



EB-2009-0130

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

AND IN THE MATTER OF a motion by VECC requesting the
Board to review and vary certain aspects of Decision and
Order EB-2008-0233 dated April 6, 2009 and Decision and
Order EB-2008-0226 dated April 17, 2009.

AND IN THE MATTER OF Rules 42, 44.01 and 45.01 of the
Board's *Rules of Practice and Procedure*.

PROCEDURAL ORDER NO. 3

Cost Claims

Innisfil Hydro Distribution Systems Limited ("Innisfil Hydro") filed an application with the Ontario Energy Board under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B as amended, for an order approving or fixing just and reasonable rates for the distribution of electricity, to be effective as of May 1, 2009. The Board assigned file number EB-2008-0233 to the application. The Board issued its Decision and Order related to this application on April 6, 2009.

On April 24, 2009, VECC filed a Notice of Motion to Review and Vary this Decision and Order.

COLLUS Power Corporation ("COLLUS") filed an application with the Ontario Energy Board under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B as amended, for an order approving or fixing just and reasonable rates for

the distribution of electricity, to be effective as of May 1, 2009. The Board assigned file number EB-2008-0226 to the application. The Board issued its Decision and Order related to this application on April 17, 2009.

On April 28, 2009, VECC filed a Notice of Motion to Review and Vary this Decision and Order.

VECC requested that the two motions be heard together due to the similarity of the issues raised by these two appeals.

On May 21, 2009, the Board issued an acknowledgement letter stating that it would hold an oral hearing to consider the threshold question as to whether each of these matters should be reviewed and that a Notice and Procedural Order would be issued in due course.

On June 3, 2009, the Board issued a Notice of Hearing and Procedural Order No. 1 stating that it had determined that it would proceed under Rule 45.01 of the Board's *Rules of Practice and Procedure* to hear, in a joint proceeding for both Notices of Motion, the threshold question of whether each of these matters should be reviewed. The Board further stated that should it determine that the threshold had been met; the Board would also consider the merits of the motion itself.

On June 19th, the Board issued a Decision and Procedural Order making certain determinations related to the scheduling of the hearing and to certain procedural aspects of the hearing based on correspondence filed with the Board by Counsel for Innisfil Hydro and COLLUS ("Innisfil/COLLUS Counsel") and based on letters from other parties responding to Innisfil/COLLUS Counsel's requests.

On July 6th, an oral hearing was held and the Board issued an oral decision in this matter.

On August 25, 2009 the Board issued a Rate Order ordering Innisfil and COLLUS, among other matters, to record the incremental costs arising solely as a result of the VECC motion to review the respective decisions, including any intervenor costs, in a deferral account.

This Procedural Order is therefore intended only to outline the procedure that parties should follow in respect of intervenor cost claims associated with the motion proceeding.

The Board may grant cost awards to eligible stakeholders pursuant to its power under section 30 of the *Ontario Energy Board Act, 1998*. When determining the amount of the cost awards, the Board will apply the principles set out in section 5 of the Board's Practice Direction on Cost Awards. The maximum hourly rates set out in the Board's Cost Awards Tariff will also be applied.

THE BOARD ORDERS THAT:

1. Eligible parties shall submit their cost claims by **October 9, 2009**. The cost claim must be filed with the Board and copies are to be served on each of Innisfil Hydro and COLLUS. The cost claims must be completed in accordance with section 10 of the Board's Practice Direction on Cost Awards.
2. Innisfil Hydro and COLLUS will have until **October 23, 2009** to object to any aspect of the costs claimed. A copy of the objection must be filed with the Board and one copy must be served on the party against whose claim the objection is being made.
3. The party whose cost claim was objected to will have until **October 30, 2009** to make a reply submission. The submission must be filed with the Board and copies must be served on each of Innisfil Hydro and COLLUS.
4. Any filings to the Board must quote file number EB-2009-0130, 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 address below. 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 date.

DATED at Toronto, September 29, 2009
ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary