
From: Patrick Duffy <PDuffy@stikeman.com>

Sent: Wednesday, February 19, 2025 6:45 PM

To: Canales, Maira <MCanales@blg.com>; Office of the Registrar <Registrar@oeb.ca>; Nancy Marconi <Nancy.Marconi@oeb.ca>

Cc: Boyle, Colm <CBoyle@blg.com>; Andrew.Bishop@IESO.ca; james.hunter@ieso.ca; Glenn Zacher <GZacher@stikeman.com>; Lesley Mercer <LMercer@stikeman.com>; Vellone, John <JVellone@blg.com>; fleury.marc-antoine4@hydroquebec.com; cayer.marieeve@hydroquebec.com; colin.anderson@appro.org; reena.goyal@blakes.com; Jay Shepherd <jay@shepherdrubenstein.com>; mark@shepherdrubenstein.com; SEC@oesc-cseo.org; jgirvan@uniserve.com; lawrie.gluck@northendconsulting.ca; Lillian Ing <Lillian.Ing@oeb.ca>; Michael Bell <Michael.Bell@oeb.ca>

Subject: RE: Confirmation of Supporting Document Submission for NQS Generation Group, Case Number: EB-2024-0331

Ms. Marconi,

We are writing to address the Applicants' Reply Argument filed yesterday and ask that this email be provided to the panel.

The 49-page Reply Argument goes well outside of the boundaries of the rules that govern reply submissions and constitutes case-splitting. Reply submissions must be limited to addressing new issues that were raised in the other parties' responding submissions, or issues that could not reasonably have been anticipated at the time the Applicants delivered their Argument-in-Chief: [Johnson v. North American Palladium Ltd., 2018 ONSC 4496 at para 13 \(CanLII\)](#). Instead, the Applicants' Reply Argument largely re-argues and expands on submissions made by the Applicants' Argument-in-Chief. The Applicants make submissions on issues that were expressly addressed in the IESO's pre-filed written evidence and in testimony at the hearing, which the Applicants chose not to address or to lightly address in their Argument-in-Chief. The Reply Argument introduces new evidence that was not led at the hearing by the Applicants.

The Reply Argument also raises new issues, including the IESO's alleged role and responsibilities on a section 33 application, and "recommends" new relief – that "the OEB set a date that is 24 months in the future to effect revocation of the MRP amendments [to] provide sufficient time for the IESO to address the OEB's findings on unjust discrimination". The recommended relief does not appear in the application nor was it addressed in the Applicant's evidence or Argument-in-Chief. There would be considerable technical and commercial challenges for the IESO and other market participants if the OEB were to require the IESO to revert to the current Market Rules two years after the implementation of the Market Renewal Program. If it had been raised previously, the IESO would have had an opportunity to lead evidence on the recommendation and to cross-examine the Applicants' witnesses on that matter. At this stage in the proceeding, the IESO and other parties have no ability to meaningfully respond to these new positions.

The IESO respectfully requests that the Board disregard the substantial portions of Applicants' Reply Argument that constitute impermissible reply and case-splitting.

Regards,

Patrick Duffy

Direct: +1 416 869 5257

Mobile: +1 647 233 8908

Email: pduffy@stikeman.com

If you do not wish to receive our email marketing messages, please [unsubscribe](#).

From: Canales, Maira <MCanales@blg.com>

Sent: Tuesday, February 18, 2025 5:16 PM

To: Office of the Registrar <Registrar@oeb.ca>


Cc: Boyle, Colm <CBoyle@blg.com>; Andrew.Bishop@IESO.ca; james.hunter@ieso.ca; Patrick Duffy <PDuffy@stikeman.com>; Glenn Zacher <GZacher@stikeman.com>; Lesley Mercer <LMercer@stikeman.com>; Vellone, John <JVellone@blg.com>; fleury.marc-antoine4@hydroquebec.com; cayer.marieeve@hydroquebec.com; colin.anderson@appro.org; reena.goyal@blakes.com; Jay Shepherd <jay@shepherdhubenstein.com>; mark@shepherdhubenstein.com; SEC@oesc-cseo.org; jgirvan@uniserve.com; lawrie.gluck@northendconsulting.ca; 'Lillian Ing' <Lillian.Ing@oeb.ca>; 'Michael Bell' <Michael.Bell@oeb.ca>

Subject: Confirmation of Supporting Document Submission for NQS Generation Group, Case Number: EB-2024-0331

Hi all,

Please find attached, NQS Generation Group's Cover Letter and Reply Argument. Due to file size the Brief of Authorities will be available on the OEB's RDS or upon request.

Thank you,


Borden Ladner Gervais

Maira Canales
Administrative Assistant (she/her/hers)
T 416.367.7284 | MCanales@blg.com
Bay Adelaide Centre, East Tower, 22 Adelaide St. W, Toronto, ON, Canada M5H 4E3

WORKING HOURS & Location: Monday to Friday in Toronto Office 9:00AM to 5:00PM

BLG | Canada's Law Firm

Calgary | Montréal | Ottawa | Toronto | Vancouver

blg.com | To manage your communication preferences or unsubscribe, please click on blg.com/mypreferences/

Borden Ladner Gervais LLP

This message is intended only for the named recipients. This message may contain information that is privileged, confidential or exempt from disclosure under applicable law. Any dissemination or copying of this message by anyone other than a named recipient is strictly prohibited. If you are not a named recipient or an employee or agent responsible for delivering this message to a named recipient, please notify us immediately, and permanently destroy this message and any copies you may have. Warning: Email may not be secure unless properly encrypted.



Stikeman Elliott LLP Barristers & Solicitors

Follow us: [LinkedIn](#) / [Twitter](#) / stikeman.com

[5300 Commerce Court West, 199 Bay Street, Toronto, ON M5L 1B9 Canada](#)

This email is confidential and may contain privileged information. If you are not an intended recipient, please delete this email and notify us immediately. Any unauthorized use or disclosure is prohibited.