



EB-2009-0332

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 Horizon
Utilities Corporation for an order approving the recovery of
certain amounts related to an unforeseen loss of revenue
to be effective January 1, 2010.

NOTICE OF HEARING AND PROCEDURAL ORDER No. 4

Horizon Utilities Corporation (“Horizon”) filed an application with the Ontario Energy Board (the “Board”) on September 3, 2009 under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B), seeking approval for the recovery of certain amounts related to an unforeseen loss of revenue, to be effective January 1, 2010.

The Board issued a Notice of Application and Hearing on September 29, 2009.

On October 23, 2009, the Board issued Procedural Order No. 1 granting the Consumers Council of Canada, Energy Probe, School Energy Coalition, Vulnerable Energy Consumers Coalition, and U.S. Steel Canada Inc. intervenor and cost eligibility status. Procedural Order No. 1 also established dates for the filing of interrogatories and responses to those interrogatories.

On November 5, 2009, the Board issued Procedural Order No. 2 clarifying that although U.S. Steel Canada Inc. had been granted intervenor status, it had not been granted eligibility for cost awards.

On November 27, 2009, the Board issued Procedural Order No. 3, granting Horizon’s request for an extension to the date for filing responses to the interrogatories from

November 26, 2009 to December 1, 2009 and seeking submissions from parties by December 10, 2009 regarding the need for an oral hearing in this proceeding.

On December 1, 2009, Horizon filed its responses to the interrogatories. In so doing, it noted that it was filing certain responses in confidence, in accordance with the Board's *Practice Direction on Confidential Filings* (the "Practice Direction."), specifically:

Board Staff: #1; #2(a); #3; #4; #5; #6; #8(b); and 10(b) and (d)

CCC: #7

Energy Probe: #2(a)

School Energy Coalition: #1; #4; #5; #14 and #15

U.S. Steel Canada Inc.: #4

VECC: #3(b) and (c); #4; #5(b); and #9

In accordance with section 5.1.5 of the Practice Direction, Horizon has filed a cover letter requesting confidentiality which identifies the interrogatory responses that are being filed in confidence, together with a description of the basis on which confidentiality is claimed. As an interim measure, the Board will allow any parties that wish to review the confidential documents to do so after signing a copy of the Board's Declaration and Undertaking, and filing it with the Board. The Board notes that a number of parties have already made submissions on whether or not the Board should ultimately treat the interrogatory responses as confidential in their responses to Procedural Order No. 3. Parties who have not made such submissions, or wish to make additional submissions may do so in accordance with the steps described below.

The Board has determined that it will hold a one-day oral hearing on this application on Thursday January 14, 2010. The Board is of the view that this is the most efficient way of proceeding to allow the Board to reach as expeditious a decision as possible on this application. All parties should be prepared to make oral argument following the conclusion of the evidentiary portion of the hearing. If necessary, this process can continue on Friday January 15, 2010.

The Board will issue a decision on the confidentiality issues prior to the commencement of the oral hearing.

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. Parties wishing to make submissions on the confidentiality status of the subject responses shall file such submissions with the Board and deliver them to Horizon by **December 23, 2009**.
2. If Horizon wishes to respond to any submissions on the confidentiality status of the subject responses, it shall file such submissions with the Board and deliver them to intervenors by **January 6, 2010**.
3. The oral hearing will commence in the Board's hearing room on **Thursday January 14, 2010** at 2300 Yonge Street, 25th Floor, Toronto, at 9:30am. The oral hearing will continue, if necessary, on Friday January 15, 2010.

All filings to the Board must quote the file number, EB-2009-0332, 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.

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, December 17, 2009.

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary