



EB-2009-0139

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
to be effective May 1, 2010.

DECISION AND PROCEDURAL ORDER NO. 3

Toronto Hydro-Electric System Limited ("Toronto Hydro", or the "Applicant") filed an application, dated August 28, 2009, 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, 2010.

The Board issued a Notice of Application and Hearing dated September 16, 2009.

Procedural Order No.1 was issued on October 19, 2009 and established, among other items, that intervenors were to file any written interrogatories with the Board, and deliver them to the intervenors and the Applicant on or before Friday November 13, 2009. The Applicant was to respond to such interrogatories on or before Monday November 30, 2009.

The Board issued Issues List Decision and Procedural Order No. 2 ("Procedural Order No. 2") on November 10, 2009. In it, the Board approved a Final Issues List and confirmed the schedule for filing interrogatories and responses to interrogatories as set out in Procedural Order No. 1. The Board stated that interrogatories should indicate the issue number to which they relate and all references to Exhibits should be clearly

indicated as to exhibit, tab, schedule, page and if appropriate, line numbers. The Board ordered that written interrogatories and any evidence filed in relation to Toronto Hydro's application must relate to one or more of the issues on the Board approved Issues List.

On November 16, 2009, Toronto Hydro filed a letter with the Board making two requests: (1) that the School Energy Coalition ("SEC") resubmit its interrogatories in the Board-prescribed format and the Applicant be provided with an extension in responding to the revised interrogatories and, (2) the Applicant be granted a two-day extension with respect to the filing of its responses to the interrogatories of the Association of Major Power Consumers in Ontario ("AMPCO") and Energy Probe.

SEC Interrogatories

Toronto Hydro stated that SEC had not filed its interrogatories in the manner prescribed by the Board in Procedural Order No. 2. As such, Toronto Hydro stated it was unable to readily associate SEC interrogatories with the relevant issue on the Approved Final Issues List and would await SEC's revised interrogatories before proceeding to answer them. Toronto Hydro stated that upon receipt of the revised interrogatories it would do its best to answer such interrogatories in a timely fashion, but anticipated there might be a corresponding delay. Toronto Hydro requested an extension with respect to SEC's interrogatories equivalent to the delay it was subject to in receiving them.

On November 16, 2009, SEC responded to Toronto Hydro's letter, disputing its request. SEC stated that it had used the same format in dozens of proceedings over the past few years and that each interrogatory, with the exception of a few standard general ones, had a specific reference to the evidence presented by the Applicant. SEC submitted that it sought the Board's guidance on this matter and if the Board wished it to change its standard interrogatory format, it would do so forthwith, but argued that as no other utility had ever had a problem with the format it used, it seemed unnecessary to make a change at this stage of the proceeding.

Board Findings

The Board finds that SEC's interrogatories have not been filed in conformity with the requirements outlined in Procedural Order No. 2, as they do not state which issue each interrogatory relates to. The Board will not require SEC to refile its interrogatories, but

will require it to identify which issue each interrogatory relates to. SEC is directed to file this information by Friday November 20, 2009.

The Board is, however, of the view that Toronto Hydro should be able to prepare its responses to SEC's interrogatories in advance of its receipt of the above referenced information and accordingly will not grant an extension to the response date for these interrogatories.

AMPCO and Energy Probe Interrogatories

Toronto Hydro stated that it had only received the interrogatories of AMPCO and Energy Probe on Monday November 16, 2009, although they were due by Friday November 13, 2009. Toronto Hydro requested a two-day extension to submit its responses to these interrogatories.

Board Findings

The Board grants this request.

All dates as set out in previous Procedural Orders remain valid, except as amended below.

The Board considers it necessary to make provision for the following matters related to this proceeding. The Board may issue further procedural orders from time to time.

THE BOARD ORDERS THAT:

1. SEC shall file with the Board and deliver to all parties a document identifying for each of its interrogatories which issue on the Approved Final Issues List the interrogatory is related to on or before **Friday November 20, 2009**.
2. Toronto Hydro shall file responses to interrogatories from AMPCO and Energy Probe on or before **Wednesday December 2, 2009**.

All filings to the Board must quote file number EB-2009-0139, 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.

Address

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ISSUED at Toronto, November 17, 2009.

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary