



EB-2009-0308

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

AND IN THE MATTER OF a Notice of Intention to Make an
Order for Compliance against Toronto Hydro-Electric System
Limited.

PROCEDURAL ORDER NO. 2

The Ontario Energy Board (the “Board”), issued a Notice of Intention to Make an Order for Compliance against Toronto Hydro-Electric System Limited (“THESL”) under section 112.3 of the *Ontario Energy Board Act, 1998* (the “Act”) on August 4, 2009. By way of letter dated August 17, 2009, THESL gave notice to the Board requiring the Board to hold a hearing on this matter. THESL also informed the Board that it intends to be present at the hearing, and to adduce evidence and make submissions to defend against the allegations. The Board assigned the proceeding File No. EB-2009-0308.

On August 21, 2009, the Board issued a Notice of Hearing and Procedural Order No. 1 (“PO 1”). In PO 1, the Board determined that it would proceed with the matter by way of an oral hearing on September 24, 2009 and September 25, 2009, if required.

The Electricity Distributors Association (“EDA”) and the Smart Sub-Metering Working Group (“SSMWG”) responded to PO 1 and applied to the Board for permission to participate in the proceeding.

On September 4, 2009, THESL filed a Notice of Motion with the Board seeking a Board order requiring the disclosure and production of:

1. All information that may relate to suite metering or smart metering practices of THESL or third parties, prepared, sent, received or reviewed by or exchanged

with any employee of the Board who was involved in the review and/or investigation of THESL in relation to THESL's smart-metering of condominium units;

2. All communications among the Complainants (Metrogate Inc. Development, Residences of Avonshire Inc., Deltera Inc., and Enbridge Electric Connections Inc.) and sub-meterers or condominium developers addressing the terms on which sub-meterers offer to provide sub-metering to condominium developers in the City of Toronto, including all documentation and records of fees paid by sub-meterers to condominium developers in the City of Toronto; and
3. Materials from the members of the SSMWG, including all proposals made to, and all contracts made with, condominium developers with respect to the installation and operation of sub-meters for condominiums in the City of Toronto.

The Motion also requested an order to establish certain procedural rules for this proceeding.

The Board has determined that it will proceed first with an oral hearing to determine the participation rights of the EDA and SSMWG.

The Board has further determined that it will hear the Motion by way of an oral hearing. The hearing itself will not proceed as originally scheduled in PO 1; a future procedural order will establish new dates.

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. A hearing to determine the standing of EDA and SSMWG to participate in this proceeding will be held at 2300 Yonge Street, 25th floor, Toronto, Ontario in the Board's North Hearing Room on September 18, 2009. The hearing will commence at 9:30 a.m. Any requests for cost eligibility will also be considered at this time.

2. All parties that will be responding to the Motion (including the EDA and SSMWG, if appropriate), shall pre-file their submissions with the Board no later than September 22, 2009.
3. The hearing of the Motion will be held at 2300 Yonge Street, 25th floor, Toronto, Ontario in the Board's North Hearing Room on September 25, 2009. The hearing will commence at 9:30 a.m.
4. All filings to the Board must quote file number EB-2009-0308, 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. 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.
5. All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required dated.

DATED at Toronto, September 11, 2009

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary