

Email and RESS

February 2, 2022

Ontario Energy Board
27 – 2300 Yonge Street
Toronto, ON M4P 1E4

Attn: Ms. Marconi, Acting Registrar

Dear Ms. Marconi

**EB-2021-0312 North Bay Hydro Distribution Limited and
Espanola Hydro Distribution Corporation MAAD's Application**

I am an intervenor in the above-noted application. Please find my reply to the Applicant's reply to my recent notice of motion in this matter.

1. The motion as submitted is clearly within the scope of the "no harm" issue noted in PO 1. ¹ The MAADS Handbook's section titled 'The No Harm Test' includes the statement:

"The OEB's objectives under section 1 of the OEB Act are:

1. to protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service. ²

2. The timing of the Notice of Motion may have been out of the accepted order and if the Board chooses to deny the motion on those grounds arrangements can be made to resubmit it following interrogatories.

3. Contrary to the Applicant's submission to the contrary, if the Notice of Motion is **not** heard there would be no way to determine if the *'proper discovery of evidence would lead to the conclusion that there was no need to interfere with the business judgement of the NBHDL'*

¹ PO 1 and Decision on Issues List - January 28, 2022

² MAADS Handbook - - p 4

The motion presents facts that suggest that the business judgement of NBHDL was harmful to its customers and there is a reason to interfere with that judgement in that they obtained the required board members' approval without presenting all the pertinent facts.

4. The suggestion that the Notice of Motion should be denied because of "*he (offensively) alleges various improprieties and seeks*" is offensive. In all cases I have stated the facts and offered conclusions based on those facts. The Applicant (a taxpayer owned and supported monopoly) seeks to deny legitimate examination of its actions through baseless innuendos and personal attacks. This does not form a basis for denial to this Notice of Motion.

5. The purpose of my intervention in this Application is without question to "*replace the judgement of proper decision making bodies with my own personal judgement on what decisions are best.*" This does not form a basis for denial to this Notice of Motion.

6. If we accept the veracity of the statement that is a "*well established principle that quasi-judicial tribunals will generally show deference to the business judgement exercised by the boards of NBHDL and its affiliates*" it would seem prudent for the OEB to consider whether or not the directors have been provided with the correct information required to exercise a proper business judgement.

7. The suggestion that the quotes from the recent OEB decisions are evidence of a "*pattern of behaviour*" and would support a reason to deny this Notice of Motion is simply an example of NBHDL's ongoing personal attacks designed to discredit any legitimate efforts to oppose their agenda.

The quotes, portions of which are demonstrably incorrect, are the OEB commissioners' interpretation of the reasons for my motions. I don't agree with them but they do not represent any untoward "*pattern of behaviour*" which would be reason to deny this Notice of Motion.

8. Directors are, at first glance, in the best position to make decisions which are in the best interests of their shareholders (NBHDL customers) and this motion seeks to ensure that those directors were supplied with the accurate and complete information required for them to make that decision. One would presume the reason that the OEB requires evidence of that approval follows from this idea and the reason that the OEB would be interested whether or not the approval was obtained in good faith.

9. Ironically, the Applicant alleges an impropriety it has accused me in paragraph 3. when it suggests that my real motive for the motion is to delay proceedings. I can

assure the OEB that my motive is not to delay it but to ultimately have this amalgamation request denied by the OEB as a result of directors withdrawing their approval or for other reasons.

Regardless of my motives, the suggestion that this motion is “frivolous and vexatious” and other personal attacks is a favourite tactic that the Applicant has used before specifically in attempting to deny access to certain FOI requests. The Applicant spent \$62,432.26 in legal fees during a two and a half year period during 2017 – 2019 which included this offensive label.

In a decision³ denying their attempts to deny access to requested records the adjudicator noted that *“In my view, it is disingenuous of NBHS to suggest that a requester is only entitled to make a single request for financial statements of specified years without being deemed to be frivolous or vexatious, particularly when such documents are generated on a continual basis”*

10. I would further request that a transcript of the minutes of any directors meeting held be supplied containing the written details of all the information presented regarding this re-seeking of approval for the amalgamation.

For the reasons discussed above, I submit that the OEB should allow the motion. Please contact me if you have any need for clarification of any points raised here

Yours very truly,

D. D. Rennick
392 Surrey Drive
North Bay, ON P1C 1E3
ddrennick@cogeco.ca
(705) 845-7345

cc: Applicants and interested parties (email only)

³ IPC Order - MO-3367 – Oct 5, 2018