



**EB-2011-0099**

**IN THE MATTER OF** a proceeding initiated by the Ontario Energy Board to set distribution rates for E.L.K. Energy Inc.

**NOTICE OF PROCEEDING AND  
ORDER RESPECTING INTERIM RATES**

The Ontario Energy Board has commenced a proceeding on its own motion to make an order fixing just and reasonable rates for E.L.K. Energy Inc. ("E.L.K."). The Board has assigned this proceeding File No. EB-2011-0099. The proceeding is commenced pursuant to sections 19 and 78 of the *Ontario Energy Board Act, 1998*.

The Board issued a letter on March 1, 2011 identifying a list of distributors that are expected to file a cost of service application in respect of their 2012 rates. E.L.K. is one of the distributors identified on the list.

The Board received a letter from E.L.K on March 30, 2011 requesting that it be permitted to defer the rebasing of its rates beyond the 2012 rate year. The Board issued a response letter on June 17, 2011 requesting that E.L.K. provide certain information related to the amount by which E.L.K.'s return has exceeded the level of return that underpins E.L.K.'s rates, for 2009 and 2010. The letter also requested that if the return levels for these two years are confirmed to be materially above the level that underpins E.L.K.'s rates, to explain why E.L.K. believes it is nonetheless appropriate for the Board to defer rebasing of E.L.K.'s rates.

On June 28, 2011, E.L.K. filed a letter confirming that the levels of return were above the level that underpins E.L.K.'s rates by approximately 700 basis points. E.L.K. also provided reasons for why it should be permitted to nonetheless be allowed to defer rebasing to beyond 2012.

On July 18, 2011, the Board issued a response to E.L.K. denying E.L.K.'s request for a deferral and noting that the Board would commence a proceeding to review E.L.K.'s rates on a cost of service basis in light of the information provided by E.L.K. with respect to its earnings. The Board also noted that it intended to declare E.L.K.'s rates as interim pending the hearing of the application to be filed by E.L.K.

The Board reminds E.L.K. that the deadline for filing cost of service applications for 2012 rates is August 26, 2011 and that it is the Board's expectation that E.L.K. will file its next rate application in a timely manner.

The Board notes that an additional notice will be issued to all parties that may be affected by this proceeding once E.L.K.'s complete application is filed. The Board is declaring E.L.K.'s current rates to be interim from the date of this order. This will allow (though not require) the Board to set the effective date of any new rates ultimately arising from this proceeding at the date of this order; in other words to retrospectively apply the new rates. The ultimate decision on the effective date of new rates will not be made until the end of the proceeding, and all parties will be entitled to make submissions on the appropriate date.

It is also the Board's expectation that the issue of any over earnings for the remainder of the 2011 rate year, and the appropriate remedy (if any) to such overearnings will be an issue that may be explored in E.L.K.'s application.

This proceeding will be held in abeyance pending the filing by E.L.K.

**THE BOARD ORDERS THAT** E.L.K. Energy Inc.'s current Tariff of Rates and Charges shall be made interim as of July 18, 2011.

**DATED** at Toronto, July 18, 2011

**ONTARIO ENERGY BOARD**

*Original Signed By*

Kirsten Walli  
Board Secretary