



EB-2009-0063

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 Brantford Power Inc. to the Ontario Energy Board for an Order or Orders approving or fixing just and reasonable rates and other service charges for the distribution of electricity as of May 1, 2008 (EB-2007-0698);

AND IN THE MATTER OF a Motion by Brant County Power Inc. to review and vary the implementation of the Board's Interim Order dated April 21, 2008 in the rates proceeding;

AND IN THE MATTER OF a Motion by Brant County Power Inc. to review and vary the implementation of the Board's Decision dated July 18, 2008 and the Board's Order dated August 29, 2008 in the rates proceeding

BEFORE: Gordon Kaiser
Presiding Member and Vice Chair

Paul Vlahos
Member

Ken Quesnelle
Member

PROCEDURAL ORDER NO. 2

Brant County Power Inc. ("Brant County") filed a Notice of Motion with the Ontario Energy Board on February 25, 2009 for an order or orders varying the Interim Order of

the Board dated April 21, 2008, the Decision of the Board dated July 18, 2008 and the Order of the Board dated August 29, 2008 in the Brantford Power Inc. ("Brantford Power") EB-2007-0698 rates proceeding. The Board has assigned the Notice of Motion file number EB-2009-0063.

The Motion is to seek relief from the impact on Brant County of the rates resulting from the Board's Decision and Orders approving Brantford Power's 2008 rates.

On April 1, 2009, the Board issued its Notice of Motion to Vary and Procedural Order No. 1 in which it stated that it had reviewed the Motion Record, and had decided to grant leave to Brant County, pursuant to Rule 42.02 of the Board's *Rules of Practice and Procedure*, to bring the motion. The Board also noted that it had decided to hear the Motion by way of an oral hearing.

On April 3, 2009 Brantford Power, by way of a letter, requested that the dates in Procedural Order #1 be altered to allow Brantford Power time to consult with its expert in preparation for the hearing. The letter also requested that the Order allow Brantford Power to lead evidence in response to the Motion.

The Board has decided to modify the proceeding schedule set out in Procedural Order No. 1 to allow time for Brantford Power to file evidence in response to Brant County's motion. In order to deal with the motion expeditiously, the Board has decided to hear evidence in chief from all parties in the form of affidavits contained in the motion records. Persons that have sworn affidavits filed with the Board must then be made available for cross-examination at the hearing of the motion.

The Board will now make provision for the following procedural matters. Please be aware that further procedural orders may be issued from time to time.

THE BOARD ORDERS THAT:

1. If it wishes to file further affidavit evidence in chief in support of its motion Brant County should file such evidence by Friday April 17, 2009 and serve a copy on all parties.
2. Brantford Power shall file its responding motion record and affidavit evidence in chief by Tuesday, April 21, 2009 and serve a copy on all parties.

3. Parties may file a factum in response to the Motion by Friday, April 24, 2009 with a copy to all parties.
4. An oral hearing will be convened on Tuesday April 28, 2009 at the Board's offices at 2300 Yonge Street on the 25th floor starting at 9:30 a.m. to hear cross-examination on each party's affidavit evidence in chief and to hear argument and submissions by all parties, including Board Staff. Each party must present for cross-examinations persons that have sworn affidavits filed with the Board in respect of this motion.

All filings to the Board must quote the file number EB-2009-0063, 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. Please 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, you may email your document to the Board through BoardSec@oeb.gov.on.ca. Those who do not have internet access are required to submit all filings on a CD or diskette 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 and be received no later than 4:45 p.m. on the required date.

DATED at Toronto, April 09, 2009.

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

Appendix “A”

**To Decision and Order
On Brant County Power Inc.’s
Notice of Motion**

EB-2009-0063

April 9, 2009

EB-2009-0063

List of Intervenor

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