



EB-2010-0184

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B;

AND IN THE MATTER OF a motion by the Consumers Council of Canada in relation to section 26.1 of the *Ontario Energy Board Act, 1998* and Ontario Regulation 66/10.

DECISION AND ORDER

On April 26, 2010, the Ontario Energy Board (the “Board”) received a Notice of Motion from the Consumers Council of Canada regarding the assessments issued by the Board pursuant to section 26.1 of the *Ontario Energy Board Act, 1998* (the “Act”) (the “CCC Motion”).

On July 13, 2010, the Board held an oral hearing to hear argument regarding certain preliminary questions relating to the CCC Motion. In their pre-filed materials relating to the preliminary issues, certain intervenors had made arguments in favour of staying the assessments resulting from the application of section 26.1 of the Act until the CCC Motion itself was heard on its merits. However, no party brought a formal motion to stay the assessments that was supported by evidence. The Attorney General of Ontario argued in its responding materials that the granting of a stay had not been identified by the Board as one of the preliminary issues to be heard on July 13, and that the issue should therefore not be heard that day. In the alternative, the Attorney General of Ontario argued that the test for a stay had not been met, and should therefore be denied.

At the hearing, the Board determined that it would hear argument on the stay issue. After hearing the arguments and reviewing the pre-filed materials, the Board determined that it was not satisfied with the state of the record regarding the stay issue. As the request for a stay had not been made through a fully supported motion, the Board

through Procedural Order No. 4 afforded parties the opportunity to file additional materials, including evidence to support their request for a stay.

On July 19, 2010, Canadian Manufacturers and Exporters filed a notice of motion seeking a stay of the assessments issued on April 9, 2010 until such time as matters pertaining to the constitutional validity of Ontario Regulation 66/10 have been decided on their merits (the "CME Motion"). Several other intervenors adopted their original submissions relating to the stay issue from July 13 and provided some additional comments in support of CME's Motion, and the motion was opposed by the Attorney General of Ontario. The CME Motion was argued before the Board on July 26, 2010.

After considering the arguments and pre-filed materials, the Board has decided to dismiss the CME Motion for a stay. Written reasons will follow.

THE BOARD THEREFORE ORDERS THAT:

1. The CME Motion is dismissed.

ISSUED at Toronto, July 26, 2010
ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary