

**Memorandum of Understanding
between
the Ontario Energy Board
and the Commissioner of Competition of the Competition Bureau**

Introduction

The Ontario Energy Board (the "OEB") and the Competition Bureau (the "Bureau") wish to acknowledge their important ongoing relationship and to recognize that continued cooperation can contribute to improved delivery of each of the OEB's and the Bureau's (the "Participants") respective mandates.

The OEB is an independent quasi-judicial regulatory body that is responsible for regulating the electricity and natural gas sectors in Ontario, with the objective of protecting the interests of consumers and promoting an efficient, reliable and sustainable energy sector. The OEB's powers are derived from the *Ontario Energy Board Act*, 1998, the *Energy Consumer Protection Act*, 2010 and certain provisions of the *Electricity Act*, 1998 (the "EA"), among others. The OEB's mandate includes oversight of energy utility rates and mergers and acquisitions; investigations and enforcement related to regulated entity compliance with certain legislation and with the OEB's regulatory requirements; and monitoring markets in Ontario's electricity sector.

The Bureau is an independent law enforcement agency that ensures that Canadian businesses and consumers prosper in a competitive and innovative marketplace. Headed by the Commissioner of Competition, the Bureau is responsible for the administration and enforcement of the *Competition Act* (the "CA"), the *Consumer Packaging and Labelling Act* (except for enforcement as it relates to food), the *Textile Labelling Act* and the *Precious Metals Marking Act*.

Understanding

The Participants establish this Memorandum of Understanding ("MOU") to enhance their mutual interests and to develop a framework for cooperation to assist in the effective delivery of their mandates. To achieve the purpose of this MOU, each Participant will promote the benefits of, and encourage cooperation with, the other Participant throughout all levels of its organization.

The Participants will, subject to their discretion and respective confidentiality obligations, cooperate and coordinate their activities, which include, but are not limited to, the following:

- a) notifying the other Participant with respect to a matter that is materially relevant to the other Participant, and that could be carried out by the other Participant under its mandate, and exchanging timing of any action and other procedural information related to such matters. The Participants will endeavour to provide notification as soon as practicable and, if relevant, on an ongoing basis;

- b) exchanging information and intelligence in areas of mutual interest that are related to the following:
 - i. regulatory and investigatory approaches and best practices, including major developments in competition case law, and
 - ii. market monitoring activities and other Ontario energy market developments of relevance to both Participants;
- c) undertaking joint educational activities relating to competition issues in Ontario energy markets which are of mutual interest to the Participants;
- d) considering and implementing any appropriate opportunities for collaboration between the Participants in terms of training, staff development, or staff exchanges; and
- e) engaging to discuss the items enumerated above and to explore further opportunities for cooperation and collaboration.

Confidential Information

The Participants will not exchange information if doing so would contravene any relevant legislation, international instrument, policy or guidance document. Each Participant will maintain the confidentiality of any information obtained from the other that is identified as confidential and will notify the other should it receive a request from a third party for disclosure of such information. Neither Participant will disclose any confidential information obtained from the other Participant to any third party without the written consent of the other Participant except as provided for under section 29 of the CA or section 37.3 of the EA, or as required by law. Where disclosure is required by law or anticipated, the Participant required or planning to disclose confidential information obtained from the other Participant will advise the other Participant as soon as reasonably practicable so as to provide the other Participant the opportunity to challenge the disclosure requirement or otherwise seek to protect its interests.

Communications

Points of contact for each Participant are as follows:

For the OEB:

- a) for matters that relate to mergers, infrastructure and other utility applications:
Vice President, Applications;
- b) for matters that relate to retail markets, enforcement and industry policy:
Vice President, Consumer Protection & Industry Performance;
- c) for matters that relate to the wholesale electricity markets:
Associate General Counsel.

For the Bureau:

- a) for matters that relate to mergers and/or monopolistic practices:

Senior Deputy Commissioner, Mergers and Monopolistic Practices Branch;

- b) for matters that relate to cartels and/or deceptive marketing practices:
Senior Deputy Commissioner, Cartels and Deceptive Marketing practices Branch;
- c) for matters that relate to advocacy and/or policy:
Deputy Commissioner, Competition Promotion Branch.

Conclusion

This MOU supersedes all previous collaboration agreements or MOUs between the Participants. This MOU will come into effect on the date of final signature. This MOU may be amended upon the mutual written consent of the Participants. Either Participant may terminate this MOU by providing written notice to the other Participant at least 30 days in advance.



Matthew Boswell
Interim Commissioner of Competition
Competition Bureau

September 16th, 2018.
Date



Rosemarie T. Leclair
Chair and Chief Executive Officer
Ontario Energy Board

December 13th / 2018
Date