



**BY EMAIL and RESS**

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April 15, 2021  
Our File: EB20200043

Ontario Energy Board  
2300 Yonge Street  
27th Floor  
Toronto, Ontario  
M4P 1E4

**Attn: Christine Long, Registrar & Board Secretary**

Dear Ms. Long:

**Re: EB-2020-0043 – North Bay Hydro – Disputed Issue**

We are counsel to the School Energy Coalition ("SEC"). Pursuant to Procedural Order #2, this letter constitutes SEC's brief submissions on whether Issue 5.3 "***Is the Application fully consistent with the Decision of the OEB in 2019-0015?***" should be included on the Issues List.

In the EB-2019-0015 decision on the acquisition by the Applicant of Espanola Regional Power Distribution, the Board recognized that the Applicant expected to file a standalone cost of service application for North Bay Hydro. That is this Application, EB-2020-0043. However, the Board also recognized that the common ownership of North Bay and Espanola could give rise to economies of scope and scale, and that those issues could be considered in a cost of service application for either of them.

The proposal by the Applicant to exclude any consideration of the impact of the acquisition, and the consistency of this Application with the MAADs decision, would require the OEB and the parties to in effect pretend that North Bay and Espanola were not under common ownership, and imagine what the North Bay costs would be if that were the case. This cannot have been the Board's intention in EB-2019-0015. North Bay's costs are what they are. Fictional costs are not an appropriate basis for setting rates.

Just by way of example, today the CEO of North Bay Matt Payne is also the CEO of Espanola. The Applicant's position on the issues would appear to say that all of the salary of the CEO should be treated as a cost of both North Bay and Espanola. The same is true of all North Bay resources that are being deployed in 2021 and 2022 to assist in the operation or administration of Espanola. This is just one example. Full review of the evidence and interrogatory responses shows that there are a number of interactions that arise because the two distributors are under common ownership.

The EB-2019-0015 decision contemplates that, while North Bay and Espanola will file (and now have filed) separate cost of service applications, the OEB in considering those Applications will

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determine just and reasonable rates based on the actual facts and evidence before the Board in those proceedings, not by wilfully ignoring any facts that relate to the acquisition of Espanola in 2019.

We note that it is not the intention of SEC (nor, to the best of our knowledge, any other party) to seek to re-litigate any aspect of the EB-2019-0015 proceeding. We do wish, however, to be able to view the facts in the EB-2020-0043 proceeding based on the full evidence before the Board, and not some subset of that evidence.

All of which is respectfully submitted.

Yours very truly,  
**Shepherd Rubenstein Professional Corporation**

A handwritten signature in black ink, appearing to read "Jay Shepherd", written over a faint, larger version of the same signature.

Jay Shepherd

cc: Wayne McNally, SEC (by email)  
Interested Parties (by email)