



ONTARIO ENERGY BOARD
STAFF SUBMISSION
TOWNSHIP OF KING
EB-2011-0024

MOTION FOR LEAVE TO BRING A MOTION TO REVIEW
AND
MOTION TO REVIEW AND VARY THE BOARD'S DECISION IN
EB-2009-0187

February 17, 2011

Background

The Township of King ("Township") filed with the Ontario Energy Board (the "Board") on January 24, 2011, a Motion for Leave to bring a Motion to Review under Rule 42 of the Board's *Rules of Practice and Procedure*. The Motion by the Township consists of: (1) a "Motion for Leave to bring a Motion to Review" (the "Leave Motion") which, if granted, would allow the Township to bring a Motion for a Review of the Board's Decision and Order EB-2009-0187 dated April 5, 2010; and (2) a "Motion for Review" request for a review of the Board's Decision and Order in EB-2009-0187 dated April 5, 2010 and for an oral hearing of the review of the Decision. The Board has assigned both requests file number EB-2011-0024.

On February 9, 2011 the Board issued a Notice of Motion for Leave to Bring a Motion to Review and Motion to Review and Vary the Board's Decision in EB-2000-0187 and Procedural Order No. 1 (the "Notice"). The Board adopted as intervenors in this proceeding, the intervenors and any other parties of record from the EB-2009-0187 proceeding.

As set out in the Notice the Board determined that it would proceed with a written hearing and that it wished to receive submissions from the parties on the question of whether the Township should be granted leave to bring a motion to review the Decision in EB-2009-0187.

The purpose of this submission by Board staff is to assist the Board with respect to the question of whether the Township should be granted leave to bring a motion to review the Decision in EB-2009-0187.

Late Filing of the Motion

Pursuant to Rule 42.02 of the Board's Rules of Practice and Procedure (the "Rules") the Township must obtain leave of the Board before it may bring a motion to review. Rule 42.03 provides that a motion for review shall be filed and served within twenty calendar days of the date of the order or decision. Specifically, the Rule provides as follows:

42.01 Subject to Rule 42.02, any person may bring a motion requesting the Board to review all or part of a final order or decision, and to vary, suspend or cancel the order or decision.

42.02 A person who was not a party to the proceeding must first obtain the leave of the Board by way of a motion before it may bring a motion under Rule 42.01.

42.03 The notice of motion for a motion under Rule 42.01 shall include the information required under Rule 44, and shall be filed and served within 20 calendar days of the date of the order or decision.

If a party is unable to meet the timelines as set by the Rules, then Rule 7.03 of the Rules require the party to notify the Board Secretary as soon as possible before the time limit has expired. Board staff notes that the Decision which is the subject of the proposed Motion to Review was issued on April 5, 2010. The Township filed its Motion to Review with the Board Secretary on January 24, 2011.

As noted in the Board's Decision in EB 2007-0771 (Milton Hydro Distribution Inc.), at para 14:

When considering whether or not to extend timelines which are stipulated in the Rules, the Board must be satisfied that the circumstances underpinning the request justify the exercise of the Board's discretion to do so, or that it is otherwise in the public interest to do so."¹

All of which is respectfully submitted.

¹ Milton Hydro Distribution Inc. (Re) (EB 2007-0771) 2008 LN0NOEB 24