



EB-2009-0156
EB-2009-0157

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

AND IN THE MATTER OF applications by ERT
Corporation under section 86 of the *Ontario Energy
Board Act, 1998* seeking an order for leave to acquire
the shares of West Perth Power Inc. and Clinton
Power Corporation;

PROCEDURAL ORDER NO. 1

ERTH Corporation (or the “Applicant”) has filed two applications with the Ontario Energy Board, received on May 29, 2009, under section 86(2)(a) of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15 (Schedule B) (the “Act”). The applications request leave of the Board to acquire 100% of the shares of West Perth Power Inc. (“WPPI”) and Clinton Power Corporation (“Clinton Power”). The Board has assigned file number EB-2009-0156 to the application to acquire WPPI and file number EB-2008-0157 to the application to acquire Clinton Power. Pursuant to its authority under section 21(5) of the Act, the Board will consider these applications together through a consolidated hearing.

A Notice of Application and Hearing was issued on July 27, 2009 and published in the affected service areas as directed by the Board on August 10, 2009. No parties registered for intervenor status in this proceeding.

The Board considers it necessary to make provision for the following procedural matters. Please be aware that this Procedural Order may be amended, and further procedural orders may be issued from time to time.

THE BOARD ORDERS THAT:

1. The Applicant shall file with the Board complete responses to Board staff interrogatories, attached to this Procedural Order as Appendix A, no later than September 8, 2009.
2. All filings to the Board must quote file numbers EB-2009-0156 and EB-2009-0157, 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 email 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 Secretary at Boardsec@oeb.gov.on.ca, along with two paper copies.
3. 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, August 27, 2009

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

Appendix A

**Board Staff Interrogatories
ERTH Corporation
Applications for Leave to Acquire
Shares of West Perth Power Inc. and Clinton Power Corporation
File Nos.: EB-2009-0156 and EB-2009-0157**

1. Valuation of the shares

Ref: Section 1.8.1 of application form

In the applications, ERTH Corporation states that valuation of the regulated distributors is based on a methodology that takes an average of the net book value and rate base.

- a. For each of the proposed transactions, please advise of the date on which the valuations were done and provide the rate base at that date for each of the regulated distributors.
- b. Please provide the supporting calculations of the valuation exercise to determine the value of each of the regulated distributors and compare the value obtained to the purchase price. Please comment on the difference between the two numbers, if any.
- c. Is there expected to be any impact on the future rates of either the applicant's currently owned distribution business or the acquired distributors caused by costs associated with the proposed transactions? If so, please describe fully for each distributor.
- d. Is an acquisition premium being paid in the purchase price of either of the proposed transactions? If so, please advise what it is.
- e. Please confirm ERTH Corporation's understanding, as per the August 31, 2005 combined MAADs Decision (EB-2005-0234, EB-2005-0254 and EB-2005-0257) and the *Board's Report on Rate-making Associated with Distributor Consolidation* issued July 23, 2007, that any acquisition premium is not normally recoverable in rates.

2. Costs of the Proposed Transactions

Ref: Section 1.6.7 of application form

- a. What are the costs associated with the proposed transactions? Section 1.6.7 of the Application Form indicates that ERTH Corporation will pay

for legal and valuation expenses incurred by the regulated distributors and their present owners up to a specified maximum. What are the actual costs of the proposed transactions for each of the parties?

- b. Section 1.6.7 of the Application Form refers to “other incremental costs” – please describe what the costs consist of and the quantum.
- c. Please advise whether EARTH Corporation, Erie Thames Powerlines or the distributors to be acquired intend to seek the costs of the proposed transaction to be paid by ratepayers.
- d. Please advise of the date on which each of the proposed transactions is expected to close.