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BY RESS
registrar@oeb.ca

Ms. Nancy Marconi
Ontario Energy Board
2300 Yonge Street, 27th floor
P.O. Box 2319
Toronto, ON M4P 1E4

Dear Ms. Marconi:

**Re: EB-2024-0039 Lakeland Power Distribution Ltd. (“LPDL”)
Submission on Issues List**

On January 8, 2025, Ontario Energy Board (“OEB”) Staff filed a letter with the OEB outlining an issue proposed by the School Energy Coalition (“SEC”) as follows:

Are the charges and allocations from the Applicant to affiliates, and the charges and allocations from affiliates to the Applicant, appropriate in light of the relative size, complexity, and needs of the Applicant and each of its affiliates? Further, are any revenues or other payments from third parties appropriately allocated between the Applicant and its affiliates?

In support of inclusion of this issue, SEC filed a list of interrogatories with the OEB in an effort to “to focus the discussion on the Issues List”. For the reasons that follow, LPDL does not agree to the addition of this issue to the Issues List. LPDL’s cost of service application is not the appropriate forum to be raising issues related to the structuring of competitive affiliates under section 71 of the *Ontario Energy Board Act, 1998*.

1. Alignment with the OEB’s Mandate

The development of a Standard Issues List for electricity distribution rate applications was to assist in ensuring that the OEB’s review is focused and aligned with its mandate and will aid in the

enhancement of the efficiency and effectiveness of our adjudicative processes.¹ This helps to provide enhanced transparency and predictability to parties.

The OEB recognizes that some cases can raise unique issues warranting departure from the Standard Issues List.² However, issues related to cost allocation between LDCs and their affiliates are not unique to LPDL and common to nearly every LDC in the province. For example, InnPower Corporation satisfied parties (including SEC) under Issue 2.2 of the Standard Issues List that its practices with respect to fully allocated costing and affiliate transactions was compliant with the OEB's *Affiliate Relationship Code for Electricity Distributors and Transmitters* ("ARC").³

Indeed, affiliate allocation issues have been raised within the scope of standard issues as part of LPDL's prior cost of service applications.⁴

2. Issues List Scopes the Entire Proceeding

The OEB manages the scope of proceedings predominantly through the use of Issues Lists and provides expectations to parties on matters that are material and relevant to the proceeding.⁵ As LPDL understands, SEC is seeking to broaden this proceeding to include litigation under section 71 of the *Ontario Energy Board Act, 1998*. The expanded issue proposed by SEC appears to attempt to put the existence and operation of LPDL's affiliates on trial, seeking to ask whether they are "*appropriate in light of the relative size, complexity, and needs of the Applicant and each of its affiliates*".

This is not the appropriate forum to litigate this issue and SEC's attempt to use the interrogatory process as a trojan horse to do this is inappropriate.

3. Jurisdiction

As the second question is currently framed, LDPL has concerns about whether any revenues or other payments from a third party to an LDC affiliate is within the scope of the OEB's jurisdiction. Neither of the parties to such a transaction are regulated by the OEB. The OEB set out when it will regulate transfer pricing of services, products, resources, or use of an asset in the ARC and Compliance Bulletin 200604.

OEB Staff accurately laid out LPDL's position on the issues in this proceeding and submits the OEB approve the Issues List without the issue above proposed by SEC.

¹ OEB, Letter – Standard Issues List for Electricity Distribution Rates, January 17, 2023, online: <<https://www.oeb.ca/sites/default/files/OEBltr-2024-standard-issues-list-20230117.pdf>>

² OEB, Standard Issues List – Electricity Distribution, online: <<https://www.oeb.ca/sites/default/files/issues-list-electricity-distribution-rates.pdf>>

³ EB-2023-0033, InnPower Corporation, Settlement Proposal & Appendix 4-2-1 (A), October 13, 2023, online: <<https://www.rds.oeb.ca/CMWebDrawer/Record/817535/File/document>>

⁴ EB-2012-0145 and EB-2008-0234.

⁵ EB-2022-0011, Framework for Review of Intervenor Processes and Cost Awards, s.8.2, March 2022, online: <<https://www.oeb.ca/sites/default/files/Framework-for-Review-of-Intervenor-Processes-and-Cost-Awards.pdf>>

Yours truly,

BORDEN LADNER GERVAIS LLP

A handwritten signature in black ink, appearing to read "Colm Boyle". The signature is fluid and cursive, with the first name "Colm" and last name "Boyle" clearly distinguishable.

Colm Boyle

JV/CB