



**EB-2009-0278**

**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 Algoma Power  
Inc. for an order approving just and reasonable rates and  
other charges for electricity distribution to be effective July 1,  
2010 and January 1, 2011.

### **PROCEDURAL ORDER No. 3**

Algoma Power Inc. (“Algoma Power” or “API”) filed a cost of service application with the Ontario Energy Board (the “Board”) on June 1, 2010, and amended on June 7, 2010, under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15 (Schedule B), seeking approval for changes to the rates for 2010 and 2011 that Algoma Power charges for electricity distribution, to be effective July 1, 2010 and January 1, 2011 respectively. The Board has assigned the application File No. EB-2009-0278.

On July 20, 2010, the Board issued Procedural Order No. 1 which made provision for a technical conference and a settlement conference to be held on August 24, 2010 and August 25, 2010 respectively with the expectation that any Settlement Proposal would be filed by September 8, 2010 and would be orally heard and reviewed by the Board on September 13, 2010.

On September 8, 2010, Algoma Power notified the Board that the parties to the Settlement Proposal would not be in a position to file the Settlement Proposal on September 8, 2010 and requested that the September 13, 2010 review be re-scheduled.

By way of letter dated September 9, 2010 the Board cancelled the September 13, 2010 oral hearing to review the Proposed Settlement. The Board indicated that it expected

that Settlement Proposal would be filed by September 13, 2010 and that any oral hearing to review the Settlement Proposal would occur on Thursday September 16, 2010 in the Board's offices.

Algoma Power filed the Settlement Proposal with the Board on September 10, 2010.

In Procedural Order No.2 issued on September 13, 2010, the Board confirmed that the oral hearing of the Settlement Proposal would occur on September 16, 2010.

The Settlement Proposal, dated September 10, 2010, indicated that the parties to the Settlement agreed on all but three issues. The three unresolved issues are:

- A. What is the appropriate method of calculating the average rate adjustments of other distributors in order to calculate the rate increase for the customers of API, and the remaining amount that is payable under RRRP? ("RRRP Adjustment");
- B. Should API's proposal to recover amounts in Account 1572 Extraordinary Event Costs be approved? ("Extraordinary Event Costs") and;
- C. Should API's proposal to establish a new IFRS Deferral Account be approved? ("IFRS Deferral Account")

#### Review of the Settlement Proposal

At the September 16, 2010 hearing, Board staff indicated its concern with the legal basis of the proposal to reclassify street lighting customers from street lighting to residential, which would then make street lighting eligible for Rural and Remote Rate Protection (RRRP). Board staff, VECC, SEC, Energy Probe and Algoma Power made submissions on the matter.

The Board found that O. Reg.442/01 and O. Reg. 445/07, as written, do not include street lighting customers as a customer class eligible for RRRP. Accordingly, the Board did not accept the Settlement Proposal dated September 10, 2010.

The Board also questioned the proposal to declare Algoma Power's proposed rates, to be effective December 1, 2010, interim as of December 31, 2011.

Parties to the Settlement Proposal agreed to file a Revised Settlement Proposal which would exclude the street lighting proposal. The Revised Settlement Proposal would also include revised rate schedules to reflect \$92,000 in revenue requirement which, under the September 10, 2010 Settlement Proposal, would have been eligible for RRRP. Under the Revised Settlement Proposal, this amount would be largely recovered from street lighting customers.

Parties also agreed that the Revised Settlement Proposal would not include the provision that Algoma Power's rates be declared interim, effective December 31, 2011.

Algoma Power filed the Revised Settlement Proposal, without appended schedules, on September 17, 2010. Algoma Power indicated in its covering letter that Algoma Power, on a best efforts basis, would file the revised schedules by September 29, 2010.

The Board has determined that it will hear the Revised Settlement Proposal on September 29, 2010 at which time all parties to the proceeding, including Algoma Power, the intervenors and Board staff, may make submissions on the Revised Settlement Proposal. The Board expects Algoma Power file the revised schedules which are to be appended to the Revised Proposal by 1:00 pm on September 28, 2010.

#### Unresolved Issues

The Board heard submissions on the parties' views on procedural steps for the three unresolved issues.

Regarding the RRRP Adjustment issue, the Board will proceed by way of written submission. To assist the process, Board staff will prepare and file a report on several options that could be considered to determine the appropriate method of calculating the average rate adjustments of other distributors. Concurrently, Board staff may file a submission on the issue. A Technical Conference will be held, if required, in the event that Algoma Power and the intervenors have questions on the report. Algoma Power and the intervenors will then be afforded the opportunity to file submissions on the issue, including the Board staff report.

Regarding the Extraordinary Event Costs issue, the Board has determined that further examination of the issue is warranted. The Board will hear any further evidence and discovery on this issue at the same oral hearing scheduled for the review of the Revised

Settlement Proposal, being September 29, 2010. Submissions on the issue will be in writing and are to be filed pursuant to this order.

Regarding IFRS Deferral Account issue, the Board has determined to proceed by way of written submissions on the matter and are to be filed pursuant to this order.

Please note that this Procedural Order may be amended, and further procedural orders may be issued from time to time.

**THE BOARD ORDERS THAT:**

1. Algoma Power shall file the revised schedules that are to be appended to the Revised Settlement Proposal by 1:00pm September 28, 2010.
2. The Board shall review the Settlement Proposal on September 29, 2010 at 9:00am at 2300 Yonge Street, Toronto in the Board's hearing room. At this same hearing the Board will also hear evidence on the unresolved issue regarding Extraordinary Event Costs.
3. Intervenors and Board staff wishing to make submissions on the Extraordinary Event Costs issue shall file their submissions by October 8, 2010. Algoma Power shall file its reply submission by October 14, 2010.
4. Board staff will file a report on the RRRP Adjustment issue by September 30, 2010. If Board staff wishes to file a submission on the issue, it shall do so by September 30, 2010. In the event Algoma Power and the intervenors have questions on the report, a Technical Conference will be held on October 6, 2010 starting at 9:00am in the Board's offices. If Algoma Power and the intervenors wish to file submissions on the issue, they shall file such submissions by October 14, 2010.
5. Intervenors and Board staff wishing to make submissions on the IFRS issue shall file their submissions by October 8, 2010. Algoma Power shall file its reply submission by October 14, 2010.

All filings to the Board must quote the file number, EB-2009-0278, be made through the Board's web portal at [www.errr.oeb.gov.on.ca](http://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](http://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 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](mailto:Boardsec@oeb.gov.on.ca)  
Tel: 1-888-632-6273 (toll free)  
Fax: 416-440-7656

**DATED** at Toronto, September 22, 2010

### **ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary