BY E-MAIL

September 9, 2026

Ritchie Murray
Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ritchie Murray:

Re: Reply Argument

Application by ERTH (Westario) Acquisition Inc. under section 86(2)(a) and 86(1)(c) of the *Ontario Energy Board Act, 1998* 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 by ERTH Corporation under section 86(2)(a) of the *Ontario Energy Board Act, 1998* to acquire 100% of the shares of Tillsonburg Hydro Inc.

Ontario Energy Board File Numbers: EB-2026-0137 and EB-2026-0145

In accordance with Procedural Order No. 1, please find attached the Applicants' final reply submissions in the above noted proceedings. The Applicants, Board staff, all intervenors, and ERTH's external legal counsel have been copied on this filing.

Yours truly,

Tyler Moore, LL.B.

cc: Chris White, ERTH Corporation
Kyle Pratt, Tillsonburg Hydro Inc.
Wally Malcolm, Westario Power Inc.
Lizzie Zhang/Faye Kidman, OEB
Tom Ladanyi, Energy Probe
Michael Brophy, Pollution Probe
John Vellone/Scott Pollack, BLG LLP

ONTARIO ENERGY BOARD

IN THE MATTER OF an application made by ERTH (Westario) Acquisition Inc. for (i) leave to acquire 100% of the issued and outstanding shares of Westario Power Inc. 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., made pursuant to section 86(2)(a) of the *Ontario Energy Board Act, 1998*, and (ii) leave to subsequently amalgamate Westario Power Inc. and ERTH (Westario) Acquisition Inc. to create a new company operating under the name Westario Power Inc. pursuant to section 86(1)(c) of the *Ontario Energy Board Act, 1998*.

AND IN THE MATTER OF an application made by ERTH Corporation for leave to acquire 100% of the issued and outstanding shares of Tillsonburg Hydro Inc. from The Corporation of the Town of Tillsonburg, made pursuant to section 86(2)(a) of the *Ontario Energy Board Act, 1998*.

ERTH (WESTARIO) ACQUISITION INC. and ERTH CORPORATION

REPLY ARGUMENT

FILED: September 9, 2026

Board File No. EB-2026-0137 / EB-2026-0145

ERTH (WESTARIO) ACQUISTION INC. and ERTH CORPORATION
REPLY ARGUMENT

1. On August 10, 2026, ERTH (Westario) Acquisition Inc. ("**EWAI**") and ERTH Corporation ("**ERTH**") (collectively, the "**Applicants**") filed their Argument-in-Chief ("**AIC**") in respect of the consolidated Westario Power Inc. ("**WPI**") and Tillsonburg Hydro Inc. ("**THI**") MAADs applications (collectively the "**Applications**").

2. On August 12, 20 and 26, 2026, Energy Probe Research Foundation ("**Energy Probe**"), Pollution Probe, and OEB Staff respectively filed their submissions on the Applications. Enclosed are the reply submissions of the Applicants.

3. The Applicants adopt, without repeating, the submissions made in AIC. Capitalized terms used in this reply but not otherwise defined herein have the meaning ascribed to such terms in the AIC.

4. OEB Staff supports approval of both Applications and concludes that the proposed Transactions satisfy the "no harm" test.[1] OEB Staff also supports the Applicants' proposed phased approach, the requested nine-year deferred rebasing period, the proposed treatment of Group 1 and Group 2 accounts, and the Applicants' proposed approach to post-consolidation monitoring and reporting. Staff further submits that EPC should proceed with its scheduled 2028 cost of service application before the Phase 2 application.[2]

5. Energy Probe supports approval of the THI Transaction agreeing that the Application is in the public interest. Energy Probe's principal historical concern was regarding THI's "virtual utility" structure, which will be addressed through the proposed THI Transaction.[3]

6. Pollution Probe also does not oppose the Applications. [4] Its submissions principally concern the proposed nine-year deferred rebasing period, the treatment and measurement of synergies, and matters that Pollution Probe submits should be addressed in the future Phase 2 proceeding.[5]

7. The Applicants agree that the Transactions meet the "no harm" test based on their anticipated impacts on price, reliability and quality of electricity service to customers, and that the Transactions are consistent with the legislative objectives of the OEB Act. The Applicants agree that the requested relief is appropriate in the circumstances.

[1] OEB Staff Submission at pg. 4.
[2] OEB Staff Submission at pgs. 19-24.

8. No party has taken the position that the Applications should be denied. Although there is substantial agreement among the Applicants and intervenors, certain comments in the submissions warrant a response from the Applicants.

9. The Applicants will respond briefly to those matters to ensure that the record is clear. The Applicants reiterate that the relief sought in these Applications relates to the Phase 1 transactions only. Matters that are properly the subject of the contemplated Phase 2 transaction should be considered by the OEB in the future proceeding on the basis of a complete evidentiary record at that time.

10. The Applicants' silence on any aspect of the submissions of OEB Staff or the intervenors should not be interpreted as agreement with those positions.

I. THE PHASED APPROACH TO THE TRANSACTIONS

11. OEB Staff supports the proposed phased approach. OEB Staff recognizes that the contemplated Phase 2 transaction is not before the OEB for approval in these proceedings and supports EPC proceeding with its scheduled 2028 cost of service application before the Phase 2 application.[6]

12. The Applicants agree with OEB Staff that the phased approach is appropriate in the circumstances and is consistent with OEB policy and precedent.

13. In this context, Pollution Probe raised numerous policy concerns with respect to the two-phases of the Transaction, however it is not clear that Pollution Probe has reviewed or considered several previous MAADs applications where the OEB approved similar two phase transactions, including North Bay / Espanola (Decision and Order issued August 22, 2019 in EB-2019-0015) and Windsor Canada / E.L.K. (Decision and Order issued October 21, 2025 in EB-2025-0172).

14. Consistent with these prior determinations, the Applicants are seeking approval of Phase 1 only. The contemplated Phase 2 amalgamation will be the subject of a future application and will be assessed by the OEB on the evidentiary record then before it.

[3] Energy Probe Submission at pg. 1.
[4] Pollution Probe Submission at pg. 1.
[5] Pollution Probe Submission at pgs. 2-8.
[6] OEB Staff Submission at pgs. 4 and 20-21.

15. As the OEB recognized in EB-2025-0172, a Phase 1 application may properly be approved even though the OEB does not yet know the outcome of subsequent rate proceedings or the future Phase 2 transaction. In that proceeding, the OEB approved the proposed Phase 1 acquisition while expressly recognizing that the contemplated Phase 2 amalgamation was not before it for approval.[7]

16. The Applicants submit that the OEB should apply to same approach here.

17. The Phase 1 transactions allow WPI and THI to benefit from ERTH's corporate structure, management resources, technology, operational capabilities and other resources while continuing to operate as separate licensed distributors.

18. The subsequent EPC cost of service proceeding will provide the OEB with an opportunity to consider EPC's revenue requirement and cost structure before the contemplated Phase 2 transaction.

19. The Applicants therefore submit that there is no basis to defer approval of Phase 1 pending the future Phase 2 application.

20. Nor should approval of Phase 1 be interpreted as prejudging the outcome of Phase 2. The Applicants submit that the Phase 2 application must be assessed on its own record and in accordance with the OEB's applicable policies and requirements at that time.

II. THE NINE-YEAR DEFERRED REBASING PERIOD

21. The MAADs Handbook permits a deferred rebasing period of up to ten years. The Applicants have requested nine years.

22. OEB Staff supports the Applicants' requested nine-year deferred rebasing period and submits that it is consistent with the MAADs Handbook.[8]

23. Pollution Probe suggests that the OEB should consider a shorter deferred rebasing period, or otherwise revisit the proposed nine-year period in connection with Phase 2.[9]

24. The Applicants disagree.

25. The nine-year period forms part of the overall transaction structure and provides the Applicants with an appropriate period in which to implement the operational and organizational changes contemplated by the transactions and realize efficiencies.

26. The Applicants have also proposed an earnings sharing mechanism for Years 6 through 9 of the deferred rebasing period. This provides an additional mechanism for customers to share in the benefits of the transaction in circumstances where regulated earnings exceed the applicable deadband.

27. The Applicants do not agree that the OEB should replace the requested nine-year period with a shorter period simply because additional efficiencies may be identified in the future.

28. Any efficiencies that arise from the contemplated Phase 2 amalgamation will necessarily depend on the structure of Phase 2 and the operating model ultimately proposed. Those matters are more appropriately assessed in the Phase 2 proceeding.

29. The Applicants therefore submit that the OEB should approve the nine-year deferred rebasing period as requested.

III. SYNERGIES AND FUTURE BENEFITS

30. Pollution Probe submits that the Applicants should be required to provide greater detail regarding the measurement and realization of synergies.[10]

31. The Applicants agree that appropriate information concerning realized efficiencies should be available to the OEB in future proceedings. This is already a requirement in Section 6 of the OEB's MAADs Handbook (Post-Consolidation Monitoring and Reporting). The Applicants submit that no additional requirements are necessary.

32. In addition, the Applicants do not agree that the present proceeding should attempt to quantify with precision efficiencies that will arise only after the passage of time, including further integration or the contemplated Phase 2 amalgamation.

33. As explained in the MAADs Handbook at pages 33-34:

> "Consolidation applications include evidence (both qualitative and quantitative) which highlight activities where efficiencies are expected to be achieved, and the savings associated with those efficiencies. This evidence provides an indication of what the consolidated utilities (or acquiring utility) expect could be achieved (based on forecasts). The evidence provided is, in part, what is used by the OEB to reach its decision on a consolidation application and serves

[7] EB-2025-0172, Decision and Order at pgs. 1 and 16.
[8] OEB Staff Submission at pg. 21.
[9] Pollution Probe Submission at pg. 7.
[10] Pollution Probe Submission at pg. 8.

as the starting point for the OEB panel considering the first rebasing application post-consolidation. The OEB understands that a utility requires sufficient time to achieve savings and efficiency gains, and these will not begin to be realized until the new entity has begun to operate. The savings are also likely to change over time as the utility begins to better understand its operating needs and environment. Further, transaction and transition costs may be incurred for several years following the completion of the transaction."

34. The Applicants have already described the expected sources of efficiencies and have committed to maintaining appropriate information concerning transaction-related costs and efficiencies.

35. As set out in the evidence, the Phase 1 transactions are expected to provide benefits through, among other things, access to shared corporate resources, operational expertise, technology, systems, control room capabilities and other infrastructure.

36. Additional efficiencies may arise from the future amalgamation, including further centralization and rationalization of functions, economies of scale and reductions in costs associated with maintaining separate corporate and regulatory structures. Additional unexpected costs may also arise.

37. These future benefits cannot appropriately be treated as established facts in this proceeding. They will depend upon a host of factors including the ultimate structure and implementation of Phase 2.

38. The Applicants agree that the Phase 2 application should provide the OEB with evidence, to the extent possible, concerning the efficiencies and savings realized during Phase 1 and any incremental benefits expected from Phase 2.

39. The Applicants submit that this approach appropriately balances the need for transparency with the principle that future applications should be determined on the evidence properly before the OEB at that time.

IV. PRICE, ECONOMIC EFFICIENCY AND COST EFFECTIVENESS

40. OEB Staff concludes that the Applications will not adversely affect customers with respect to price, economic efficiency or cost effectiveness.[11]

[11] OEB Staff Submission at pgs. 7-8.

41. There is no request in these Applications for an increase in distribution rates as a result of the Phase 1 transactions.

42. The Applicants have also confirmed that incremental transaction and transition costs associated with the acquisitions will not be recovered from ratepayers.

43. The Transactions instead provide an opportunity for the acquired utilities to draw upon the resources and expertise of a larger organization operating in similar Southwestern Ontario service territories. In particular, THI will benefit from access to ERTH's existing management, corporate, operational, engineering, customer service and technology resources. WPI will similarly benefit from access to ERTH's existing systems and resources, including the EPC control room, SCADA and GIS capabilities and other operational and corporate infrastructure.

44. The Applicants submit that these benefits support the conclusion that the Transactions will have a positive or neutral effect on price, economic efficiency and cost effectiveness.

V. RELIABILITY AND QUALITY OF SERVICE

45. No party has identified any basis to conclude that the Phase 1 transactions will adversely affect reliability or quality of service.

46. OEB Staff specifically concludes that the existing service quality and reliability standards of WPI and THI can reasonably be expected to be maintained.[12]

47. The Applicants have confirmed that existing operational resources and facilities will continue to support the respective service territories. At the same time, customers will benefit from access to additional operational and technological capabilities. For WPI, these benefits include the extension of EPC's SCADA and GIS systems, outage management capabilities and control room operations. THI will similarly benefit from ERTH's operational, engineering, customer service and corporate resources while maintaining its local presence.

48. The Applicants therefore submit that the evidence supports a conclusion that the transactions will maintain, and have the potential to enhance, the adequacy, reliability and quality of electricity service.

[12] OEB Staff Submission at pgs. 13 and 15.

VI. FINANCIAL VIABILITY

49. OEB Staff concludes that neither transaction will negatively affect the financial viability of the affected utilities or the Applicants.[13]

50. The Applicants agree.

51. The proposed transactions provide the acquired utilities with access to a larger corporate platform and additional resources while avoiding the recovery of transaction and transition costs from ratepayers.

VII. MAADs HANDBOOK EXEMPTIONS AND REGULATORY ACCOUNTING

52. The Applicants requested exemptions from the applicable MAADs Handbook requirements that are not relevant to Phase 1, including requirements associated with deferred rebasing, post-consolidation matters, accounting and rate harmonization.

53. OEB Staff supports the requested approach and agrees that matters associated with the contemplated Phase 2 consolidation are more appropriately addressed in the future proceeding.[14]

54. The Applicants agree that WPI, THI and EPC should continue to operate as separate utilities during Phase 1.

55. The utilities will accordingly continue to maintain separate regulatory records and separately track their applicable Group 1 and Group 2 deferral and variance accounts until such time as the OEB approves the contemplated Phase 2 consolidation.

56. The Applicants submit that this approach provides appropriate regulatory transparency and ensures that the OEB will be able to assess the legacy utilities separately when the Phase 2 application is brought forward.

VIII. CONTINUATION OF PRE-EXISTING RATE FILING COMMITMENTS

57. OEB Staff submitted that pre-existing commitments arising out of WPI's last cost of service decision (EB-2023-0058) should continue as regulatory requirements for the stand-alone utility following the closing of the WPI Transaction.[15]

58. The Applicants agree that that regulatory commitments arising from the previous WPI cost of service decision should continue to apply, notwithstanding the Phase 1 transactions.

59. OEB Staff also submitted that two of the directions arising out of THI's last cost of service decision (EB-2023-0053), namely that THI will report back on collaborations with other utilities and THI's asset condition and improved asset management process in its next cost of service application, should continue as regulatory requirements for the stand-alone utility following the closing of the THI Transaction.[16]

60. The Applicants agree that that regulatory commitments arising from the previous THI cost of service decision should continue to apply, notwithstanding the Phase 1 transactions.

IX. FUTURE RATE HARMONIZATION AND PHASE 2

61. Pollution Probe raises matters concerning future rate harmonization and the treatment of efficiencies following Phase 2.[17]

62. The Applicants respectfully submit that these matters are premature.

63. The Phase 2 transaction is not before the OEB for approval in these proceedings.

64. The Applicants have not asked the OEB to approve any future rate harmonization proposal or to make any finding concerning the appropriate rates of a future consolidated utility.

65. The Applicants will bring forward the appropriate evidence and proposals in the Phase 2 application, including any proposed treatment of rate harmonization and the benefits and efficiencies arising from the consolidation.

66. The Applicants agree that a future OEB panel should not be bound by any conclusion concerning Phase 2 that is not necessary to decide these Applications.

67. Equally, however, the Applicants should not be restricted from bringing forward future applications that comply with the OEB's applicable policies, directives and prior decisions.

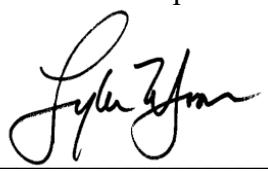
[13] OEB Staff Submission at pgs. 17 and 19.
[14] OEB Staff Submission at pgs. 20-24.
[15] OEB Staff Submission at pg. 25.
[16] OEB Staff Submission at pg. 26.
[17] Pollution Probe Submission at pgs. 2-8.

68. The Applicants therefore submit that the OEB should approve the Phase 1 transactions without making findings that would predetermine matters properly reserved for Phase 2.

X. CONCLUSION

69. The Applicants submit that the OEB should approve the Applications on the basis that they meet the "no harm" test regarding the impact of the proposed Transactions on price, reliability and quality of electricity service to customers, and that the Transaction is consistent with the legislative objectives of the OEB Act.

All of which is respectfully submitted this 9th day of September 2026.



Tyler Moore, LL.B.
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