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ENERGY REGULATION IN ONTARIO

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What's New in this Update:

- This release features legislative updates to Appendix A. Electricity Act, 1998, S.O. 1998, c. 15, Sch. A and Appendix B. Ontario Energy Board Act, 1998, S.O. 1998, c. 15, Sch. B. Additionally, there have been updates to Appendix C. Words and Phrases.

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Highlights

- **APPENDIX C—WORDS AND PHRASES—CONNECT THE DOTS—** . . . “connect the dots”, i.e., give reasons or decide a matter on the basis of reasoning the decision maker did not give. . . *(Halton (Regional Municipality) v. Canada (Environment), 2024 FC 348, 2024 CarswellNat 561, 62 C.E.L.R. (4th) 307 (F.C.)* at para. 129 Brown J.).
- **APPENDIX C—WORDS AND PHRASES—DIAPAUSE STATE—** . . . diapause state, which is a period of suspended development. *The Corporation of the Municipality of Marmora and Lake v. His Majesty the King in Right of Ontario (2024), 50 M.P.L.R. (6th) 49, 2024 CarswellOnt 5834, 2024 ONSC 2254 (Ont. S.C.J.)* at para. 4 Doyle J.
- **APPENDIX C—WORDS AND PHRASES—ENVIRONMENTAL EFFECTS OF THE DESIGNATED PROJECT—** . . . “environmental effects of the designated project” are those likely to be caused by the *Project itself*. . . *(Halton (Regional Municipality) v. Canada (Environment) (2024), 2024 FC 348, 2024 CarswellNat 561, 62 C.E.L.R. (4th) 307 (F.C.)* at para. 43 Brown J.

APPENDIX C—WORDS AND PHRASES—IRREPARABLE HARM— At this stage of the *RJR MacDonald* test, the question is whether any of the Applicants have demonstrated that their interests will likely suffer irreparable harm if a stay is denied and the Approval will remain in effect, pending a final decision from the Board on the merits of appeals. As stated in *RJR MacDonald*, “irreparable” harm is harm that either cannot be quantified in monetary terms or cannot be cured, and includes a permanent loss of natural resources, an Applicant being put out of business, or an Applicant suffering permanent market loss or irrevocable damage to its business reputation. *Nickomekl Enhancement Society v. British Columbia (District Director, Environmental Management Act) (2016), 2 C.E.L.R. (4th) 246, 2016 CarswellBC 1502 (B.C. Environmental App. Bd.)* at para. 50 Andison (Chair)).