



**ERTH (Westario) Acquisition Inc. and
ERTH Corporation**

**Application for approval of ERTH (Westario) Acquisition
Inc. to acquire 100% of the shares of Westario Power Inc.
and to subsequently amalgamate Westario Power Inc.
and ERTH (Westario) Acquisition Inc. to create a new
company operating under the name Westario Power Inc.**

- and -

**Application for approval of ERTH Corporation to acquire
100% of the shares of Tillsonburg Hydro Inc.**

**PROCEDURAL ORDER NO. 1
July 2, 2026**

ERTH (Westario) Acquisition Inc. (EWAI) and ERTH Corporation (ERTH) (collectively, the Applicants) filed applications to the Ontario Energy Board (OEB) under section 86 of the *Ontario Energy Board Act, 1998* (OEB Act).¹

In its application, filed April 14, 2026, EWAI, a wholly owned subsidiary of ERTH, applied to the OEB for approval (i) under section 86(2)(a) of the OEB Act to acquire 100% of the issued and outstanding shares in Westario Power Inc. (WPI) from The Corporation of the Town of Saugeen Shores, The Corporation of the Town of Hanover, The Corporation of the Municipality of Kincardine, The Corporation of the Municipality of Brockton, The Corporation of the Municipality of South Bruce, The Corporation of the Town of Minto, The Corporation of the Township of North Huron, The Corporation of the Township of Huron-Kinloss and FortisOntario Inc., and (ii) under section 86(1)(c) of the OEB Act to subsequently amalgamate EWAI and Westario Power Inc. to create a new company operating under the name Westario Power Inc. (WPI Application).²

In its application, filed May 4, 2026, ERTH applied to the OEB under section 86(2)(a) of the OEB Act to for approval to acquire 100% of the issued and outstanding shares in

¹ S.O. 1998, c. 15, Schedule B

² EB-2026-0137

Tillsonburg Hydro Inc. (THI) from The Corporation of the Town of Tillsonburg (THI Application).³

The applications will be heard by Commissioners: Robert Dodds (presiding), Vinay Sharma, and Julia McNally.

As part of the THI Application, ERTH requested that its application and the WPI Application be heard by a single panel of Commissioners in a combined proceeding pursuant to section 21(5) of the OEB Act.⁴

ERTH submitted that hearing the THI Application and WPI Application together would be procedurally efficient due to overlapping regulatory issues and there being common factual evidence relevant to both proceedings. ERTH noted that hearing the two applications in one proceeding would permit a single panel of Commissioners to consider the facts associated with both transactions and in their totality, ensuring consistent decision-making by the Board.⁵

In the WPI Application, EWAI stated that it has no objection to the OEB combining the WPI Application with any other applications ERTH may file under section 86 of the OEB Act.⁶

The OEB has granted ERTH's request for a combined proceeding. The OEB agrees that consolidating the proceedings could result in procedural efficiencies with respect to the hearing of evidence relevant to both applications.

Intervention Requests and Cost Eligibility

A Notice of Hearing for each respective application was issued on May 29, 2026. Energy Probe Research Foundation (Energy Probe) applied for intervenor status in the ERTH proceeding, and Pollution Probe (Pollution Probe) applied for intervenor status in both the EWAI and the ERTH proceeding. Energy Probe and Pollution Probe also applied for cost eligibility.

No objection was received from the Applicants.

Energy Probe and Pollution Probe are approved as intervenors in this combined proceeding. For additional clarity, Energy Probe may act as an intervener in both the

³ EB-2026-0145

⁴ THI Application, page 7, and ERTH's Request for Combined Hearing and Confidential Treatment letter, dated May 1, 2026, page 2

⁵ EB-2026-0145, Request for Combined Hearing and Confidential Treatment letter, filed May 4, 2026, page 2

⁶ WPI Application, page 7

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

Although the applications will be combined into one proceeding, the OEB requires that Energy Probe and Pollution Probe track separately their costs associated with the WPI Application and the THI Application. At the end of the proceeding, intervenors will be required to file **separate cost claims** for their work on the WPI Application and the THI Application.

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.

Consistent with the OEB's [Practice Direction on Cost Awards](#), parties are reminded that, in determining the amount of a cost award, the OEB will consider (among other things) whether the cost eligible party has demonstrated through its participation and documented in its cost claim that it has made reasonable efforts to: (a) combine its intervention with that of one or more similarly interested parties and to cooperate with all other parties, and (b) ensure that its participation was not unduly repetitive and was focused on relevant and material issues.

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.

Request for Confidentiality

EWAI requested confidential treatment for certain information in the WPI Application.⁷ Redacted versions of the documents were filed for the public record of this proceeding and unredacted versions were filed confidentially with the OEB pursuant to the OEB's [Rules of Practice and Procedure](#) and the OEB's [Practice Direction on Confidential Filings](#) (Practice Direction).

ERTH requested confidential treatment for certain information in the THI Application.⁸ Redacted versions of the documents were filed for the public record of this proceeding and unredacted versions were filed confidentially with the OEB pursuant to the OEB's *Rules of Practice and Procedure* and the OEB's Practice Direction.

⁷ EB-2026-0137, [Confidentiality Request letter](#), April 14, 2026

⁸ EB-2026-0145, [Letter for Request for Combined Hearing and Confidential Treatment](#), filed May 4, 2026

The confidentiality requests in the respective applications relate to the specific amount of lump sum fees paid to third party advisors found in:

- WPI Application, Appendix C – Share Purchase Agreement, page 3
- WPI Application, Appendix C – Share Purchase Agreement, Appendix 1, page 12
- THI Application, Appendix C – Share Purchase Agreement, page 3

EWAI and ERTH respectively submitted that the specific amount of lump sum fees paid to third party advisors is confidential, and that the aggregated disclosure in section 4.2(i) of the WPI Application and section 4.2 (i) of the THI Application is sufficient for parties to test the application publicly and for the OEB to make a determination on the “no harm” test. EWAI and ERTH noted that, in any event, parties will be able to access the redacted information on a confidential basis.

EWAI and ERTH respectively submitted that the OEB has previously permitted confidential treatment of vendor pricing information as it could negatively impact the competitive position of the vendors in future negotiations; and that disclosure of redacted information could interfere with its future utility acquisition negotiations, as it would place detailed pricing information and bid structuring in the public domain.

The OEB has reviewed EWAI’s and ERTH’s requests for confidential treatment of information relating to advisor fees contained in the WPI Application and THI Application and finds that this information constitutes billing rates of a third party that are presumptively confidential under Appendix B of the Practice Direction. This information shall remain confidential.

Interrogatories and Submissions

At this time, provision is being made for written interrogatories and submissions. Parties should not engage in detailed exploration of items that do not appear to be relevant and material to the OEB’s review of a consolidation application. In developing interrogatories, parties should refer to the OEB’s *Handbook to Electricity Distributor and Transmitter Consolidations*, for what the OEB considers in its review. In making its decision on cost awards, the OEB will consider whether intervenors made reasonable efforts to ensure that their participation in the hearing was focused on material issues.

Parties should consult sections 26 and 27 of the OEB’s [Rules of Practice and Procedure](#) regarding required naming and numbering conventions and other matters related to interrogatories.

The OEB is making provision for the following related to this proceeding. Further procedural orders may be issued by the OEB.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Intervenor that wish to review unredacted versions of the confidential information are required to sign and file the OEB's Confidentiality Declaration and Undertaking form by no later than **July 6, 2026**. The signed Declaration and Undertaking shall be filed with the OEB and a copy shall be delivered to the Applicants.
2. The Applicants shall provide unredacted versions to intervenors who signed the OEB's Confidentiality Declaration and Undertaking by no later than **July 10, 2026**.
3. OEB staff and intervenors shall request any relevant information and material from the Applicants that is in addition to the evidence already filed, by written interrogatories filed with the OEB and served on all parties by **July 15, 2026**.
4. The Applicants shall file with the OEB complete written responses to all interrogatories and serve them on intervenors by **July 29, 2026**.
5. The Applicants shall file a written argument-in-chief with the OEB and serve it on all intervenors by **August 10, 2026**.
6. Any written submissions from OEB staff and intervenors shall be filed with the OEB and served on all parties by **August 26, 2026**.
7. Any written reply submissions by the Applicants shall be filed with the OEB and served on all parties by **September 9, 2026**.

Direction for preparing materials

- Parties are responsible for ensuring that any documents they file with the OEB, such as applicant and intervenor evidence, interrogatories and responses to interrogatories or any other type of document, **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](#).
- Filings should clearly state the filing date and the sender's name, postal address, telephone number and e-mail address.
- Other than for applications or as otherwise required or directed by the OEB, parties are not required to submit a cover letter for materials that are self-evident (e.g., interrogatories, submissions) unless the cover letter includes a request or additional information not included in the materials themselves.

- Parties are strongly encouraged to use bookmarks in their filings to aid in navigation.
- Parties should not append to their evidence entire OEB documents (e.g., decisions, policy documents, guidelines). Rather, parties should provide citations to the documents and a clear and concise summary of the relevant part(s) of the document. Parties are encouraged to use hyperlinks for complete, permanent, and publicly available versions of the documents, when possible.
- Parties should refrain from quoting material from documents unless it is essential to support their interrogatories or arguments.
- Parties are not required to provide a summary of the procedural history of a proceeding but may refer to that history where and to the extent needed for context to orient an issue or discussion.
- Parties must: (a) disclose where generative artificial intelligence was used to generate content included in a filing and (b) confirm that the accuracy of the portion of the filing generated by generative artificial intelligence has been verified by the party or its representative without the assistance of generative artificial intelligence.

How to file documents with the OEB

- Parties are required to quote file number (i.e., **EB-2026-0137 and EB-2026-0145**) for all materials filed and submit them in **searchable/unrestricted PDF format** (i.e., no printing or copying restrictions) with a digital signature through the [OEB's online filing portal](#).
- Parties should use the document naming conventions and document submission standards outlined in the [Regulatory Electronic Submission System \(RESS\) Document Guidelines](#) found at the [File documents online 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.
- Cost claims are filed through the OEB's online filing portal. Parties are encouraged to visit the [File documents online page](#) of the OEB's website for more information. Parties that are eligible for a cost award and that do not currently have an account in the cost claim portal should create an account as soon as their cost award eligibility has been confirmed by the OEB. All parties shall download a copy of their submitted cost claim for the purposes of service on the party(ies) paying cost awards as per the [Practice Direction on Cost Awards](#).
- All communications should be directed to the attention of the Registrar and be received by **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, Lizzie Zhang at Lizzie.Zhang@oeb.ca and OEB Counsel, Faye Kidman at Faye.Kidman@oeb.ca.

Email: registrar@oeb.ca

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

DATED at Toronto, **July 2, 2026**

ONTARIO ENERGY BOARD

Ann Zeng
Deputy Registrar, Adjudicative Projects
Acting under delegated authority of the Registrar

**SCHEDULE A
TO
PROCEDURAL ORDER No. 1
EB-2026-0137
EB-2026-0145
APPLICANT AND INTERVENOR LIST
JULY 2, 2026**

**ERTH (Westario) Acquisition Inc.
EB-2026-0137**

APPLICANT & LIST OF INTERVENORS

July 2, 2026

APPLICANT	Rep. and Contact Information for Service
------------------	---

ERTH (Westario) Acquisition Inc.

Chris White

President & CEO

ERTH (Westario) Acquisition Inc.

Tel: 519-518-6117

Chris.White@erthpower.com

Westario Power Inc.

Wally Malcolm

Westario Power Inc.

walter.malcolm@westariopower.com

APPLICANT COUNSEL

John Vellone

Partner

Borden Ladner Gervais LLP

Tel: 416-367-6730

jvellone@blg.com

Scott Pollock

Borden Ladner Gervais LLP

Tel: 613-787-3541

spollock@blg.com

INTERVENORS

Rep. and Contact Information for Service

Pollution Probe

Michael Brophy

Consultant for Pollution Probe

Michael Brophy Consulting Inc.

Tel: 647-330-1217

michael.brophy@rogers.com

ERTH (Westario) Acquisition Inc.
EB-2026-0137

APPLICANT & LIST OF INTERVENORS

July 2, 2026

Pollution Probe

R Carlson

Pollution Probe

Tel: 416-926-1907 Ext: 251

rcarlson@pollutionprobe.org

ERTH Corporation
EB-2026-0145

APPLICANT & LIST OF INTERVENORS

July 2, 2026

APPLICANT	Rep. and Contact Information for Service
ERTH Corporation	Chris White President & CEO ERTH Corporation Tel: 519-518-6117 Ext: 4000 Chris.White@erthpower.com
Tillsonburg Hydro Inc.	Kyle Pratt Tillsonburg Hydro Inc. kpratt@tillsonburg.ca
APPLICANT COUNSEL	John Vellone Partner Borden Ladner Gervais LLP Tel: 416-367-6730 jvellone@blg.com Scott Pollock Borden Ladner Gervais LLP Tel: 613-787-3541 spollock@blg.com
INTERVENORS	Rep. and Contact Information for Service
Energy Probe Research Foundation	Tom Ladanyi TL Energy Regulatory Consultants Inc. Tel: 416-423-3685 tom.ladanyi@rogers.com

ERTH Corporation
EB-2026-0145

APPLICANT & LIST OF INTERVENORS

July 2, 2026

**Energy Probe Research
Foundation**

Michael Ladanyi

TL Energy Regulatory Consultants Inc.
Tel: 416-274-3743
mjladanyi@pm.me

Patricia Adams

Energy Probe Research Foundation
Tel: 416-964-9223
patriciaadams@probeinternational.org

Pollution Probe

Michael Brophy

Consultant for Pollution Probe
Michael Brophy Consulting Inc.
Tel: 647-330-1217
michael.brophy@rogers.com

Richard Carlson

Director
Pollution Probe
Tel: 416-926-1907 Ext: 251
rcarlson@pollutionprobe.org