



**EB-2010-0131**

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B);

**AND IN THE MATTER OF** an application by Horizon Utilities Corporation for an order approving just and reasonable rates and other charges for electricity distribution to be effective January 1, 2011.

### **PROCEDURAL ORDER No. 3**

Horizon Utilities Corporation (“Horizon” or “the Applicant”) filed an application with the Ontario Energy Board (the “Board”), received on August 26, 2010 under section 78 of the *Ontario Energy Board Act, 1998*, (the “Act”) seeking approval for changes to the rates that Horizon charges for electricity distribution, to be effective January 1, 2011.

The Board issued Procedural Order No. 1 on October 21, 2010 to first consider Horizon’s application for early rebasing for 2011 distribution rates (the “Preliminary Issue”) in advance of further procedural steps. Procedural Order No. 1 allowed for an initial round of interrogatories by registered intervenors and Board staff to seek, if they wish, additional information specifically related to the Preliminary Issue and Horizon’s evidence on the Preliminary Issue. Following Horizon filing its responses to these interrogatories, Board staff and intervenors would file submissions on whether Horizon’s application is justified based on the Board’s letter of April 20, 2010, with Horizon being allowed to file a reply submission if it so wishes.

Horizon filed a letter on November 3, 2010 advising that it would be unable to provide responses to these interrogatories by November 4, 2010 but would file them by November 8, 2010. The Board issued Procedural Order No. 2 extending the deadlines for the filing of the interrogatory responses, submissions and reply submissions with respect to the Preliminary Issue.

Horizon filed its responses to interrogatories on November 8, 2010. In so doing, Horizon filed responses to two interrogatories requesting confidentiality pursuant to the Board's *Practice Direction on Confidential Filings* (the "Practice Direction") and section 17(1) of the *Freedom of Information and Protection of Privacy Act*. The interrogatory responses for which Horizon is claiming confidentiality are:

- Board staff IR # 4 b) (in part); and
- Energy Probe IR # 1 a).

Horizon's covering letter of November 8, 2010 sets out Horizon's reasons for claiming confidentiality of the information, namely that:

Public disclosure of this information, including the identity of the customer(s) could reasonably be expected to prejudice the economic interest of, significantly prejudice the competitive position of, cause undue financial loss to, and be injurious to the financial interest of the customer(s) to whom it pertains since it may assist competitors in ascertaining the future commercial plans of the customer(s).

Attached to the response to Board staff IR # 4 b) are two appendices. Appendix 1 is a public news release from the client customer pursuant to its 2010 Q3 financial results. Appendix 2 is a copy of a newspaper article from the *Globe and Mail*. Horizon has identified the subject customer in its public prefiled evidence and the Board notes that both documents noted above are in the public domain. The Board therefore denies Horizon's claim for confidentiality.

The Board has also reviewed the Horizon's responses to Energy Probe IR # 1 a) and Board staff IR # 4 b), and finds that there is no information contained in the body of the responses which is confidential in nature. The claim for confidentiality is not warranted and is therefore denied.

Subject to Horizon's right to withdraw the subject responses in accordance with section 5.1.12 of the Practice Direction, the Board will place the responses to Energy Probe IR # 1 a) and Board staff IR #4 b), including the Appendices, on the public record within five business days (i.e. by end of business on Friday, November 19, 2010).

The Board will extend the deadline for submissions on the preliminary issue by Board staff and intervenors to November 23, 2010. The Board is not extending the deadline for Horizon's reply submission.

The Board considers it necessary to make provision for the following matters related to this proceeding. The Board may issue further procedural orders from time to time.

#### **THE BOARD ORDERS THAT:**

1. Horizon Utilities Corporation shall file with the Board and deliver to all intervenors public, unredacted copies of the full responses to Energy Probe IR # 1 a) and Board staff IR # 4 b), including the Appendices to Board staff IR # 4 b), on or before **November 19, 2010**. Should Horizon Utilities Corporation wish to withdraw the information, it shall file such request with the Board and deliver a copy to all intervenors on or before **November 19, 2010**.
2. Board staff and intervenors shall file with the Board and deliver to all intervenors any written submissions pursuant to the Preliminary Issue and Horizon Utilities Corporation's submission on or before **November 23, 2010**.
3. Horizon Utilities Corporation shall file any written reply submissions on the Preliminary Issue with the Board and deliver them to all other intervenors on or before **November 29, 2010**.

All filings to the Board must quote the file number, EB-2010-0131, be made through the Board's web portal at [www.errr.oeb.gov.on.ca](http://www.errr.oeb.gov.on.ca), and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at [www.oeb.gov.on.ca/OEB/Industry](http://www.oeb.gov.on.ca/OEB/Industry). If the web portal is not available, parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

**ADDRESS**

Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27th Floor  
Toronto ON M4P 1E4  
Attention: Board Secretary

E-mail: [Boardsec@oeb.gov.on.ca](mailto:Boardsec@oeb.gov.on.ca)  
Tel: 1-888-632-6273 (toll free)  
Fax: 416-440-7656

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Keith Ritchie at [keith.ritchie@oeb.gov.on.ca](mailto:keith.ritchie@oeb.gov.on.ca) and Board Counsel, Maureen Helt at [maureen.helt@oeb.gov.on.ca](mailto:maureen.helt@oeb.gov.on.ca).

**DATED** at Toronto, November 15, 2010

**ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary