(b), the Applicants describe the range of service enhancements anticipated to result from the merger and how these enhancements will benefit all customers of the amalgamated entity. The enhancements discussed include the following that relate specifically to service quality and reliability:

- *Asset Management, Asset Renewal, and the Introduction of New Technologies* - The proposed amalgamation is expected to result in improved asset management

[23] Application, Exhibit B, Tab 7, Schedule 2, p. 1
[24] Handbook, p. 7
[25] Application, Exhibit B, Tab 5, Schedule 1, p. 2
[26] Ibid
[27] Application, Exhibit B, Tab 5, Schedule 1, p. 2
[28] Application, Exhibit 5, Tab 5, Schedule 5, p. 3

practices, utilizing the best practices of the predecessor LDCs. Moreover, the amalgamated LDC will have improved access to capital, with lower financing costs, for the purposes of financing traditional utility infrastructure investments and the introduction of new technologies.

• *Operations* - It is expected that the proposed Amalgamation will improve the combined operations of the two LDCs. In addition to the knowledge transfer between the predecessor LDCs and the incorporation of common best operational practices, the amalgamated LDC will have access to additional operational resources to ensure that reliability and safety of supply is maintained and improved. For example, the proposed amalgamation will provide the amalgamated LDC with additional line resources to respond outages and other issues.

ETPL's 2016 Electricity Utility Scorecard indicated that ETPL's System Reliability Metrics did not meet OEB targets. OEB staff further observed that ETPL's performance related to the "Average Number of Hours that Power to a Customer was Interrupted" (SAIDI) metric had declined since 2014. Consequently, through OEB staff interrogatory No. 6, the Applicants were requested to provide reasons for the consistent decline in performance and advise how the trend would be corrected.

Figure 2: Applicant System Reliability Metrics[29]

Description	2012	2013	2014	2015	2016	Average
SAIDI						
ETPL	1.47	0.41	0.59	0.73	1.46	0.932
WCHE	0.42	3.56	0.24	0.19	0.15	0.912
Combined	0.95	1.99	0.42	0.46	0.81	0.922
SAIFI						
ETPL	0.31	0.2	0.3	0.48	0.24	0.306
WCHE	0.19	1.16	0.19	0.43	0.06	0.406
Combined	0.25	0.68	0.25	0.46	0.15	0.356

In their response to OEB staff interrogatory No. 6, the Applicants stated that, although ETPL's SAIDI metric for 2016 did not meet OEB targets, the OEB recently amended targets such that they are now local distribution company (LDC)-specific and not based on an industry average. ETPL advised that as a result of this change, its system performance metrics are acceptable. OEB staff observes, however, that ETPL's 2016 Electricity Utility Scorecard contains the following note:

> Erie Thames historic results fell within the new LDC specific requirement of 0.99 for SAIDI ***however there has been an increase over the past two years that needs***

[29] Application, Exhibit B, Tab 5, Schedule 1, p. 4

> ***to be managed to ensure the trending is not a systemic issue within ETPL's distribution system as opposed to significant one time anomalous events*** [*emphasis added*].

The Applicants' response to OEB staff interrogatory No. 6 did not discuss whether steps had been taken by ETPL to identify if the negative trend in SAIDI is the result of a systematic issue, as referred to in their scorecard. Rather, the Applicants' attributed the 2016 metric score to a "prolonged isolated outage due to ice damage that did not trigger a major event...".[30]

Submission

OEB staff submits that based on the evidence and interrogatory responses provided, the amalgamated entity is likely to provide customers with reliable service. Therefore, from a service quality and reliability standpoint, OEB staff believes that the Applicants have met the requirements of the "no harm" test.

OEB staff notes, however, that the Applicants have not discussed and/or identified any studies or investigations that have occurred to ensure the declining trend in SAIDI performance reflected in ETPL's 2016 Electricity Utility Scorecard is in fact the result of one-time events rather than more significant systematic issues. OEB staff does not believe that it will be possible to manage the increase in the SAIDI metric to "ensure the trending is not a systemic issue within ETPL's distribution system as opposed to significant one time anomalous events" if reliability reporting is only performed on a consolidated basis post-amalgamation. OEB staff submits that it remains important that the Applicants initiate and/or continue investigations in order to conclusively determine the factors that have impacted current ETPL service area SAIDI metrics.

For this reason, OEB staff submits that for a three-year period post-amalgamation, reliability measures should continue to be tracked and reported on by the current, pre-amalgamation service areas (i.e., WCHEI and ETPL), as well as at the combined service territory level. This is recommended to ensure that the performance of ETPL can be monitored independently from WCHEI in order to assess if reliability in the current ETPL service area is continuing to decline and if so, what steps have been undertaken to correct the trend.

OEB staff acknowledges the OEB has previously denied proposals related to reliability reporting at the pre-amalgamation service territory level. Specifically, through its Decision

[30] OEB staff IR 6(a)(i)

and Order in which the OEB approved the Alectra Utilities consolidation[31], the OEB stated:

> The OEB notes that the applicants have proposed that LDC Co track the operations of each of the four predecessor utilities and that reporting to the OEB take place separately until December 31, 2019, when the completion of the consolidation of the four predecessor utilities is expected to occur. The Handbook, however, sets out that having consolidating entities operate as one entity as soon as possible after the transaction is in the best interest of consumers. The OEB is of the view that this principle continues to be applicable in this case. The OEB does not require, nor encourage reporting on a "separate" utility basis. Rather the expectation of the OEB is that LDC Co shall report in accordance with the requirements of its licence. Consequently, the OEB considers that the applicants' proposed conditions are not necessary and will not be included in the LDC Co licence.[32]

OEB staff submits that in the current case, given ETPL's recent SAIDI performance, as well as an apparent inconsistent explanation for the recent trend , it is important to continue monitoring ETPL's reliability independent from WCHEI's. As an example, reliability reporting at the aggregate level could inadvertently conceal a growing systematic issue in one part of the service area that requires immediate correction.

At a minimum, in the event that the OEB does not require service area-level reporting, OEB staff suggests that the OEB should consider requiring the amalgamated entity to discuss, in its next reliability report, the actions it has taken to identify whether systematic issues within ETPL are present and, if so, what corrective action(s) has been taken.

3.4 Impact on Financial Viability

The Handbook provides that the impact of a proposed transaction on the acquiring utility's financial viability for an acquisition, or on the financial viability of the consolidated entity in the case of a merger will be assessed. The OEB's primary considerations in this regard are:

- The effect of the purchase price, including any premium paid above the historic (book) value of the assets involved

[31] EB-2016-0025/EB-2016-0360
[32] Decision and Order, EB-2016-0025 and EB-2016-0360, p. 26

- The financing of incremental costs (transaction and integration costs) to implement the consolidation transaction[33]

Submission

The transaction between the parties is non-cash in nature. In other words, in consideration for its shares of WCHEI, the City of Goderich is gaining shares in ERTH. Review of the Applicants' *pro forma* financial statements also indicates the financial viability of the amalgamated entity will not be adversely affected by the transaction. Further, the Applicants indicate a total savings of approximately $7.6 million during the rebasing deferral period. These savings are expected to more than offset the Applicants' amalgamation transition cost forecast of $435,000.

Consequently, in OEB staff's opinion, there is no impact to the financially viability of the Applicants. Therefore, from a financial viability standpoint, OEB staff believes that the Applicants have met the requirements of the "no harm" test.

The Applicants have requested OEB approval to continue to track costs to the regulatory asset accounts currently approved by the OEB for each of ETPL and WCHEI and to seek disposition of their balances at a future date. While OEB staff does not believe that such an approval is required, OEB staff has no concerns with the request.

3.5 Conclusion

The applicants have requested the OEB's approval for:

a. The acquisition by ERTH Corporation of all shares of WCHEI pursuant to section 86(2)(a) of the OEB Act.
b. Leave for WCHEI and ETPL to amalgamate and continue as a corporation, pursuant to Section 86(1)(c) of the OEB Act.
c. Leave for WCHEI to transfer its distribution systems to ETPL pursuant to Section 86(1)(a) of the OEB Act.
d. Leave for WCHEI to transfer its distribution licenses and rate orders to ETPL, pursuant to Section 18 of the OEB Act.
e. The amendment of the distribution licence for ETPL under Section 18 of the OEB Act to include the service area of WCHEI no later than 120 days after the approval of this Application (to be followed immediately by the cancellation of the distribution licence of WCHEI).
f. Such necessary rate orders to transfer the existing WCHEI rate orders to ETPL.

[33] Handbook, p. 8

g. The ability to continue to track costs to the regulatory asset accounts currently approved by the OEB for each of ETPL and WCHEI and to seek disposition of their balances at a future date.

Submission

OEB staff submits that the amalgamation proposed by the Applicants reasonably meets the "no harm" test as described in the Handbook.

OEB staff has no objections to the Applicants' request for the amendment of the distribution licence of EPTL to include the service territory or WCHEI. However, the Applicants are required to provide notification that the amalgamation transactions have been completed before the amendment of ETPL's licence can be completed.

OEB staff recommends that the OEB consider requiring the Applicants to report on reliability as described in Section 3.3 of this submission.

All of which is respectfully submitted