



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.

PROCEDURAL ORDER NO. 13

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 March 25, 2011, a Settlement Agreement was filed with the Board which incorporated settlement of most outstanding issues in this proceeding. On March 29, 2011, the Board announced its acceptance of the Settlement Agreement. Unsettled issues remained in five areas, one of which was the appropriateness of Toronto Hydro's suite metering cost allocation and whether or not Toronto Hydro should establish a separate rate class for multi-unit residential customers that are served directly by Toronto Hydro through its suite metering provision.

On July 7, 2011, the Board issued its Partial Decision and Order (the "Partial Decision") in this proceeding. Among other things, the Partial Decision found that while all findings in the Partial Decision are final and will result in a final rate order for 2011 rates, the

Board would require supplementary evidence to be filed on the suite metering issues as outlined in the Partial Decision (the “supplementary evidence”).

The Partial Decision stated that the Board would issue a procedural order under the current docket number containing filing instructions to Toronto Hydro and outlining subsequent procedural steps to facilitate further discovery and examination.

On July 28, 2011, the Board issued Procedural Order No. 10 which required Toronto Hydro to file the supplementary evidence by August 31, 2011.

On July 29, 2011, Toronto Hydro sent a letter to the Board which noted that it had received Procedural Order No. 10 and while it was prepared to file the required evidence, for the reasons outlined in the letter, it could not do so by the August 31, 2011 date established in Procedural Order No. 10. Toronto Hydro requested that Procedural Order No. 10 be amended to provide for a filing date of October 17, 2011 for the filing of Toronto Hydro’s evidence.

On August 8, 2011, the Board issued Procedural Order No. 11 which granted Toronto Hydro an extension until September 30, 2011 and revised the remaining dates established in Procedural Order No. 10. Toronto Hydro filed the supplementary evidence on September 30, 2011.

On October 7, 2011, the Smart Sub-metering Working Group (“SSMWG”), an intervenor in the proceeding, filed a Notice of Motion (the “Motion”) requesting relief as outlined in the Motion.

On October 12, 2011, the Board issued Procedural Order No. 12 which established that the Board would hear the Motion orally on October 14, 2011.

The Board issued its Decision on the Motion at the conclusion of the oral hearing. Among other matters, the Board determined that supplementary interrogatories related to the supplementary evidence could be filed by parties on or before October 20, 2011 and that Toronto Hydro was to respond to all interrogatories on or before November 4, 2011.

On November 4, 2011, Toronto Hydro filed its interrogatory responses.

In accordance with the Board's Practice Direction on Confidential Filings (the "Practice Direction"), Toronto Hydro filed two of its interrogatory responses in confidence: Board staff interrogatory #5 and Consumers Council of Canada ("CCC") interrogatory #2.

In accordance with section 5.1.5 of the Practice Direction, Toronto Hydro has provided non-confidential redacted versions of the two interrogatories as well as a description of the basis on which confidentiality is claimed. As an interim measure, the Board will allow any parties that wish to review the confidential documents to do so after signing a copy of the Board's Declaration and Undertaking, and filing it with the Board.

The Practice Direction permits any party to a proceeding to object to the request for confidentiality by filing a written objection. This Procedural Order addresses the process for receiving such objections. Subsequent to any and all submissions received pursuant to this Procedural Order, the Board intends to make its findings with respect to Toronto Hydro's claim for confidentiality.

The Board notes that a Technical Conference is scheduled to be convened on November 9, 2011. Parties are encouraged to make best efforts to pose any follow up questions on the subject interrogatories in a manner such that the questions and responses can be placed on the public record in the event the Board approves the confidentiality request.

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 may make written submissions concerning the request for confidential treatment of the documents for which Toronto Hydro is claiming confidentiality. Any such submissions must be filed with the Board and delivered to Toronto Hydro and all intervenors on or before **November 11, 2011**. Submissions should comply with the Practice Direction, specifically sections 5.1.6 and 5.1.7.
2. Toronto Hydro shall file with the Board and deliver to all intervenors any reply submissions relating to the confidentiality request, pursuant to section 5.1.8 of the Practice Direction on or before **November 15, 2011**.

All filings to the Board must quote file number EB-2010-0142, be made through the Board's web portal at www.errr.ontarioenergyboard.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.ontarioenergyboard.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:

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4
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ISSUED at Toronto, November 9, 2011

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary