



EB-2009-0387

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 Five Nations
Energy Inc. for an Order or Orders pursuant to section 78 of
the *Ontario Energy Board Act, 1998* for 2010 transmission
rates and related matters.

DECISION ON CONFIDENTIALITY AND PROCEDURAL ORDER NO. 3

Five Nations Energy Inc. ("FNEI") filed an Application, dated February 26, 2010, with the Ontario Energy Board (the "Board") under section 78 of the *Ontario Energy Board Act, 1998*, S.O. c.15, (Schedule B). The Board has assigned file number EB-2009-0387 to the Application. The Board issued a Notice of Application dated March 24, 2010. On April 27, 2010 the Board issued Procedural Order No. 1 which set the dates for filing of interrogatories by May 5, 2010 and responses to interrogatories, by May 19, 2010. The Board also noted that after reviewing the interrogatory responses the Board would determine the next steps in this proceeding and whether to conduct an oral hearing or to make provision for written final submissions.

By way of letter dated May 7, 2010, FNEI requested that the date for filing interrogatory responses be extended from May 19, 2010 to May 28, 2010. In Procedural Order No. 2 on May 11, 2010, the Board approved FNEI's request for extension. FNEI indicated by letter of May 28, 2010 that it would be late filing its interrogatory responses, and subsequently filed its responses on June 4, 2010.

Request for Confidentiality

FNEI requested that three interrogatory responses¹ related to load forecast be kept confidential as they contain customer-specific load data. FNEI indicated that the information requested is not public information and FNEI indicated that, in its view, it is prohibited from disclosing this information. No party objected to the request for confidentiality. The Board agrees with the Applicant that the responses filed are of a commercially sensitive nature and will remain confidential.

Hearing Process

The Board received a letter from FNEI addressed to the Chair on May 26, 2010, requesting that the Board consider holding an oral hearing in Attawapiskat. FNEI stated that the communities it served would benefit from efforts to improve understanding of electricity markets and regulation in Ontario. FNEI further suggested that holding the oral phase of the proceeding in one of the communities would help contribute to this understanding. The Board responded by way of letter on June 1, 2010, indicating that FNEI's letter to the Chair would be placed on the public record for the assigned Board panel to consider.

Having received adequate responses to interrogatories the Board does not consider it necessary to make provision for further discovery. At this time the Board will make provision for written argument-in-chief of the applicant and written submissions by intervenors and Board staff. The Board will also provisionally set aside two days for a possible oral hearing to allow for oral reply from FNEI, and questions from the Panel arising from the written submissions. Should it be necessary, this oral phase will be held at the Board's offices in Toronto. The Board notes FNEI's desire to improve understanding in its customer communities and will endeavor to assist the communities through another forum. With respect to this proceeding, the Board will reserve on its decision as to whether an oral hearing to hear reply is necessary until the receipt of arguments from FNEI, intervenors, and Board staff. If the Board decides oral reply is not necessary, it will make provisions for FNEI to file written reply argument.

The Board considers it necessary to make provision for the following procedural matters. Please be aware that further procedural orders may be issued from time to time.

¹ Responses to Board staff interrogatories 21(a), 22(b) and (c), and 23(a), (b), and (c).

THE BOARD ORDERS THAT:

1. The three interrogatory responses for which FNEI has requested confidential treatment [responses to Board staff interrogatories 21(a), 22(b) and (c), 23(a), (b), and(c)] will remain confidential.
2. Any intervenor that wishes to examine the confidential interrogatory responses shall first execute the Board's Declaration and Undertaking and FNEI shall provide the confidential interrogatory responses to the intervenor's counsel or consultant.
3. FNEI shall file with the Board its argument-in-chief and deliver to intervenors no later than **July 5, 2010**.
4. Intervenors and Board staff shall file with the Board their submissions and deliver to the FNEI no later than **July 19, 2010**.
5. The Board, on its determination, may hold an oral hearing on **July 29, 2010 and July 30, 2010** at 9:30 a.m., to hear FNEI's Reply argument in the Board's Hearing Room at 2300 Yonge Street, 25th Floor, Toronto.

All filings to the Board must quote the file number, **EB-2009-0387**, 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, June 23, 2010

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

APPENDIX "A"

**Five Nations Energy Inc.
2010 RATES APPLICATION EB-2009-0387**

APPLICANT & LIST OF INTERVENTIONS

**Five Nations Energy Inc.
EB-2009-0387**

APPLICANT & LIST OF INTERVENORS

June 23, 2010

APPLICANT

Rep. and Address for Service

Five Nations Energy Inc.

Joe Gaboury

Chief Executive Officer
Five Nations Energy Inc.
70-C Mount Joy St. N.
Suite 421
Timmins, ON P4N 4V7

Tel: 705-268-0056
Fax: 705-266-4433
joe.gaboury@fivenations.ca

Ogilvy Renault LLP

Richard King

Ogilvy Renault LLP

Suite 3800, P.O. Box 84
Royal Bank Plaza, South Tower
200 Bay St.
Toronto ON M5J 2Z4

Tel: 416-216-2311
Fax: 416-216-3930
rking@ogilvyrenault.com

INTERVENORS

Energy Probe

Rep. and Address for Service

Peter Faye

Counsel
Independant Participants - General Public
42 Eastwood Crescent
Markham ON L3P 5Z7

Tel: 905-294-2013
Fax: Not Provided
pfaye@rogers.com

**Five Nations Energy Inc.
EB-2009-0387**

APPLICANT & LIST OF INTERVENORS

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June 23, 2010

Energy Probe

Olena Loskutova
Energy Probe
225 Brunswick Ave.
Toronto ON M5S 2M6
Tel: 416-964-9223 Ext: 234
Fax: 416-964-8239
olena.loskutova@gmail.com

David MacIntosh
Case Manager
Energy Probe
225 Brunswick Avenue
Toronto ON M5S 2M6
Tel: 416-964-9223 Ext: 235
Fax: 416-964-8239
DavidMacIntosh@nextcity.com

**Independent Electricity
System Operator**

Carl Burrell
Senior Analyst, Regulatory Affairs
Independent Electricity System Operator
655 Bay Street
Suite 410
Toronto ON M5G 2K4
Tel: 416-506-2858
Fax: 905-506-2847
carl.burrell@ieso.ca

Maia Chase
Independent Electricity System Operator
655 Bay Street
Suite 410, P.O. Box 1
Toronto ON M2G 2K4
Tel: 905-403-6906
Fax: 905-855-6372
maia.chase@ieso.ca