



EB-2010-0295

IN THE MATTER OF a proceeding initiated by the Ontario Energy Board to determine whether the costs and damages incurred by electricity distributors as a result of the April 21, 2010 Minutes of Settlement in the late payment penalty class action, as further described herein, are recoverable from electricity distribution ratepayers, and if so, the form and timing of such recovery.

PROCEDURAL ORDER NO. 3

On October 29, 2010 the Ontario Energy Board (the “Board”) issued a Notice of Proceeding on its own motion to determine (i) whether Affected Electricity Distributors should be allowed to recover from their ratepayers the costs and damages incurred in the Late Payment Penalty Class Action (“LPP Class action”), and if so, (ii) the form and timing of such recovery. This proceeding was commenced pursuant to sections 19 and 78(2) of the *Ontario Energy Board Act, 1998* and the Board has assigned File no. EB-2010-0295 to this proceeding.

For purposes of this proceeding, “Affected Electricity Distributors” means licensed Ontario electricity distributors that were named as defendant class members in Schedule F of the Minutes of Settlement, dated April 21, 2010.

On December 17, 2010, the Board issued Procedural Order No. 1, which set out, amongst other things, the case timetable.

On January 13, 2011 the Board issued Procedural Order No. 2 in which it deferred the date for filing argument-in-chief from January 17, 2011 to January 20, 2011.

On January 14, 2011, School Energy Coalition (“SEC”) filed two separate Notices of Motion (“Motions”) in relation to the interrogatory responses provided by the Electricity Distributors Association (“EDA”) and Toronto Hydro Electric System Limited (“THESL”) to certain interrogatories of SEC. Specifically, SEC sought an order of the Board directing the EDA to provide the material requested in SEC interrogatories 2,3,4, 5 and 6 and an order of the Board directing THESL to provide material requested in SEC interrogatory 2 and 3. SEC proposed the Motions be dealt with either orally or by written submissions.

The Board has determined that it can proceed most expeditiously in this matter by conducting a written hearing of the motions. Accordingly, the Board has decided to defer the date for filing argument-in-chief. The dates are listed below.

The dates for submissions and final reply ordered in Procedural Order No. 1 remain unchanged.

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.

THE BOARD ORDERS THAT:

1. The EDA, THESL and other parties wishing to make submissions on SEC’s motions shall file such submissions with the Board by **January 19, 2011**.
2. If SEC wishes to respond to any submissions on its motions, it shall file such submissions with the Board by **January 21, 2011**.
3. Depending on the outcome of the Motions, the EDA and THESL should be prepared to file argument-in-chief by **January 26, 2011**.
4. The events commencing with item 4, ordered in Procedural Order No. 1 remain unchanged.

The Board reminds all parties that due to the number of Affected Electricity Distributors involved in this proceeding, the Board will not require parties to file materials with all other parties. As such, all parties will be required to regularly

consult the Board's website at <http://www.oeb.gov.on.ca/html/EB-2010-0295> to gain access to any newly filed materials in this case.

All filings to the Board must quote the file number, EB-2010-0295, be made through the Board's web portal at www.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 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, January 17, 2011

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary