

July 26<sup>th</sup>, 2018

Ontario Energy Board ("OEB")  
2300 Yonge Street  
P.O. Box 2319, 27<sup>th</sup> Floor  
Toronto, ON  
M4P 1E4

**RECEIVED**  
JUL 30 2018

**ONTARIO ENERGY BOARD**

RE: London Hydro Section 71.4 Exemption - Green Button Application  
Board File Number: EB-2018-0118

Dear Miss. Walli,

Please accept the following which represents Utilismart Corporation's ("UC") comments and concerns related to Board File Number EB-2018-0118.

UC provides services using its Innovative Utilismart Digital Utility Platform, which includes Utility Data Hub and Utility Analytics applications services. UC has been providing services to Ontario utilities since 2002 and its current customer base includes primarily electric utilities in Ontario, Eastern Canada, the U.S.A. and throughout the Caribbean. UC provides services to over 140 customers including 50 Ontario Local Distribution Companies.

In London Hydro's Application for exemption under Section 71.4 of the OEB Act (submitted March 2<sup>nd</sup>, 2018), London Hydro requests to conduct international, unregulated business through its OEB Regulated LDC. In other words, London Hydro is requesting that the Board allow it to compete with unregulated service providers, such as UC through the regulated utility and outside of its service area.

London Hydro and its shareholder also propose to limit business risk by absorbing any losses however also elects not to share any form of upside with its electricity customers. Through this proposed offering, London Hydro would be subjecting itself to incremental risk, leveraging its regulated assets and existing business, taking advantage of its name in the marketplace and therefore disproportionately and negatively affecting existing, private companies in an already competitive and complicated market space. There are significant mechanisms by which London Hydro and its shareholders can leverage its Green Button technologies and other products through private, unregulated affiliates; not dissimilar to how multiple other municipally-owned distributors operate.

In London Hydro's reply submission (July 5<sup>th</sup>, 2018, Response to Board Staff Question #4), London Hydro argues that since its 2017 Cost of Service application considered Green Button activities for its existing electricity ratepayers, that by extension, London Hydro should be allowed to offer the same services

across Ontario and abroad. This does not protect London Hydro electricity ratepayers from the various business-related risks for participating in a competitive market space nor does it reward London Hydro electricity ratepayers for the investments they have already made that are being leveraged as part of this application. Many LDCs across Ontario specifically set up affiliated companies, while incurring significant expense in the process, to provide unregulated services to various markets. London Hydro should be no different.

London Hydro should not be able to positively benefit from the ownership of its regulated assets in an already existing market. As such, UC submits that such business activities should not be permitted through London Hydro's regulated entity.

Further, from a legal perspective, London Hydro has not met the threshold requirements in s. 71.4 of the OEB Act, which provides that:

“...the Board may, if in its opinion, special circumstances of a particular case so require, authorize a transmitter or distributor to carry on a business activity other than transmitting or distributing electricity other than through one or more affiliates, in accordance with an order of the Board”.  
(emphasis added)

London Hydro has not demonstrated that there are any “special circumstances” that “require” it to engage in a non-distribution business.

According to its application, London Hydro states that the “special circumstances” are that “London Hydro intends to further promote and explore GB technological innovation beyond London Hydro.” (Exhibit 1, Tab1, Schedule 6, p. 1).

This does not qualify as demonstrating “special circumstances of a particular case”. If it does, then any LDC that wants to provide non-distribution services outside of its service territory would qualify under s. 71.4.

Further, as non-regulated companies can also provide this service, there is no basis for concluding that London Hydro is “required” to provide these services.

UC requests that the Board reject London Hydro's application for exemption of section 71.4 of the OEB Act without a hearing.

In the alternative, if the Board does not reject this application summarily, then UC requests that the Board hold a hearing to determine whether it should grant the requested order.

Subsection 21(4) of the OEB Act provides that the Board may only proceed without a hearing if

- (a) "No person requests a hearing within a reasonable time set by the Board after the Board gives notice of the right to request a hearing; or
- (b) The Board determines that no person, other than the applicant, appellant or licence holder will be adversely affected in a material way by the outcome of the proceeding..."

Subsection (a) is not applicable because, for some reason, the Board did not issue a notice; ss. (b) is not applicable because competitors to London Hydro, including UC, will be adversely affected in a material way if the Board grants the request. In addition, London Hydro ratepayers will be adversely affected by taking on the risks of this competitive venture.

If the Board has information that contradicts these facts, UC respectfully requests that the Board put this material on the record so that it may be reviewed transparently.

Yours Truly,



**John Avdoulos**  
President  
Utilismart Corporation