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February 25, 2022

Delivered by Email & RESS

Nancy Marconi
Acting Registrar
Ontario Energy Board
2300 Yonge Street
Suite 2701
Toronto, ON M4P 1E4

Dear Ms. Marconi:

**Re: Board File No. EB-2021-0280: Brantford Power Inc. and Energy+ Inc.
MAADs Application under Section 86 of the *Ontario Energy Board Act, 1998* and Related Relief – Reply Argument**

On behalf of our clients, we attach our Reply Argument with respect to the above noted proceeding.

An electronic version of this has also been filed through the Board's Regulatory Electronic Submission System and copied with all intervenors of record.

Yours truly,

BORDEN LADNER GERVAIS LLP

J. Mark Rodger
Incorporated Partner*
*Jonathan Rodger Professional Corporation

Encl.

Copy to: Ian Miles, President & CEO, Energy+ Inc.
Paul Kwasnik, President & CEO, Brantford Power Inc.
Sarah Hughes, CFO, Energy + Inc.
Brian D'Amboise, CFO & Vice President Corporate Services, Brantford Power Inc.
Intervenors of Record

EB-2021-0280

ONTARIO ENERGY BOARD

BRANTFORD POWER INC. AND ENERGY+INC. REPLY ARGUMENT

INTRODUCTION

1. What follows are the reply submissions of Brantford Power Inc. ("BPI") and Energy+ Inc. ("Energy+") (collectively referred to herein as the "Applicants") for Ontario Energy Board ("OEB" or the "Board") approval and related relief to enable the amalgamation of BPI and Energy+ into a single electricity distribution company (the "Transaction"). The resulting amalgamated distribution company is referred to as "LDC Amalco".

2. The Transaction is forecast to produce annual, ongoing OM&A savings, net of transaction costs, of approximately $30.5 million over the 10-year rebasing period resulting in distribution rates that will be lower than what they would have been on a stand-alone basis in the absence of the amalgamation.[1] The evidence submitted in this proceeding show that LDC Amalco will have lower cost structures and lower distribution rates beyond the 10-year deferral period.

NO HARM TEST

3. There is agreement among OEB staff and the intervenors that the Board's "no harm" test is the correct test to be applied for this MAADs Application. In short, if the Transaction

[1] EB-2021-0280, MAADs Application, filed November 1, 2021, revised January 11, 2022, p. 39 (the "MAADs Application").

has a positive or neutral effect on the attainment of the Board's section 1 statutory objectives, the OEB will approve the amalgamation. The *Handbook to Electricity Distributor and Transmitter Consolidations*[2] states:

> "To demonstrate 'no harm', applicants must show that there is a reasonable expectation based on underlying cost structures that the costs to serve acquired customers following a consolidation will be no higher than they otherwise would have been." [3]

4. The Applicants submit that the record in this proceeding demonstrates clearly that the Board's "no harm" test is satisfied and the Transaction is in the public interest, and in the best interests of BPI and Energy+ customers. The submissions of OEB staff and the intervenors have not provided any reasonable basis to amend or alter any of the relief sought by the Applicants, except as described herein. Accordingly, the Board should grant all of the relief sought by the Applicants.

PRICE

5. Energy Probe submitted that the successful implementation of LDC Amalco "will streamline the operations of the legacy utilities and do so without an increase in rates."[4] SEC submitted that the Applicant's forecast OM&A reductions are achievable.[5] OEB staff is satisfied that the amalgamation will not result in the customers of Brantford Hydro [sic] or Energy+ experiencing negative price implications.[6]

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[2] OEB *Handbook to Electricity Distributor and Transmitter Consolidations* dated January 19, 2016 (the "Consolidation Handbook").
[3] Consolidation Handbook, p. 7.
[4] Energy Probe Argument, p. 3.
[5] SEC Argument, p. 2.
[6] OEB Staff Submission, p. 6.

6. No intervenor opposed the use of a combined stretch factor for LDC Amalco and OEB staff noted that the OEB accepted this methodology in an application by Alectra Utilities Corporation.[7]

ADEQUACY, RELIABILITY AND QUALITY OF ELECTRICITY SERVICE

7. OEB staff concluded that LDC Amalco can reasonably be expected to maintain the service quality and reliability standards currently provided by each of the amalgamation utilities.[8] SEC accepts that the Transaction "ought to have neutral or positive effect on reliability and service quality in both service territories."[9]

IMPACT ON FINANCIAL VIAIBLITIY

8. OEB staff concluded there would be no adverse effect on the financial viability of the Applicants.[10]

DEFERRED REBASING PERIOD AND COMMENCEMENT OF EARNINGS SHARING MECHANISMS

9. The Applicants have elected a 10-year deferral period and to implement an ESM for years 6 through 10 of the deferred rebasing following the amalgamation. The proposed ESM will share excess earnings above 300 basis points of the consolidated entity's deemed return on equity ("ROE") on a 50:50 basis with customers. The Applicants proposed that the deemed

[7] OEB Staff Submission, p. 6.
[8] OEB Staff Submission, p. 8.
[9] SEC Argument, p. 4.
[10] OEB Staff Submission, pp. 9-10.

ROE be computed based on the approved ROE percentages for each of BPI and Energy+ from their last cost of service (2022 and 2019 respectively), weighted by the deemed equity component of rate base for BPI and Energy+, as reported in their respective 2021 RRR filings. OEB staff concluded that the Applicant's ESM framework is consistent with OEB policy.[11]

10. OEB staff supported the Applicants' proposal for computing ROE for LDC Amalco, but noted that Account 2435 – Accrued Rate-Payer Benefit would be more appropriate than the proposed 1508 sub-account. The Applicants agree and have provided a revised draft accounting order in Appendix A to reflect the change.

11. Energy Probe recommends that LDC Amalco only be allowed a 5 year deferred rebasing period and that ESM should commence after year 1 instead of after year 5. Energy Probe also argues that the Applicants are required to seek and obtain the Board's approval for a 10-year deferred rebasing period.

12. Energy Probe's recommendations should not be accepted by the Board.

13. The Consolidation Handbook addresses directly the issue of deferred rebasings as follows:

> "To encourage consolidations, the OEB has introduced policies that provide consolidating distributors with an opportunity to offset transaction costs with any achieved savings…. The extent of the deferred rebasing is

[11] OEB Staff Submission, p. 12.

> at the option of the distributor and no supporting evidence is required to justify the selection of the deferred rebasing period."[12]

14. Energy Probe's submission ignores the OEB's policy underpinnings associated with the 10-year deferral period. The Board can take judicial notice that municipal shareholders rely on the 10-year deferral period as an incentive to help drive LDC consolidation. In short, the 10-year deferral period is an important factor for municipalities in deciding whether to pursue mergers or sales of their electricity distribution companies. These largely public-sector commercial transactions are unusual and complicated as they involve municipal shareholders acting through duly elected councils. When councils make the decision to merge or divest their utilities, councilors must collectively consider the best interests of their local communities, taxpayers and electricity customers, along with the best interests of the municipality as the owner of the business.

15. The Board's policy underpinning the 10-year deferral, as accurately summarized by OEB staff, is to provide the amalgamated distribution utility with the opportunity to recover transaction costs through synergy cost savings and not from customers. It should be remembered that the Board does not guarantee that the merged distributor will in fact recover such costs. Instead, LDC Amalco is given the opportunity to recoup these expenses through synergy savings. Ultimately, this risk remains with the amalgamated entity, not customers.

16. As the OEB decided in its approval of the MAAD application that resulted in the creation of Alectra Corporation Inc:

[12] Consolidation Handbook, pp. 11-12.

> "The OEB's incentive framework is intended to provide sufficient financial gains over and above the status quo to incent utilities to seek out merger or acquisition efficiency gains opportunities. The incentive framework is also intended to have customers share in large savings through earnings sharing beyond the 5-year rebasing period."[13]

17. Energy Probe's 5 year deferred rebasing period reflects an improper imbalance of interests: it disregards the important and legitimate considerations that electricity distribution utility shareholders must take into account in deciding to proceed with mergers and divestitures. Energy Probe's suggestion for a 50% reduction in the deferral period and 1-year earnings sharing would only produce disincentives to further voluntary LDC consolidation. This result would be contrary to both OEB policy and Provincial objectives.

18. In addition, reducing the 10-year deferred rebasing period by 50% and the premature commencement of the ESM by 80%, as Energy Probe suggests, would reflect detrimental regulatory policy changes that Mr. D'Amboise described during the Technical Conference. OEB staff made enquiries with respect to certain sections of the Merger Participation Agreement wherein the parties had agreed to reconsider the merger if certain unexpected and prejudicial regulatory changes were imposed which had the effect of eroding the principles relied upon by the municipal shareholders in support of the merger. Mr. D'Amboise, stated:

> "as part of our drive to close the transaction, the business case that is underlying our MAADs application is what the shareholders have determined to be a reasonable outcome if there were a major deviation falling out of the proceeding.

[13] EB-2016-0025/EB-2016-0360: Decision and Order, Enersource Hydro Mississauga Inc. Horizon Utilities Corporation & Powerstream Inc., Application for approval to amalgamate to form LDC Co and for LDC Co to purchase and amalgamate with Hydro One Brampton Networks Inc., issued December 8, 2016, p. 19.

> For example, we're assuming the 10-year deferred rate rebasing. If a decision came out that shortened that period, then the shareholders may need to reconsider whether it still works for them in terms of the outcome."[14]

19. Reducing the deferred rebasing period to 5 years and implementing an ESM after 1 year would be examples of prejudicial policy changes.

20. In electing a 10-year deferral period, the Applicants will also attempt to recover incremental integration and implementation costs associated with the merger,[15] as well as additional pre-merger transaction expenses incurred during the business case development and negotiation/legal agreement phases that have been incurred by both BPI and Energy+.

21. Finally, Energy Probe advances unfounded and incorrect assertions about the Applicants' existing distribution rates that have no relevance to the Board's application of its no harm test. For example, Energy Probe asserts that the Applicants somehow benefit from "excess electricity rates". Energy Probe should be aware that the electricity commodity is a pass through to customers and LDCs enjoy no return or other benefit from this component of customer bills. Further, Energy Probe was an intevenor at BPI's recent 2022 Cost of Service ("COS") proceeding and supported the settlement in establishing just and reasonable distribution rates.

[14] Technical Conference, Transcript, p. 98 (lines 26-28) and p. 99 (lines 1-6).
[15] MAADs Application, Table 10, p. 41.

ACCOUNT 1592 – CCA CHANGES

22. The Applicants seek leave for LDC Amalco to track the grossed-up PILs impact of the variance between the CCA smoothing approach adopted by BPI in its 2022 COS Settlement Proposal, and the effective PILs impact of the phase out of the accelerated CCA in effect after 2026 and until LDC Amalco's rebasing in year 11. The Applicants propose that the CCA changes sub-account of Account 1592 be used to track these amounts.

23. We note that Energy Probe, SEC and OEB staff all supported the continued use of the account should new tax laws change in the years 2022-2026,

> "During 2022 to 2026, BPI will still utilize DVA Account 1592 - PILs and Tax Variances, Sub-account CCA Changes, but only to reflect the impact of any further changes of the current tax laws and rules governing CCA from the CCA rules that are currently anticipated for the phase out of accelerated CCA (i.e. the sub-account will not record any new entries, unless there are further changes to the current tax laws and rules or if the OEB orders otherwise)."[16]

24. SEC submits that the Board should deny this request because the amounts at issue are not material or it represents "an indirect way to asymmetrically adjust the base rate during the deferred rebasing period". OEB staff submits that if the CCA rules change from the CCA rules embedded in BPI's rates, the impacts of this change should be addressed so that BPI neither benefits nor is disadvantaged from this change. OEB staff is of the view that, whether the Applicants request or not, the 1592 sub-account continues to be available to LDC Amalco from 2027 to 2031 as this Sub-Account is intended to record impacts from differences in

[16] EB-2021-0009, Decision and Order, Brantford Power Inc., Application for electricity distribution rates beginning January 1, 2022, issued October 28, 2021, Schedule A, p. 21 and Appendix E, p. 11.

CCA rule changes that underpin rates.[17] Notwithstanding this, OEB staff suggests that a more preferable mechanism would be to adjust base rates instead of using a variance account.

25. We submit that the positions advanced by SEC and OEB staff should not be accepted in favour of the relief sought by the Applicants.

26. The Applicants submit that a materiality threshold should not apply to BPI's annual entries into Sub-Account 1592 CCA Changes. All Ontario LDCs were required to begin recording the impacts of CCA Changes in this Sub-Account since 2018. For BPI and other LDCs, this included tracking amounts that did not exceed the materiality threshold for those utilities.

27. For example, for BPI the 2018 balance recorded in this Account was $9,679; however, this amount was included with the disposition of BPI's DVAs in its 2022 COS.[18] In addition, several other LDC COS applications have included the disposition of Account 1592 Sub-Account CCA Changes that have had annual balances well below those utilities' respective materiality threshold levels.[19] The OEB's letter of July 25, 2019 that directed LDCs to use the Sub-Account for CCA Changes did not limit the use of accounts only to material amounts. The materiality threshold for BPI alone is approximately $115,000 and the annual expected entries are expected to exceed this amount.[20]

[17] OEB Staff Submission, p. 15.
[18] BPI 2022 COS Interrogatory Response, Table 9 - SEC -52a.
[19] For example, see: EB-2021-0039, EB-2021-0011, EB-2021-0027.
[20] Technical Conference, Transcript, p. 40, line 1.

28. In the alternative, if the OEB decides to consider materiality, the Applicants submit that the use of LDC Amalco's new, combined materiality threshold should not be applied to the former BPI service territory balances in this account. The mechanics under consideration for this Sub-Account are proposed to be applicable to the BPI service territory, and the Energy+ service territory is also expected to book annual entries into Account 1592 Sub-Account CCA Changes. For Energy+, the amounts included to date have been $243,000 in 2020 and $217,000 in 2021. It is not appropriate to apply the new materiality threshold for the combined LDC Amalco to the amounts booked for only one of the legacy distributors, rather the individual materiality thresholds should apply to the individual balances, or the combined threshold should apply to the combined balances. Under either of these approaches, the balances would be reasonably expected to reach the materiality threshold.

29. One consequence of the 10-year deferral period elected by the Applicants is to maintain separate and distinct legacy distribution rate classes and rates until the next COS rebasing in year 11. SEC's submission relies on combining the materiality thresholds for both BPI and Energy+ in the deferred rebasing period to conclude that anticipated PILs shortfall is below that level. This is not an appropriate treatment of materiality. The Applicants have been very clear that the CCA issue only applies to BPI until the time of rebasing in year 11. Accordingly, the appropriate materiality threshold is that which applies to BPI alone that is $115,000.[21] The annual amount forecast to be recorded in each of those 5 years (2027 to 2031) exceed BPI's materiality threshold.

[21] Technical Conference, Transcript, p. 40, line 1.

30. The Applicants agree with OEB staff that the Accounting Procedures Handbook for Electricity Distributors prescribes the intended use of account 1592, which is to capture the revenue differences related to the impacts caused by changes in tax rules or tax rates between 1) the calculations underpinning the LDC's rates and 2) the legislated changes to tax rules or tax rates.

31. The OEB *Accounting Direction Regarding Bill C-97 and Other Changes in Regulatory or Legislated Tax Rules for Capital Cost Allowance* (the "Bill C-97 Guidance") provided further detail on this matter:

> "Under the Accounting Procedures Handbook electricity distributors and transmitters are to record the impact of any differences that result from a legislative or regulatory changes to the tax rates or rules assumed in the OEB Tax Model that is used to determine the tax amount that underpins rates. The impact of any differences that are not reflected in rates (**due to such factors as timing of known changes**) (emphasis added) to be recorded in Account 1592…. The OEB therefore expects that all Utilities will record the full revenue requirement impact of any changes in CCA rules that are not reflected in base rates…."[22]

32. The Bill C-97 Guidance provides additional detail on the expected use of Account 1592. It confirms that the differences caused by CCA acceleration meet the requirements for Account 1592. The Bill C-97 Guidance indicates that the OEB may choose to direct LDCs to close this account at a future date, however no such direction has been issued to BPI. Instead, BPI's 2022 COS Settlement authorized the continued use of this Account.

[22] Bill C-97 Guidance, July 25, 2019, pp. 1-2.

33. It is clear from the record in this proceeding that the Applicants must continue to manage these requirements beyond 2026 given the CCA acceleration rate underpinning BPI's rates is expected to change between the 2022-2026 period and the 2027-2032 period. In requesting that LDC Amalco be permitted to track in account 1592 PILs and Tax Variances, sub account CCA changes, the Applicants wanted to ensure that the matter was understood by the parties and appropriately addressed in this proceeding, in light of the CCA smoothing approach adopted by BPI in its approved settlement process, which would only be applicable until 2026.

34. The Applicants respectfully do not support the notion of a PILs rebasing as suggested by OEB staff. The existing Sub-Account 1592 mechanism is already in place to capture the variances caused by CCA program changes. The Applicants also note that the expected variances in the Sub-Account are subject to changes should the Government of Canada legislate a further extension of accelerated CCA incentives or other tax-related changes.

35. In summary, the core principle underpinning the relief sought with respect to CCA is identical to that approved by the Board in BPI's recent COS settlement: to allow BPI to remain neutral from a PILs payable perspective because of imposed tax changes beyond the control of the parties. If this tracking mechanism were not in place, the outcome would be an unfairly asymmetrical erosion of BPI's return by requiring the LDC to pay increased PILs but without having the ability to fund those increases – except through a lower return on equity. As Mr. D'Amboise stated during the Technical Conference, neither the utility nor

customers should "win or lose" on PILs.[23] OEB staff echoed this same sentiment in its submission: "if the CCA rules change from the CCA rules embedded in BPI's rates, the impacts of this change should be addressed so that BPI neither benefits nor is disadvantaged from this change."[24]

36. The relief sought by the Applicants is appropriate and a symmetrical means to eliminate prejudicial outcomes resulting from tax changes beyond the control of the parties.

ICM REQUIREMENT FOR DISTRIBUTION SYSTEM PLAN ("DSP")

37. OEB staff submitted that if LDC Amalco intends to file an Incremental Capital Module ("ICM") related to capital investment in LDC Amalco's distribution system past the end of 2023, regardless of which service area that ICM is for, it should be required to file a consolidated DSP, with limited exceptions. The Applicants acknowledge the OEB's letter to electricity distributors regarding *Applications for 2023 Electricity Distribution Rates*, which states the OEB's expectation that "distributors would be expected to file an updated Distribution System Plan if their ICM application falls in a rate year that is beyond the planning horizon of their previous Distribution System Plan".[25] The Applicants, however, do not consider it necessary for the OEB to require, as part of the Decision in this MAADs Application, that the Applicants complete a consolidated DSP based on an ICM request that is past 2023.

[23] Technical Conference, Transcript, pp. 34-35.
[24] OEB Staff Submission, p. 15.
[25] OEB, Applications for 2023 Electricity Distribution Rates, December 1, 2021, p. 3.

38. Currently, BPI's legacy DSP covers the period from 2022 to 2026, with Energy+'s legacy DSP covering the period 2019 to 2023. The evidence of the Applicants is that material changes to their capital plans are not expected because of the merger. Based on the Consolidation Handbook, the Applicants' understand that the DSPs of the individual legacy LDCs should be used for the calculation of the ICM threshold. Given this is the trigger for a DSP, the Applicants would note that there is an existing and appropriate DSP for the BPI territory covering the years 2024 through 2026 (inclusive). Should an ICM investment be required within the BPI territory during that period, the Applicants submit that they do not believe there is a requirement under existing OEB policies that a new, consolidated DSP be filed during that timeframe.

39. In its December 1, 2021 letter, the OEB issued guidance that confirms the added cost and burden associated with filing a DSP. The Applicants submit that the OEB's policies with respect to consolidations already indicate when a DSP would be necessary, and that no commitment to an earlier filing is warranted. For all these reasons, the Applicants do not believe it is necessary to require LDC Amalco to file a consolidated DSP if an ICM is required after 2023. The Applicants will follow the related policy requirements in place if an ICM is required.

GROUP 1 AND 2 DEFERRAL AND VARIANCE ACCOUNTS

40. In Section 8.4 of the MAADs Application, the Applicants requested that LDC Amalco be granted approval to continue to track costs to the existing regulatory and deferral and

variance accounts currently approved by the Board for BPI and Energy+, and the variance accounts be held separately by rate zone during the 10-year deferral period.

41. OEB staff support the consolidation of Group 1 accounts as soon as it is practical to increase regulatory efficiencies and synergies. OEB staff submitted that the Applicants should provide a plan for consolidated Group 1 balances and discuss any implications in doing so in the rate application immediately prior to the proposed consolidation of the balances.

42. OEB staff also agreed with the proposal for maintaining Group 2 accounts. As described by the Applicants at the Technical Conference, the pre-existing Group 2 accounts would remain separate by rate zone in order to maintain cost causality, and any new group 2 accounts that are established within the 10-year deferral period, would be tracked on a consolidated basis.[26]

43. OEB staff proposed, however, that that the OEB may wish to consider requiring the Applicants to bring forward Group 2 accounts for disposition in its 2027 rate application.[27]

44. The Applicants support OEB staff's submissions with respect to the consolidation of Group 1 account balances as soon as it is practical to do so.

45. With respect to the suggestion that the Applicants be required to bring forward Group 2 accounts for disposition in the 2027 rate application, the Applicants would note that certain

[26] Technical Conference, Transcript, Page 110, lines 7-15.
[27] OEB Staff Submission, p. 17.

existing Group 2 variance accounts for the Applicants, such as the Energy+ variance account to track the other revenue associated with disconnection notices, will continue until the end of the deferred rebasing period. As such, the early disposition of the Group 2 accounts in 2027 does not eliminate the requirement to seek further disposition of certain of these same accounts following the 10 year deferred rebasing period. The Applicants submit that it is more efficient to bring forward all of the Group 2 accounts at the time of rebasing.

ACCOUNTING POLICY CHANGES

46. OEB staff submitted that a deferral account should be established to track the rate base impact arising from BPI's adoption of Energy+'s accounting policies. In OEB staff's view, the establishment of this account is consistent with the OEB's previous MAADs decisions on deferral accounts relating to accounting policy changes for Synergy North Corporation[28] as well as Alectra Utilities Corporation.[29]

47. OEB staff noted that if an account is not established at this time and accounting policy differences result in material amounts to be recovered from or refunded to customers, this may constitute retroactive ratemaking. OEB staff noted that at the time the account is brought forward for review, if the amount in the account is immaterial, the OEB might order that no disposition is required.[30]

[28] EB-2017-0124/EB-2018-0233.
[29] EB-2017-0034.
[30] OEB Staff Submission, p. 18.

48. The Applicants agree that any material impacts arising from changes in accounting policy should be recovered from or refunded to customers. The Applicants propose that the Accounting Order be established as part of the IRM application for 2024 rates, if required.

49. At the time of the application for 2024 rates, a comprehensive review of the impacts of the accounting policy changes will be complete, and the materiality of the impact can support whether the deferral account is required. This timing would align with OEB staff's objective of avoiding retroactive ratemaking as any material balances would be captured through principal adjustments in the first year of LDC Amalco.

50. The Applicant's proposal would also avoid binding LDC Amalco with the onerous process of tracking immaterial differences over the 10-year deferred rebasing period if the account is not required. The Applicants note that the Alectra Utilities Corporation deferral account was established in an IRM application subsequent to MAADs approval.

51. OEB staff noted that the Board did not opine on the materiality of the differences created by the accounting policy change in its decision on the Synergy North Corporation MAADs application; however, in its Decision and Order for the MAADs application brought by Veridian Connections Inc. and Whitby Hydro Electric Corporation[31] the Board accepted the applicants' proposal to withdraw its request for the variance account due to the lack of materiality.

[31] EB-2018-0236, Veridian Connections Inc. and Whitby Hydro Electric Corporation, Application for approval to amalgamate and continue operations as a single electricity distribution company, filed December 20, 2018.

ALTERNATE "RISK" SCENARIOS

52. Energy Probe has suggested that the Applicants have not appropriately considered and addressed various risks, including changes to OM&A, capital costs, interest rates and CDM.

53. Essentially, Energy Probe has put forward a laundry list of hypothetical risks as a basis to suggest that the MAADs Application is in some way deficient because it has not addressed these myriad scenarios. In this proceeding, the Applicants have developed and put forward detailed information that constitutes their best evidence with respect to how the Transaction satisfies the Board's "no harm" test. The Applicants are not required, nor would it be appropriate, for them to attempt to manufacture forecasts on an innumerable range of hypothetical outcomes based on speculative variables.

54. The Applicants expect to be judged on the contents of their MAADs Application filed in this proceeding and raising speculative scenarios in no way detracts from the substantive evidence the Applicants have put forth as elaborated upon during the Technical Conference and various Undertaking Responses arising therefrom.

CONCLUSION

55. The Applicants submit that the evidence in this proceeding clearly demonstrates that the Board's "no harm" test is satisfied and the submissions of OEB staff and intervenors has not provided any reasonable basis to suggest otherwise. Therefore, all relief sought by the Applicants should be granted by the Board.

All of which is respectfully submitted this 25th day of February 2022.

Brantford Power Inc. and Energy+ Inc.

By its Counsel:

Borden Ladner Gervais LLP

J. Mark Rodger*
*Jonathan Rodger Professional Corporation

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APPENDIX A

REVISED

Draft Accounting Order – 2435 – Accrued Rate-Payer Benefit

In accordance with the Handbook to Electricity Distributor and Transmitter Consolidations, LDC Amalco proposes the establishment of a new variance account "2435 Accrued Rate-Payer Benefit" to record the 50% sharing with customers of the amount, if any, of the achieved regulated earnings of LDC Amalco that are greater than 300 basis points above the allowed regulated rate of return for Years 6 to 10 of the rebasing deferral period.

The assessment of earnings will commence with the availability of the Year 6 audited financial results and will continue to be reviewed and computed on an annual basis. Excess earnings beyond 300 basis points of the consolidated entity's allowed regulated rate of return ("allowed ROE") will be shared 50:50 with all customers annually.

The regulatory net income and regulated return on equity ("ROE") would be computed based on LDC Amalco's annual audited financial results, adjusted for any revenue and expenses that are not otherwise included for regulatory purposes, consistent with the Board's current established regulated ROE model under the Board's Reporting and Record Keeping requirements. Under this methodology, the actual regulated ROE is calculated by dividing adjusted regulatory net income by the deemed equity component of rate base.

LDC Amalco's allowed ROE would be computed based on the approved ROE percentages for each of Brantford Power Inc. and Energy+ Inc. from their last COS (2022 and 2019 respectively), weighted by the deemed equity component of rate base for BPI and Energy+, as reported in the respective 2021 annual RRR filing.

The following outlines the proposed accounting entries for this deferral account:

Debit	Account 4395 Rate-Payer Benefit Including Interest
Credit	Account 2435 Accrued Rate-Payer Benefit

To record the 50% sharing with customers of the amount, if any, of the achieved regulated earnings of LDC Amalco that are greater than 300 basis points above the allowed regulated rate of return for Years 6 to 10 of the rebasing deferral period.

Debit	Account 4395 Rate-Payer Benefit Including Interest
Credit	Account 2435 Accrued Rate-Payer Benefit

To record interest accrued on the principal balance of the Earnings Sharing Variance Account.