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November 1, 2019

**DELIVERED BY RESS and EMAIL**

Ms. Kirsten Walli, Board Secretary  
**ONTARIO ENERGY BOARD**  
P.O. Box 2319, 27th Floor  
2300 Yonge Street  
Toronto, Ontario  
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Dear Ms. Walli

**Re: EB-2019-0242 - Association of Major Power Consumers in Ontario (AMPCO)  
Application for Review of an Amendment to the Independent Electricity System  
Operator (IESO) Market Rules.**

**AMPCO's request to file expert evidence**

We write in response to AMPCO's letter of October 31, 2019 seeking permission to file additional evidence on its application to stay the Amendment to the Market Rules.

KCLP opposes AMPCO's request on the basis that it would improperly permit AMPCO to split its case on the application and would cause injustice to the parties.

AMPCO has the onus on this appeal to demonstrate that section 33(8) of the *Electricity Act, 1998* has been met. The Amendment to the Rules was made public on September 5, 2019. AMPCO has had since that time the opportunity to obtain expert evidence to support its application. All of the evidence that AMPCO intended to rely upon on its application should have been filed when AMPCO filed its application on September 26, 2019. AMPCO already received an indulgence from the Board to file additional evidence by October 11, 2019, which it did and this evidence did not include any expert evidence.

AMPCO is the one who made the application and the relevance of the FERC Order at issue in this proceeding by relying upon it in its notice of appeal. It had the onus of filing expert evidence to demonstrate the relevance of the FERC Order to its application. It did not do so and should not be permitted a second chance to do so.

AMPCO has not provided any explanation as to why it could not have provided this expert evidence at an earlier date.

While AMPCO submits that it is proposing to file the expert evidence in response to Procedural Order Number 2, this order was released on October 18, 2019. AMPCO waited to make this request for leave to file further evidence only after it received IESO's evidence and KCLP's evidence on the motion to stay the Amendment pending the application. KCLP is concerned that AMPCO is attempting to bolster its evidence on the motion for a stay after it has already filed submissions.

Under the rules of natural justice and procedural fairness, an applicant is not permitted to split their case. The respondents, including the interveners on this application, are entitled to review all of the evidence of the applicant before submitting responding evidence.

For these reasons, we ask the Board to deny AMPCO's request for leave to file further evidence.

Yours very truly,

*Original signed by John A.D. Vellone*

John A.D. Vellone

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