



EB-2010-0137

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 Milton
Hydro Distribution Inc. for an order approving just and
reasonable rates and other charges for electricity
distribution to be effective May 1, 2011.

DECISION ON NOTICE AND PROCEDURAL ORDER NO. 4

BACKGROUND

Milton Hydro Distribution Inc. ("Milton Hydro" or the "Applicant") filed an application with the Ontario Energy Board (the "Board"), received on August 27, 2010 under section 78 of the *Ontario Energy Board Act, 1998* (the "Act") seeking approval for changes to the rates that Milton Hydro charges for electricity distribution, to be effective May 1, 2011.

The Board issued Procedural Order No. 1 on October 19, 2010. On October 27, 2010 the Board issued a Decision on Confidentiality granting Milton Hydro's request for confidential treatment of for detailed smart meter costing information. On November 17, 2010 the Board issued Procedural Order No. 2 granting an extension to Milton Hydro for the filing of interrogatory responses and providing revised dates for a Technical Conference and a Settlement Conference.

DECISION ON NOTICE

In response to concerns regarding the adequacy of notice in this proceeding raised by an individual intervenor, Ms. Shewchun, the Board issued Procedural Order No. 3, which required the Applicant to file evidence regarding the publication of the Notice of

Application for this proceeding in the Milton Canadian Champion. The Board also allowed for any responding submissions to be filed by December 9, 2010.

On December 7, 2010 Milton Hydro filed the Metroland 2010 Readership Study (“the Study”) which provided information regarding the publication, receipt and readership of the Milton Canadian Champion, the newspaper in which Milton Hydro published the Board’s Notice of Application in this matter. Based on the information provided in the Study, Milton Hydro stated that the Milton Canadian Champion has a receipt and readership level exceeding 95%. The Applicant further stated that the newspaper with the next highest receipt and readership is the Toronto Star with a readership level of 49%. Milton Hydro submitted that:

The Milton Champion is delivered to each household and apartment in the Town of Milton, Campbellville and surrounding rural areas. Milton Hydro currently serves 26,200 residential customers. The current circulation of the Thursday edition of the Milton Champion exceeds 27,600 papers. The Milton Champion has also confirmed that the circulation on September 23rd would also have exceeded 27,600 newspapers.

...

...the Milton Canadian Champion is the appropriate newspaper in which to publish all notices and information as it pertains to the business operations of Milton Hydro. The purpose and intent of publishing notification and information is to reach the majority of Milton Hydro’s customers and the Milton Canadian Champion provides the means to do so.

The Board received two submissions from Ms. Shewchun stating, among other things, that the Milton Canadian Champion is a free newspaper and to publish in a free local newspaper is in contravention of the Act and the Board’s own directive to Milton Hydro dated September 15, 2010. Ms. Shewchun requested that the Board suspend the current hearing, until such time that Milton Hydro complies with the Act and the Letter of Direction issued September 15, 2010.

The Board notes that section 21 (2) of the Act states:

Subject to any provision to the contrary in this or any other Act, the Board shall not make an order under this or any other Act until it has held a hearing after giving notice ***in such manner and to such persons as the Board may direct.*** [Emphasis added]

There are no specific statutory requirements regarding notice, other than the requirement that notice be provided “in such manner and to such persons as the Board may direct.” In particular, there is no statutory requirement that notice be provided in a newspaper or in a paid newspaper.

The Board also notes that the Board’s Letter of Direction, dated September 15, 2010 required, among other things, for Milton Hydro:

To arrange immediately for the enclosed English version of the Notice, headed with the Ontario government logo and the words “Ontario Energy Board”, to be published in one issue of the English language newspaper having the highest paid circulation, according to the best information available, in Milton Hydro Distribution Inc.’s service area.

The Board agrees with Ms. Shewchun that Milton Hydro has failed to comply with the Board’s direction by publishing the Notice of Application in an unpaid newspaper. The Board has, however, reviewed the evidence filed by Milton Hydro, in respect of the receipt and readership of the Milton Canadian Champion and is satisfied that by publishing in the Milton Canadian Champion, Milton Hydro has complied with the intent of the Board’s direction, which is to reach the greatest number of customers in the Applicant’s service area. The Board finds that adequate notice has been given in this proceeding. As permitted by section 5.01 (a) of the Board’s Rules of Practice and Procedure, the Board approves publication of the notice in The Milton Canadian Champion.

PROCEDURAL ORDER No. 4

On December 8, 2010 a Settlement Conference was convened in accordance with Procedural Order No. 2. The Settlement Conference concluded on December 9, 2010. Procedural Order No. 2 requires that any settlement proposal arising from the Settlement Conference be filed with the Board no later than December 20, 2010.

The Board notes that any party that does not agree with the settlement of one or more of the issues is entitled to offer evidence in opposition to the settlement proposal and to cross-examine on the issue at the 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:

Any party that wishes to file evidence or make a submission regarding the Settlement Proposal shall file such evidence or submission with the Board no later than **January 5, 2011**.

All filings to the Board must quote the file number, EB-2010-0137, 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. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.oeb.gov.on.ca/OEB/Industry. 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.

DATED at Toronto, December 13, 2010

ONTARIO ENERGY BOARD

Original signed by

Cathy Spoel
Presiding Member