



EB-2009-0261

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 Chatham-Kent
Hydro Inc. for an order approving just and reasonable rates
and other charges for electricity distribution to be effective
May 1, 2010.

PROCEDURAL ORDER No. 3

Chatham-Kent Hydro Inc. ("Chatham-Kent") filed an application (the "Application") with the Ontario Energy Board (the "Board") on October 5, 2009 under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B) (the "Act"), seeking approval for changes to the rates that Chatham-Kent charges for electricity distribution, to be effective May 1, 2010. The Board has assigned the File Number EB-2009-0261 to this application.

The Board issued a Notice of Application and Hearing on October 21, 2009. In the Notice of Application and Hearing, the Board stated its intention to proceed with its review of this application by way of an oral hearing. However, the Board indicated that it will reassess the requirement for an oral hearing as the record develops through the interrogatory process. The Board issued Procedural Order No. 1 on November 11, 2009, making provision for written interrogatories. Chatham-Kent filed responses to interrogatories between December 23, 2009 and January 12, 2010.

Confidentiality

On December 1, 2009, the Board issued Procedural Order No. 2 which set out a process by which submissions were to be received regarding Chatham-Kent's request for confidential treatment made pursuant to the *Board's Practice Direction on*

Confidential Filings (the “Practice Direction”). The documents for which confidential treatment were requested were:

- A copy of Chatham-Kent Utility Services Inc.’s 2008 Audited Financial Statements (the “CKUSI Audited Financial Statements”); and
- Spreadsheets setting out detailed information with respect to costs related to smart meters (“detailed smart meter costs information”).

Procedural Order No. 2 made provision for submissions by parties objecting to the request for confidential treatment of either or both documents to be filed by December 10, 2009, with any reply by Chatham-Kent to be filed by December 21, 2009. No submissions were received pursuant to Procedural Order No. 2.

With respect to the CKUSI Audited Financial Statements, the Board notes that Chatham-Kent has filed copies of the Audited Financial Statements of Chatham-Kent and of its parent company, Chatham-Kent Energy Inc., on the public record and considers these documents to be more directly relevant to Chatham-Kent’s application than the CKUSI Audited Financial Statements. The Board also notes that there is other information on the record regarding the transactions and costs allocated between Chatham-Kent and its affiliated companies, and that additional information is not necessary. The Board grants Chatham-Kent’s request for confidential treatment of the CKUSI Audited Financial Statements.

With respect to the detailed smart meter costs information, the Board notes that a request for confidential treatment of smart meter costs information was granted by the Board in the Combined Smart Meter Proceeding, Board File No. EB-2007-0063, and that granting such requests has been the Board’s practice in subsequent applications regarding review and disposition of smart meter costs. In particular, the Board granted the request for confidential treatment of smart meter costs in a previous joint application by Chatham-Kent and Middlesex Power Distribution Corporation, Board File No. EB-2008-0155. The Board grants this request for confidential treatment of the detailed smart meter costs information.

The Board also notes that Chatham-Kent has requested confidential treatment of information on incentive compensation which it provided in response to Energy Probe interrogatory # 54 and VECC interrogatories # 2 c) and 7 a). In the interrogatory response to Energy Probe IR # 54, Chatham-Kent indicates “[t]he information has been

filed with the Board confidentially, as it is personal information of an identifiable individual.”

Information filed in the interrogatory responses with a request for confidential treatment is not covered by Procedural Order No. 2, however, the Board notes that it has established policies and practices to protect personal information. Section 2.5.4 of the updated Chapter 2 Filing Requirements for Transmission and Distribution Applications, issued May 27, 2009, states: “Where there are three or fewer employees in any category, the applicant may aggregate this category with the category to which it is most closely related. This higher level of aggregation may be continued, if required, to ensure that no category contains three or fewer employees.”

In this case, there is no higher level of aggregation for the incentive compensation, since Chatham-Kent’s evidence is that there is only one position in the company subject to incentive compensation at this point in time. The Board will not require public disclosure of the incentive payment information filed in confidence with the Board, and grants Chatham-Kent’s request.

The Board does wish to caution Chatham-Kent and all parties that requests for confidential treatment under the Practice Direction should be the exception rather than the rule. The Board expects to conduct its processes transparently and in the public forum, as required by applicable legislation, most notably the Act and the *Statutory Powers and Procedures Act*. The Board’s decision must be supported by the public record of an application and proceeding, and the Board expects that all parties will cooperate to ensure that there is a complete public record.

Next Steps

This Procedural Order addresses the process establishing a technical conference and a settlement conference. After its review of the record following the technical and settlement conferences, the Board will determine the next steps, including whether to proceed to conduct an 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. A transcribed Technical Conference will be convened on **January 26, 2010**, starting at 9:30 a.m. If necessary, the Technical Conference will continue on **January 27, 2010**, starting at 9:30 a.m. The Technical Conference will be held at 2300 Yonge Street, Toronto in the Board's North Hearing Room on the 25th Floor. Parties participating in the Technical Conference are requested file with the Board and copy Chatham-Kent and all other parties, by **January 20, 2010**, a list of issues or questions or matters which they seek to address or seek clarification on at the Technical Conference.
2. A Settlement Conference will be convened on **February 4, 2010**, starting at 9:30 a.m. If necessary, the Settlement Conference will continue on **February 5, 2010**, starting at 9:30 a.m. The Settlement Conference will be held at 2300 Yonge Street, Toronto in the Board's North Hearing Room on the 25th Floor.
3. Any Settlement Proposal arising from the Settlement Conference shall be filed with the Board by **February 15, 2010**. The Settlement Proposal should contain a list of any unsettled issues, identifying those issues that the parties believe must be dealt with by way of written submissions or oral hearing. Parties should also indicate their preference for further steps in this proceeding.
4. Should there not be any settlement arising from the Settlement Conference in item 3 above, the Board finds that an oral proceeding will be convened on **February 16, 2010**, starting at 9:30 a.m. If necessary, the oral proceeding will continue on **February 18, 2010**, beginning at 10:00 a.m. and on **February 19, 2010** beginning at 9:30 a.m. The oral hearing will be held at 2300 Yonge Street, Toronto in the Board's North Hearing Room on the 25th Floor.

All filings to the Board must quote the file number, EB-2009-0261, 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.

ADDRESS

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto ON M4P 1E4
Attention: Board Secretary

E-mail: Boardsec@oeb.gov.on.ca
Tel: 1-888-632-6273 (toll free)
Fax: 416-440-7656

DATED at Toronto, January 15, 2010

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary