



EB-2011-0212

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 the Ontario
Waterpower Association pursuant to section 74(1)(b) of the
Ontario Energy Board Act, 1998 to amend Hydro One
Networks Inc.'s Electricity Distribution Licence ED-2003-
0043 to exempt Hydro One from sections 6.2.4.1(e)(i) and
6.2.18(a) of the Distribution System Code in respect to
waterpower generation facilities;

AND IN THE MATTER OF a Motion by the Ontario
Waterpower Association pursuant the Board's *Rules of
Practice and Procedure* for a review by the Board of its
decision in EB-2011-0067 dated May 5, 2011.

**NOTICE OF MOTION FOR REVIEW AND
PROCEDURAL ORDER NO. 1**

THE MOTION

On May 25, 2011, the Ontario Water Power Association filed a Notice of Motion with the Ontario Energy Board (the "Board") seeking an Order or Orders of the Board varying the Decision of the Board dated May 5, 2011 in EB-2011-0067.

The Motion is a request for:

- (a) Re-inserting paragraph 7 of Exhibit K2.1 into the exemption granted by the Board as part of the Decision; and
- (b) Such other relief as the Board deems appropriate.

The Board has assigned file number EB-2011-0212 to this proceeding.

BACKGROUND

On May 5, 2011 the Board made an oral decision and order with respect to an application filed by the Ontario Waterpower Association (the "OWA" or the "Applicant") under section 74(1)(b) of the *Ontario Energy Board Act, 1998* (the "Act") to amend the distribution licence of Hydro One Networks Inc. ("Hydro One") to exempt Hydro One from sections 6.2.4.1(e)(i) and 6.2.18(a) of the Distribution System Code (the "DSC") for waterpower generation facilities and to substitute a special rule for waterpower generation facilities.

The Board amended Hydro One's licence to exempt Hydro One from section 6.2.18(a) of the DSC with respect to hydroelectric projects with a nameplate capacity of 10 megawatts or less, that are located on provincial, Crown or federally-regulated lands, and which are connected to the distribution system owned by Hydro One. Instead of conformity with section 6.2.18(a) of the DSC, for hydroelectric projects that met the criteria set by the Board, the Board accepted a proposed connection cost payment schedule agreed to between OWA and Hydro One filed as Exhibit K2.1 in the proceeding. Exhibit K2.1 consisted of six paragraphs. The Board requested that the Applicant update Exhibit K2.1 to reflect the Board's decision and file it with the Board.

On May 6, 2011, the Applicant filed a letter with the Board along with the updated version of Exhibit K2.1. An additional paragraph, paragraph 7, was added to the updated version of Exhibit K2.1 which provided:

Proponents shown on Undertaking Response J1.2 who already paid a 100 per cent deposit prior to May 5, 2011, as required by their Connection Cost Agreement entered into with Hydro One, shall receive a refund from Hydro One in the amount that exceeds the amounts required in paragraphs 1 through 5 above. Hydro One shall pay the said refund to each of the said proponents no later than 30 days after the applicable proponent has entered into a revised Connection Cost Agreement with Hydro One, setting out the payment schedule required herein.

On May 10, 2011, the Board issued a letter indicating that "Except for paragraph 7, the Board accepts the updated version of Exhibit K2.1." The Board stated that: "The effect of the Board's Decision and Order was not meant to be extended to those waterpower projects that had paid the full 100% deposit."

The Board considers it necessary to make provisions for the following matters related to this proceeding. The Board may issue further procedural orders from time to time.

THE BOARD THEREFORE ORDERS THAT:

1. OWA shall, if it has any additional submissions, file with the Board and serve on all intervenors in proceeding EB-2011-0067 its written submissions with respect to the Motion by **June 8, 2011**.
2. Intervenors and/or Board staff wishing to file responding submissions shall file such submissions with the Board and serve on OWA and all intervenors by **June 15, 2011**.
3. The Board will hear oral argument on the Motion on **June 28, 2011**. The oral hearing will commence at 9:30 am in the Board's hearing room at 2300 Yonge St., 25th floor, Toronto, Ontario.

All filings to the Board must quote file number EB-2011-0212, be made through the Board's web portal at www.errr.ontarioenergyboard.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.ontarioenergyboard.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.

Attention: Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Filings: www.errr.ontarioenergyboard.ca
E-mail: boardsec@ontarioenergyboard.ca

Tel: 1-888-632-6273 (toll free)
Fax: 416-440-7656

ISSUED at Toronto, **June 1, 2011**

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary