



**EB-2010-0184**

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B;

**AND IN THE MATTER OF** a motion by the Consumers Council of Canada in relation to section 26.1 of the *Ontario Energy Board Act, 1998* and Ontario Regulation 66/10.

### **PROCEDURAL ORDER NO. 10**

#### **Background**

On April 26, 2010, the Ontario Energy Board (the "Board") received a Notice of Motion from the Consumers Council of Canada ("CCC") regarding the assessments issued by the Board pursuant to section 26.1 of the *Ontario Energy Board Act, 1998* (the "Act") (the "Motion").

On May 11, 2010, the Board issued a Notice of Hearing and Procedural Order No. 1 (the "Notice") stating that before determining whether or not it would hear the Motion, the Board intended to hear argument on a number of preliminary questions that were set out in the Notice.

The intervenors in this proceeding are: Canadian Manufacturers & Exporters ("CME"); the Industrial Gas Users Association; Toronto Hydro Electric System Limited; Vulnerable Energy Consumers Coalition, Enbridge Gas Distribution Inc.; Union Gas Limited; and the Association of Power Producers of Ontario.

On July 13, 2010, the Board held an oral hearing to address the preliminary questions set out in the Amended Notice.

On July 19, 2010, CME filed a notice of motion seeking a stay of the assessments issued by the Board on April 9, 2010 until such time as matters pertaining to the

constitutional validity of Ontario Regulation 66/10 have been decided on their merits (the "CME Motion"). The CME Motion was argued before the Board on July 26, 2010. The Board issued a Decision and Order (without reasons) later that day dismissing the CME Motion.

On August 5, 2010, the Board issued its Decision with Reasons on the preliminary issues as well as the reasons for the dismissal of the CME Motion.

In accordance with Procedural Order No. 6, on November 5, 2010, counsel for the Attorney General of Ontario filed with the Board the affidavit of Mr. Barry Beale. On November 16, 2010, Mr. Beale was examined by counsel for CCC and by counsel for a number of other intervenors in the proceeding. During the examination of Mr. Beale, counsel for the Attorney General of Ontario took some questions under advisement.

On January 31, 2011, counsel for CCC filed a Notice of Motion (the "Procedural Motion") with the Board. The Procedural Motion was for the following orders of the Board:

1. An Order for the production of complete and unredacted copies of the documents provided in response to questions taken under advisement during the examination of Mr. Barry Beale on November 16, 2010, unredacted;
2. An Order compelling the re-attendance of Mr. Beale to answer further questions arising from the production of the unredacted documents referred to in paragraph 1; and
3. Such other and further relief as the CCC may request and the Board may grant.

The Procedural Motion was argued before the Board on April 21, 2011. On June 8, 2011, the Board issued its Decision and Order (the "June 8th Decision") in relation to the Procedural Motion which required the Attorney General of Ontario to file with the Board and serve on intervenors in this proceeding copies of the unredacted documents in accordance with the June 8th Decision by June 14, 2011.

On June 9, 2011, Counsel for the Attorney General of Ontario filed a letter with the Board, in which it requested an extension to the date by which it has to comply with the June 8<sup>th</sup> Decision to July 8, 2011. This request is made to allow counsel for the Attorney General of Ontario to receive instructions on whether to appeal all or part of the June 8<sup>th</sup> Decision to the Divisional Court.

On June 9, 2011, CCC filed a letter in which it opposed the request for an extension, citing the already significant delays in this proceeding.

The Board finds it appropriate to grant a short extension.

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. The date in paragraph 1 of the Order part of the June 8<sup>th</sup> Decision is extended to **June 30, 2011.**

All filings to the Board must quote file number EB-2010-0184, be made through the Board's web portal at [www.errr.ontarioenergyboard.ca](http://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](http://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.oeb.gov.on.ca](http://www.errr.oeb.gov.on.ca)  
E-mail: [Boardsec@oeb.gov.on.ca](mailto:Boardsec@oeb.gov.on.ca)

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

**ISSUED** at Toronto, June 13, 2011

**ONTARIO ENERGY BOARD**

*Original Signed By*

Kirsten Walli  
Board Secretary