



EB-2010-0142

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 Toronto
Hydro-Electric System Limited for an order approving
just and reasonable rates and other charges for
electricity distribution to be effective May 1, 2011.

PROCEDURAL ORDER NO. 9

Toronto Hydro-Electric System Limited ("Toronto Hydro") filed an application, dated August 23, 2010, with the Ontario Energy Board under section 78 of the *Ontario Energy Board Act, S.O. 1998, c.15, Schedule B*, seeking approval for changes to the rates that Toronto Hydro charges for electricity distribution, to be effective May 1, 2011.

The Board issued a Notice of Application and Hearing dated September 15, 2010.

On October 18, 2010, Procedural Order No.1 was issued establishing, among other items, the dates for which interrogatories were to be filed with the Board and responded to by Toronto Hydro.

On November 11, 2010, the Board issued its Issues List Decision and Procedural Order No. 2. In it, the Board approved a Final Issues List and confirmed the schedule for filing interrogatories and responses to interrogatories as set out in Procedural Order No. 1.

On December 6, 2010, Toronto Hydro filed its responses to interrogatories from parties.

On December 13, 2010, the Board issued Procedural Order No. 3 outlining further steps in this proceeding.

On January 12, 2011, the Board issued its Decision on Confidentiality and Procedural Order No. 4 (the "Confidentiality Decision") which dealt with confidentiality issues raised by Toronto Hydro and the scope of the settlement conference.

On January 14, 2011, the Smart Sub-metering Working Group ("SSMWG"), an intervenor in the proceeding, filed a Notice of Motion (the "Motion") requesting, among other things, that the Board direct Toronto Hydro to provide full and complete answers to specified interrogatories of the SSMWG.

On January 18, 2011, the Board issued Procedural Order No.5 establishing that it would hear the Motion orally on January 19, 2011. The Board issued its Decision and Order on Motion on January 21, 2011, which among other things, required that Toronto Hydro file on or before January 31, 2011 an assessment of the time which it would take to produce the additional material required by the Board related to Toronto Hydro's *Cost of Service Study for Individually Metered Suites in Multi-Unit Residential Buildings* (the "Further Study Information").

On January 31, 2011, Toronto Hydro provided its assessment of the time which it would require to provide the Further Study Information, which was that this material would be filed on February 18, 2011.

On January 18, 2011, the Board issued Procedural Order No. 6 which dealt with confidentiality issues raised by the School Energy Coalition, an intervenor in the proceeding.

On January 21, 2011, the Board issued Procedural Order No. 7 which dealt with further confidentiality issues raised by Toronto Hydro.

On January 24, 2011, a Technical Conference was held and on January 25, 2011, the Settlement Conference commenced.

On January 26, 2011, the Board received a letter from counsel to Toronto Hydro requesting that the Board adjourn the settlement discussions in this proceeding until Toronto Hydro could file an update to its application to reflect material, late breaking

mandatory accounting changes (the "Accounting Update"). In its letter, Toronto Hydro provided details of the update and justifications for it. Toronto Hydro also proposed changes to the schedule set out in Procedural Order No. 3 arising from the Accounting Update.

On January 27, 2011, the Board issued Procedural Order No. 8 which approved the adjournment of the settlement discussions and asked for comments from parties on Toronto Hydro's proposed scheduling revisions.

Toronto Hydro's letter had stated that the Accounting Update would be filed on February 9, 2011, or earlier if possible. Toronto Hydro proposed that a transcribed technical conference would be held three business days later followed by a resumption of the Settlement Conference on the business day following the completion of the technical conference. The commencement of the oral phase of the hearing was proposed to take place on the first day of the week on which the Board sat following the completion of the Settlement Conference. Finally Toronto Hydro proposed that any Settlement Proposal arising from the Settlement Conference would be filed with the Board on this date and the presentation of the agreement, if any, would be made at the commencement of the oral hearing.

The Board received comments from a number of intervenors related to this matter. All of the comments received expressed concern with the tightness of the revised schedule proposed by Toronto Hydro and suggested that it was premature to determine a revised schedule until such time as the Accounting Update could be reviewed.

The Board is in agreement with the intervenor submissions that the revised schedule proposed by Toronto Hydro is too tight. The Board considers it unreasonable to expect parties to provide technical conference questions, as proposed by Toronto Hydro only two days after receipt of the Accounting Update. The Board also considers that the proposal that the oral hearing commence the week after the Settlement Conference would not allow parties sufficient time to prepare a Settlement Agreement, in the event that some issues were settled, or for the Board to review any such agreement before commencing the oral hearing.

The Board is, however, also mindful of the need to continue the review of this application in as timely a fashion as possible in order to minimize the extent of the

potential delay in the implementation date of the proposed rates, if approved by the Board, and the retroactivity issues that such a delay would raise.

Accordingly, the Board has determined that it will establish a revised schedule at the present time. The Board's revised schedule also will permit issues 7.2 and 7.3, which the Board had previously determined in Procedural Order No. 3 were not eligible for settlement, to be heard by the Board at the same time as the remainder of the issues.

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. Board staff and intervenors seeking information and material that is in addition to the Accounting Update, and that is relevant to the hearing, shall request the same by written interrogatories filed with the Board and delivered to the intervenors and the Applicant on or before **Wednesday February 16, 2011**.
2. Responses by the Applicant to interrogatories related to the Accounting Update shall be filed with the Board and delivered to all parties on or before **Wednesday February 23, 2011**.
3. Board staff and intervenors seeking information and material that is in addition to the Further Study Information, and that is relevant to the hearing, shall request the same by written interrogatories filed with the Board and delivered to the intervenors and the Applicant on or before **Friday February 25, 2011**.
4. Responses by the Applicant to interrogatories related to the Further Study Information shall be filed with the Board and delivered to all parties on or before **Friday March 4, 2011**.
5. The Settlement Conference will reconvene on **Monday February 28, 2011** and, if needed, may continue until **Friday March 4, 2011**. The Settlement Conference will be held at 2300 Yonge Street in the Board's hearing room on the 25th Floor commencing at 9:30 am.

6. Board staff and intervenors who wish to file evidence on Issues 7.2 and 7.3 shall do so, on or before **Friday March 18, 2011**.
7. Parties seeking information and material that is in addition to any intervenor or Board staff evidence on Issues 7.2 and 7.3, and that is relevant to the hearing, shall request the same by written interrogatories filed with the Board and delivered to parties on or before **Tuesday March 22, 2011**.
8. Responses by parties to interrogatories related to any intervenor or Board staff evidence shall be filed with the Board and delivered to all parties on or before **Monday March 28, 2011**.
9. Any Settlement Proposal arising from the Settlement Conference shall be filed with the Board by **Friday March 25, 2011**.
10. The oral hearing will commence on **Tuesday March 29, 2011** in the Board's hearing rooms at 2300 Yonge Street, 25th Floor, Toronto, at 9:30 am. In the event that a settlement agreement is filed with the Board, the presentation of the agreement will be made at the commencement of the oral hearing on **Tuesday March 29, 2011**.

All filings to the Board must quote file number EB-2010-0142, be made through the Board's web portal at 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. If the web portal is not available parties may email their document 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.

Address

The Ontario Energy Board:

Post:

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ISSUED at Toronto, February 1, 2011

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary