



**Brantford Power Inc.
Energy+ Inc.**

**Application for approval to amalgamate and continue
operations as a single electricity distribution company**

**PROCEDURAL ORDER NO. 1
December 17, 2021**

Brantford Power Inc. (Brantford Power) and Energy+ Inc. (Energy +) (the Applicants) filed an application with the Ontario Energy Board (OEB) on November 1, 2021, under section sections 86(2)(b), 86(1)(c), 60 and 18 of the *Ontario Energy Board Act, 1998, S.O. 1998, c. 15, Schedule B*, for approval of the following:

- Leave for a new holding company (Amalco Holdco) to acquire control of Brantford Energy Corporation (the parent company of Brantford Power) and Cambridge and North Dumfries Energy Plus Inc. (the parent company of Energy+)
- The amalgamation of Brantford Power and Energy+ to form a new electricity distribution company (LDC Amalco)
- The issuance of an electricity distribution licence for LDC Amalco
- The cancellation of the electricity distribution licences of Brantford Power and Energy+ when the electricity distribution licence for LDC Amalco is issued
- The transfer of the current and any future rate orders of Brantford Power and Energy+ to LDC Amalco
- The continued tracking of costs by LDC Amalco to existing deferral and variance accounts of Brantford Power and Energy+
- A deferral account to track certain grossed-up Payment in Lieu impacts as described in the application and to track any variances in a sub account in Account 1592 - Payment in Lieu and Tax Variances, for the Brantford service area only

A Notice of Hearing was issued on November 16, 2021. Each of Energy Probe Research Foundation (Energy Probe) and School Energy Coalition (SEC) applied for intervenor status and cost eligibility.

No objection was received from the Applicants.

Energy Probe and SEC are approved as intervenors. The list of parties in this proceeding is attached as Schedule A to this Procedural Order. Energy Probe and SEC are eligible to apply for an award of costs under the OEB's [Practice Direction on Cost Awards](#) and only in relation to:

1. The proposed treatment of the PILS impact of CCA smoothing by Brantford Power; and
2. Whether the transaction adheres to the OEB's Handbook to Electricity Distributor and Transmitter Consolidations and related policies.

Cost eligible intervenors should be aware that the OEB will not generally allow the recovery of costs for the attendance of more than one representative of any party unless a compelling reason is provided when cost claims are filed.

Being eligible to apply for recovery of costs is not a guarantee of recovery of any costs claimed. Cost awards are made by way of OEB order at the end of a hearing.

Confidentiality

The Applicants requested confidential treatment for certain information in the application pursuant to the OEB's *Rules of Practice and Procedure* and the OEB's *Practice Direction on Confidential Filings (Practice Direction)*¹, and pursuant to the *Freedom of Information and Protection of Privacy Act*. The Applicants stated that the information for which confidential treatment is requested is contained in the Merger Participation Agreement (MPA)².

The Applicants submitted that the redactions to the MPA are requested because they contain (i) personal information; (ii) confidential information and commercially sensitive information pursuant to Board's *Rules of Practice and Procedure* and the Practice Direction; or (iii) information that is not relevant for the purposes of this application and the "No Harm" test. The Applicants listed eleven (11) redactions to the MPA. However, the Applicants have not specified which redactions belong in each of the three categories. Therefore, the OEB requires that the Applicants provide further explanation as to which redaction(s) are proposed on the basis of each of the three categories and a reason for the classification. The Applicants must file the further explanation with the OEB and serve it on all parties no later than **January 10, 2022**. The Applicants are

¹ Parties should refer to the revised [OEB Practice Direction on Confidential Filings](#) dated December 17, 2021 (Revised Practice Direction).

² EB-2021-0280, Application filed November 1, 2021, pages 1-3 and Schedule H

encouraged to file this necessary information earlier if possible to avoid any delays in processing the application.

After the Applicants have submitted the further explanation described above, the OEB will review the redacted information that the Applicants indicate as being either personal information or not relevant to the proceeding and will make a determination prior to the Technical Conference. If the OEB makes a determination that the information is either not personal or is relevant, the Applicants will be provided the opportunity to object prior to the Technical Conference.

In order to avoid delay pending the Applicants' filing of further explanation for the redactions, information identified by the Applicant as confidential will be granted interim approval. Intervenors will be allowed to review the unredacted confidential information after signing the OEB's form of Declaration and Undertaking. The signed Declaration and Undertaking shall be filed with the OEB and a copy shall be delivered to the Applicants. Parties shall follow the process and timelines set out in section 6.1.4 of the Revised Practice Direction.

Further Procedural Steps:

At this time, provision is being made for a Technical Conference and arguments in this proceeding. Portions of the technical conference that may refer to the redacted information, for which interim confidential treatment is granted, will be conducted *in camera* and the transcript of the technical conference will be redacted accordingly.

Any party objecting to the redacted information remaining confidential may make a submission within the timelines specified in the Revised Practice Direction. The OEB's decision on the request for confidentiality for matters not decided before the Technical Conference will be made following the Technical Conference.

It is necessary to make provision for the following matters related to this proceeding. Further procedural orders may be issued by the OEB.

IT IS THEREFORE ORDERED THAT:

Confidentiality:

1. The Applicants will provide further explanation as to which redactions are proposed on the basis of each of the three categories and a reason for the classification in accordance with the findings in this Procedural Order. The Applicants shall file the further explanation with the OEB and serve it on all intervenors, no later than **January 10, 2022**.

2. Intervenors that wish to review unredacted versions of the confidential information are required to sign and file the OEB's Confidentiality Declaration and Undertaking form. The signed Declaration and Undertaking shall be filed with the OEB and a copy shall be delivered to the Applicants.
3. If the Applicants object to a Declaration and Undertaking, parties shall follow the timelines set out in section 6.1.4 of the Revised Practice Direction.
4. If OEB staff and intervenors have any objections to the Applicants' request for confidentiality, they may make submissions within the timelines specified in sections 5.1.6 and 5.1.8 of the Revised Practice Direction.
5. If the Applicant wishes to respond to the submissions on confidentiality, they may make an oral reply submission at the Technical Conference or file a written reply submission with the OEB and serve it all parties by, **January 28, 2022**.

Discovery:

6. A transcribed, virtual technical conference among the parties and OEB staff will be convened on **January 24, 2022**, starting at 9:30 a.m. The purpose of the technical conference is to clarify matters related to the Applicants' evidence. Parties may provide their questions or the topics for which they require clarification in advance of the technical conference. The Technical Conference will be a virtual event and information on how to participate will be provided later.
7. The Applicants shall file any undertakings and exhibits from the technical conference with the OEB and send them to all parties by **February 7, 2022**.

Argument:

8. The Applicants shall file their argument-in-chief with the OEB and serve it on all intervenors by **February 14, 2022**.
9. Intervenors and OEB staff who wish to file final arguments shall file them with the OEB and serve them on all parties by **February 24, 2022**.
10. The Applicants shall file their reply argument with the OEB and serve it on all intervenors by **March 4, 2022**.

Parties are responsible for ensuring that any documents they file with the OEB **do not include personal information** (as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*), unless filed in accordance with rule 9A of the OEB's [Rules of Practice and Procedure](#).

Please quote file number, **EB-2021-0280** for all materials filed and submit them in searchable/unrestricted PDF format with a digital signature through the [OEB's online filing portal](#).

- Filings should clearly state the sender's name, postal address, telephone number and e-mail address
- Please use the document naming conventions and document submission standards outlined in the [Regulatory Electronic Submission System \(RESS\) Document Guidelines](#) found at the [Filing Systems page](#) on the OEB's website
- Parties are encouraged to use RESS. Those who have not yet [set up an account](#), or require assistance using the online filing portal can contact registrar@oeb.ca for assistance

All communications should be directed to the attention of the Registrar at the address below and be received by end of business, 4:45 p.m., on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Donald Lau at Donald.Lau@oeb.ca and OEB Counsel, Ljuba Djurdjevic at Ljuba.Djurdjevic@oeb.ca.

Email: registrar@oeb.ca

Tel: 1-877-632-2727 (Toll free)

DATED at Toronto, **December 17, 2021**

ONTARIO ENERGY BOARD

By delegation, before: Christine E. Long

Original signed by

Christine E. Long
Registrar

SCHEDULE A
ENERGY + AND BRANTFORD POWER
MAADS
EB-2021-0280
PROCEDURAL ORDER NO. 1
DATED : DECEMBER 17, 2021

**Energy + and Brantford Power - MAADs
EB-2021-0280**

APPLICANT & LIST OF INTERVENORS

December 17, 2021

APPLICANT

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EB-2021-0280**

APPLICANT & LIST OF INTERVENORS

December 17, 2021

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December 17, 2021

INTERVENORS

Rep. and Address for Service

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APPLICANT & LIST OF INTERVENORS

December 17, 2021

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