



January 25, 2021

## **EMAIL & RESS**

Ms. Christine E. Long  
Registrar and Board Secretary  
Ontario Energy Board  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, ON M4P 1E4

Dear Ms. Long:

### **Re: Consultation on Deferral Account – Impacts Arising from COVID-19 Emergency – Wataynikaneyap Power LP Comments on Staff Proposal (EB-2020-0133)**

The following are comments from Wataynikaneyap Power LP (WPLP) in respect of the December 16, 2020 Staff Proposal in the OEB's *Consultation on the Deferral Account – Impacts Arising from the COVID-19 Emergency*. Based on WPLP's review of the Staff Proposal relative to its regulatory circumstances, WPLP's view is that the treatment of any COVID-related costs incurred by WPLP are best considered in WPLP's initial transmission rate application.

As described in WPLP's June 11, 2020 comments on the draft issues list in this proceeding, WPLP is in the unique regulatory circumstance of being the developer of a priority transmission system for which no rates have been established and no facilities are in service. WPLP has been granted leave to construct together with the requirement to record all development and construction costs in a CWIP account for disposition at future rate proceedings in respect of assets that go into service during the construction period. WPLP plans to file its initial transmission rate application in early Q2 2021 for rates effective in 2022.

Although WPLP noted in its comments on the draft issues list that the CWIP account already provides it with a mechanism to record COVID-related costs, based on what was known at that time regarding the COVID Deferral Account, WPLP indicated that it would track its COVID-related costs as part of the COVID Deferral Account. However, based on its consideration of the Staff Proposal, WPLP has concluded that the COVID Deferral Account as contemplated does not apply in WPLP's circumstances. Moreover, unlike most utilities, WPLP's CWIP account provides a mechanism for recovery that does not trigger retroactive rate-making. WPLP is,

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**WATAYNIKANEYAP POWER LP**

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therefore, not prejudiced by using its established CWIP Account instead of the COVID Deferral Account.

As such, it is WPLP's view that it would be most appropriate for WPLP to record any COVID-related costs in its existing CWIP account. WPLP will continue to track COVID-related costs separately from other development and construction costs in its CWIP Account and will bring forward a proposal as to the manner of recovery of the COVID-related costs in its initial transmission rate application.

WPLP understands that the goal of the Staff Proposal is for the COVID Deferral Account to be used as a mechanism to provide for limited relief to operating utilities with established rates to ensure their financial viability is not compromised as a result of incurring material unexpected costs or revenue shortfalls due to the pandemic. Absent the COVID Deferral Account, such utilities would generally be precluded from recovering any incremental COVID-related costs because such costs would not have been included in their existing rates and the OEB would be prohibited from approving recovery of any such costs retroactively in a future rate proceeding.

As acknowledged by Staff during the January 14, 2021 webinar, the Staff Proposal is clearly and exclusively concerned with operating utilities that have existing approved rates, and includes no alternative proposals or attempts to otherwise address or consider the circumstances of utilities, such as WPLP, which do not yet have approved rates or operating facilities. This is apparent from two of the proposal's key features, as follows:

- Staff's proposed "means test" could only be applied to a utility that has approved rates. Under this aspect of the proposal, a utility must demonstrate that it has a financial need to recover its recorded amounts because its earnings have been reduced below the point of reasonably expected fluctuations (rather than merely below full expected profitability). Staff proposes using a "means test" whereby a utility must demonstrate that its achieved ROE is more than 300 basis points below its OEB-approved ROE. Given that WPLP has no approved ROE, the means test could not be applied to WPLP.
- Staff's proposed approach to defining the incrementality of recorded amounts could only be applied to a utility that has approved rates. Staff proposes defining incrementality relative to a baseline that is the greater of the amount embedded in base rates as adjusted for inflation and productivity, and the highest actual annual amount over the past five years. Without approved rates or an established track record of historical operating costs, neither of these baselines could be applied to WPLP.

Assuming that the rules or guidelines resulting from this consultation are generally of the nature contemplated by the Staff Proposal, it is more appropriate for WPLP to bring forward a proposal appropriate to its circumstances as part of its initial rate application. However, to the extent alternative constructs are considered and the OEB seeks input in that regard, WPLP reserves its rights to provide further comments to inform the OEB's deliberations before they become final. Should the OEB require any clarification regarding the foregoing comments, WPLP would be pleased to elaborate as may be needed.

Yours truly,

A handwritten signature in black ink, appearing to read 'Duane Fecteau', with a stylized flourish at the end.

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