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Delivered by Email, RESS & Courier

Kristen Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
Toronto, ON M4P 1E4

Dear Ms. Walli

**Re: Association of Major Power Consumers in Ontario (“AMPCO”) Application
to Review Market Amendment MR-00439-R00-R05
EB-2019-0242**

We are counsel to the Intervener, Kingston CoGen Limited Partnership (“Kingston CoGen”), in this proceeding and we are writing with respect to Procedural Order No. 2 and in particular the timetable set out for the motion brought by AMPCO to stay (the “Stay Motion”) the implementation of the subject market Rule amendments (the “Amendments”).

We have reviewed Independent Electricity System Operator’s (“IESO”) letter dated October 21, 2019, and we generally agree with the timelines and procedures proposed by the IESO.

Since AMPCO is the party seeking a stay of the Amendments and bears the onus of meeting the test under section 33(8) of the *Electricity Act*, the IESO and the interveners should be granted an opportunity provide evidence in response to the stay. In particular in determining whether AMPCO has met the test for a stay under section 33(8) of the *Electricity Act*, we submit that it is important for the Board to have evidence from the IESO as a respondent and the other interveners about the factors under section 33(8), including irreparable harm in order to properly weigh the balance of convenience of granting or denying a stay.

Kingston CoGen indicated in its notice of intervention that it intended to file evidence of harm, which is directly relevant to the request for a stay, and it is prepared to file such evidence by Friday October 25, 2019.

We also ask that the interveners be permitted to file written submissions after receiving the submissions from AMPCO. The current order contemplates the interveners filing written submissions first and then AMPCO filing submissions in reply. Since AMPCO is the moving party it would be appropriate for AMPCO to file its written submissions first and then for the interveners and then the IESO to respond.

Yours truly,

BORDEN LADNER GERVAIS LLP

Per:

Original signed by John A.D. Vellone

John A.D. Vellone