



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. 4

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. It approved a number of intervention requests, established a schedule for the hearing and included a draft issues list for comment by parties.

The Board issued Issues List Decision and Procedural Order No. 2 on November 10, 2009. In Procedural Order No. 2, 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.

On November 17, 2009, the Board issued Decision and Procedural Order No. 3 related to issues regarding interrogatory formats and deadlines.

Procedural Order No. 1 had established that Board staff and intervenors who wished to file evidence shall do so on or before December 10, 2009.

On December 9, 2009, the Smart Sub-Metering Working Group (“SSMWG”), an intervenor in this proceeding, filed a letter with the Board stating that it wished to file evidence, but would not be able to do so until December 15, 2009. SSMWG stated that it had discussed this matter with Toronto Hydro’s counsel and that Toronto Hydro was not opposed to the Board granting a brief extension to the SSMWG such that its evidence would be filed on or before Tuesday December 15, 2009. The Board notes that the SSMWG filed evidence on December 15, 2009. The Board accepts the evidence and establishes revised dates for written interrogatories on this evidence as outlined below.

Also on December 15, 2009, Pollution Probe filed a Notice of Motion requesting the Board direct Toronto Hydro to provide full and adequate interrogatory responses, to Pollution Probe interrogatories 2, 3, 6 and 7. Pollution Probe requested an oral hearing of the motion. However, the Board has determined that it can proceed most expeditiously in this matter by conducting a written hearing of the motion. The dates related to this process are listed below.

The Board notes that settlement discussions on the application are continuing. Procedural Order No. 1 established Wednesday December 23, 2009 as the date for the filing of any settlement agreement and Wednesday January 6, 2010 for the settlement agreement hearing. In light of the ongoing discussions, the Board shall revise these dates to allow more time for parties to continue discussions and to draft any potential agreement, as outlined below.

Pursuant to Procedural Order No. 1, the oral hearing shall commence on February 1, 2010 in accordance with the alternate schedule established to facilitate the filing of intervenor evidence.

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. Board staff and intervenors seeking information and material that is in addition to the SSMWG evidence, and that is relevant to the hearing, shall request the same by written interrogatories filed with the Board and delivered to all intervenors and the Applicant on or before **Wednesday December 30, 2009**.
2. Toronto Hydro and other parties wishing to make submissions on Pollution Probe's motion shall file such submissions with the Board and deliver them to Pollution Probe by **Wednesday December 30, 2009**.
3. Responses by SSMWG to interrogatories on its evidence shall be filed with the Board and delivered to all parties on or before **Friday January 8, 2010**.
4. If Pollution Probe wishes to respond to any submissions on its motion, it shall file such submissions with the Board and deliver them to other parties by **Friday January 8, 2010**.
5. In the event that a settlement is reached, the agreement shall be filed with the Board and delivered to all parties on or before **Friday January 22, 2010**.
6. The oral hearing is confirmed to commence on **Monday February 1, 2010** in the Board's West Hearing Room at 2300 Yonge Street, 25th floor, Toronto, commencing at 9:30 am. In the event that a settlement agreement is filed with the Board, the presentation of the agreement will be made at the commencement of the oral hearing on **Monday February 1, 2010**.

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

The Ontario Energy Board:

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Attention: Board Secretary

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ISSUED at Toronto, December 22, 2009

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary