



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.

BEFORE: Ken Quesnelle
Presiding Member

Marika Hare
Member

Karen Taylor
Member

DECISION ON CONFIDENTIAL TREATMENT OF INTERROGATORY RESPONSES

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").

On November 4, 2011, Toronto Hydro filed its interrogatory responses related to the supplementary evidence.

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 provided a description of the basis on which confidentiality was claimed. As an interim measure, the Board allowed any parties that wished 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.

Toronto Hydro stated that the reason for its request was that the information for which confidentiality was claimed related to suite meter unit pricing and suite meter installation costs which had been kept confidential at Toronto Hydro's last rate case given the commercial sensitivity of this information. Toronto Hydro stated that this commercial sensitivity still exists.

On November 9, 2011, the Board issued Procedural Order No. 13 which made provision for submissions regarding the request for the confidential treatment of both interrogatory responses referenced above by November 11, 2011 and reply submissions by Toronto Hydro by November 15, 2011.

No submissions were received.

Board Findings

The Board grants Toronto Hydro's request for confidential treatment of its responses to Board staff interrogatory #5 and CCC interrogatory #2.

In so finding, the Board notes that Toronto Hydro has claimed that the issue of the commercial sensitivity of this information that gave rise to it being afforded confidential treatment in the last rate case, still exists.

The Board further notes that it has, as a rule, not required the exposure of detailed pricing information of this kind where there is potential harm to the competitive bidding process. In addition, the aggregated smart meter costs necessary to the cost allocation exercise arising from this proceeding are on the record. The Board is furthermore of the view that the information for which confidentiality has been claimed can be discussed so as to require very little, if any, *in camera* proceedings or redacted documents.

THE BOARD ORDERS THAT:

1. Toronto Hydro-Electric System Limited's request for confidential treatment of its responses to the following interrogatories is granted:

Board staff interrogatory #5

Consumers Council of Canada interrogatory #2.

2. Parties in receipt of confidential information shall either return the subject information to the Board and communicate to Toronto Hydro-Electric System Limited that they have done so, or destroy the information and execute a Certificate of Destruction, following the closing of the record of this proceeding. The Certificate must be filed with the Board and a copy sent to Toronto Hydro-Electric System Limited.

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
Attention: Board Secretary

Filings: www.errr.ontarioenergyboard.ca
E-mail: Boardsec@ontarioenergyboard.ca

Tel: 1-888-632-6273 (toll free)
Fax: 416-440-7656

ISSUED at Toronto, November 23, 2011

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary