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**BY E-MAIL**

April 20, 2011

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, Suite 2700  
Toronto ON M4P 1E4

Dear Ms. Walli:

**Re: Enersource Hydro Mississauga Inc. - Exemption from Mandated Time of  
Use Pricing Date for Regulated Price Plan Consumers  
Board File No.: EB-2011-0028**

Please find enclosed Board Staff's submission on the request for confidentiality respecting the above application.

Please forward the submission along with this cover letter to the applicant in this proceeding.

Yours truly,

*Original signed by*

George Dimitropoulos  
Analyst, Licence Applications

Attachment



## **ONTARIO ENERGY BOARD**

### **BOARD STAFF SUBMISSION ON CONFIDENTIALITY REQUEST FOR INTERROGATORY RESPONSES**

**Application for Exemption from Mandated Time of Use  
Pricing Date for Regulated Price Plan Consumers**

**Enersource Hydro Mississauga Inc.**

**EB-2011-0028**

April 20, 2011

## BACKGROUND

Enersource Hydro Mississauga Inc. ("Enersource") applied on January 28, 2011 for an exemption from its mandatory Time-of-Use ("TOU") date of June 2011 for Regulated Price Plan consumers. On March 16, 2011 Enersource submitted an amendment to its application (the "Application Amendment").

Enersource is seeking an indefinite exemption from their June 2011 TOU date. Originally, Enersource requested a new date of May 2012, but in its Application Amendment it stated that three prerequisite conditions for Enersource to be able to complete implementation of TOU rates by May 2012 have not yet materialized.

The Board issued a Notice of Application and Hearing on February 25, 2011. Board staff filed interrogatories on the application on March 25, 2011. Enersource responded to these interrogatories on April 8, 2011.

This submission is being provided by Board staff following Enersource's request that the interrogatory responses be treated as confidential due to the responses containing commercially sensitive information.

## STAFF SUBMISSION

Board staff has reviewed the interrogatory responses and does not agree that the interrogatory responses should be treated as confidential without further submissions from Enersource.

Board Staff notes that section 10 of the Board's *Rules of Practice and Procedure* and section 4 of the Board's *Practice Direction on Confidential Filings* ("*Practice Direction*") set out a process for confidentiality requests which has not been followed by the applicant in this proceeding.

The *Practice Direction* emphasizes the need to balance the protection of confidential information with the general policy that all records should be open to the public and that all proceedings should be open, transparent and accessible.

Section 5 of the Board's *Practice Direction* places the onus on the party seeking confidential treatment and states:

*“The onus is on the person requesting confidential treatment to demonstrate to the satisfaction of the Board that confidential treatment is warranted in any given case. It is also the expectation of the Board that parties will make every effort to limit the scope of their requests for confidentiality to an extent commensurate with the commercial sensitivity of the information at issue or with any legislative obligations of confidentiality or non disclosure, and to prepare meaningful redacted documents or summaries so as to maximize the information that is available on the public record. This will provide parties with a fair opportunity to present their cases and permit the Board to provide meaningful and well-documented reasons for its decisions.”*

Since the applicant has not made a request in accordance with the *Practice Direction* Board staff cannot identify which material in the interrogatory responses contains information that the applicant claims is proprietary, contains sensitive information or the disclosure of which would prejudice the applicant. The Applicant has not filed a redacted version of its interrogatory responses or a descriptive summary of its interrogatory responses, as required by the *Practice Direction*, such that, if the Board did agree to confidential treatment for specific information, a redacted version could be placed on the public record.

Board staff submits that, unless Enersource can clearly demonstrate how and why the disclosure of the information provided will cause prejudice, the confidentiality request for the interrogatory responses as noted in this submission, should be denied.

All of which is respectfully submitted.