



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. 5

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 November 16, 2009, the Board issued a letter to all parties requesting proposals for procedural steps to bring this process to an oral hearing. The Board received submissions from THESL and Compliance Counsel; each filed a letter on November 18, 2009 and each filed a responding letter on November 19, 2009. The Board reviewed those submissions and determined that it is appropriate to establish a procedure for the filing of evidence and interrogatories in accordance with the Board's standard practice for oral proceedings.

On December 8, 2009, THESL filed a motion requesting an order:

(i) directing the Compliance Team to respond to interrogatories 10 (v) to 10 (viii), and 14 (v) to 14 (vii); and

(ii) if the order is granted, an order granting THESL leave to file supplementary evidence to address the information provided by those interrogatory responses within 7 days of the receipt of the materials.

On December 10, 2009, Compliance Counsel responded to THESL's motion request stating that it should not be precluded from filing materials in response to THESL's motion.

The Board has reviewed the submissions and has determined it appropriate to establish a procedure for the filing of responses to THESL's motion and for the hearing of the motion. The Board considers it necessary to make provision for the following matters related to this proceeding.

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. Compliance Counsel will file any motion material responding to THESL's motion with the Board and delivered to all parties by Wednesday, December 16, 2009.
2. If Metrogate and Avonshire wish to respond to THESL's motion, they may file submissions with the Board and delivered to all parties by Wednesday, December 16, 2009.
3. THESL may file any response to the Compliance Counsel or Metrogate or Avonshire materials with the Board and delivered to all parties by Friday, December 18, 2009.
4. The hearing of this proceeding will be held at 2300 Yonge Street, 25th floor, Toronto, Ontario in the Board's North Hearing Room on December 21, 2009. The hearing will commence at 10:30 a.m.
5. 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 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.

6. 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, December 14, 2009.

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary