



**EB-2010-0008**

**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 Ontario Power Generation Inc. pursuant to section 78.1 of the *Ontario Energy Board Act, 1998* for an order or orders determining payment amounts for the output of certain of its generating facilities.

### **PROCEDURAL ORDER NO. 11**

Ontario Power Generation Inc. ("OPG") filed an application, dated May 26, 2010, with the Ontario Energy Board under section 78.1 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B (the "Act") seeking approval for increases in payment amounts for the output of certain of its generating facilities, to be effective March 1, 2011.

As part of this proceeding the Canadian Manufacturers & Exporters ("CME") filed interrogatories. Part (a) of CME interrogatory #10 requested the filing of all documents and other information presented to the OPG Board of Directors that led to the decision to revise the application OPG intended to file in mid April (the "documents"). Part (c) of CME interrogatory #10 asked what criteria were applied by OPG's Board of Directors in their review of the application. In response, OPG referred to its response to the Consumers Council of Canada ("CCC") interrogatory #1. That response stated that the requested presentations and reports were privileged and OPG objected to their production. OPG stated that production of the documents, even on a confidential basis, would compromise OPG's ability to litigate the application.

On September 23, 2010, CME filed a notice of motion for an order requiring OPG to provide the documents requested in CME interrogatory #10(a) and to provide a

response to CME interrogatory #10(c), and an order prior to the argument of the motion that the documents be provided to Board members hearing the motion for inspection.

CME requested that its motion be heard together with the motion brought by CCC.

The Board will not order production of the documents at this time. The Board will make provision for submissions on the matter, and will hear the motion on Thursday, September 30, 2010.

#### **THE BOARD ORDERS THAT:**

1. Parties that are in support of the motion shall file their submissions and motion materials on the matter with the Board and deliver them to CME, OPG and all other parties on or before **Friday, September 24, 2010**.
2. Parties that oppose the motion shall file their submissions and motion materials on the matter with the Board and deliver them to CME, OPG and all other parties on or before **Monday, September 27, 2010**.
3. The motion will be heard in the Board's hearing room at 2300 Yonge Street, 25<sup>th</sup> Floor, Toronto, on **Thursday, September 30, 2010** starting at 1:00 p.m. OPG shall bring the subject documents, in sufficient quantities, to the motion hearing in the event that the Board orders the production of the documents.

All filings to the Board must quote file number EB-2010-0008, 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. Parties shall 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, parties may email their documents 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

**ISSUED** at Toronto, September 23, 2010

ONTARIO ENERGY BOARD

*Original signed by*

Kirsten Walli  
Board Secretary