



EB-2012-0006

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

AND IN THE MATTER OF an appeal under section 7 of the
Ontario Energy Board Act, 1998 of a Decision and Order of
the Board in EB-2011-0291, regarding an application by
EnWin Utilities Ltd. to amend its Electricity Distribution
Licence.

PROCEDURAL ORDER NO. 1

On December 12, 2011, the Board issued a decision and order in EB-2011-0291 (the "Order") amending EnWin Utilities Ltd.'s ("EnWin") electricity distribution licence, ED-2002-0527, to exempt EnWin from sections 2.6.6 and 2.6.6.3 of the Distribution System Code until January 1, 2013. The Order was made by an employee of the Board pursuant to section 6(1) of the *Ontario Energy Board Act, 1998* (the "Act").

On December 27, 2011 Mr. Potomski (a customer of EnWin who had filed letters of comment in the EB-2011-0291 proceeding), filed a notice with the Board, advising of his intention to appeal the Order under section 7 of the Act and stating "the appellant's requests will follow" and "the appellant's grounds will follow". On January 4, 2012, Mr. Potomski filed a notice of appeal, describing the nature of the relief sought, and the grounds relied upon.

On January 5, 2012 EnWin responded to the notice of appeal by seeking procedural direction from the Board in respect of whether the materials filed by Mr. Potomski will be considered by Board staff or the Board itself in any fashion. EnWin reserved the right to raise preliminary procedural issues, including whether Mr. Potomski has standing to appeal the Order.

On January 16, 2012 Mr. Potomski responded to EnWin and requested that the matter be heard by a panel of the Board and not by an employee of the Board delegated that authority by section 6(1) of the Act. Mr. Potomski is seeking an interim stay of the Order, pending a final disposition of the appeal, and requests that an oral hearing take place in the City of Windsor.

The appeal of the Order will be heard by a two member panel of the Board. Prior to hearing the appeal, however, the Board will first determine the following preliminary issues:

- i) Whether Mr. Potomski has standing to appeal the Order;
- ii) Whether the appeal was made in accordance with the requirements of the Act and the Board's Rules of Practice and Procedure and, if not, whether the Board should still review the Order;
- iii) Whether to issue an interim order staying the Order until the appeal is disposed of; and
- iv) Whether to hear the appeal in writing or orally.

The Board will hear these preliminary issues in accordance with steps outlined below. Please note that this Procedural Order may be amended, and further procedural orders may be issued from time to time.

THE BOARD ORDERS THAT:

1. Mr. Potomski shall file a written submission on the preliminary issues with the Board and deliver it to EnWin by **January 31, 2012**.
2. EnWin shall file a written submission on the preliminary issues with the Board and deliver it to Mr. Potomski by **February 7, 2012**.
3. Mr. Potomski shall file a written reply to EnWin's written submission and file it with the Board and deliver it to EnWin by **February 14, 2012**.

All filings to the Board must quote the file number EB-2012-0006, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format made through the Board's web portal at www.errr.ontarioenergyboard.ca. Filings must clearly state the sender's name, postal address and telephone number and e-mail address. Parties should 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 parties may email their documents 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.

Addresses

The Board

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

Tel: 1-877-632-2727 (toll free)
Fax: 416-440-7656
E-mail: Boardsec@ontarioenergyboard.ca

The Appellant

P.O. Box 21117
Windsor, Ontario
N9B 3T4
Attention: Mr. R.J. Potomski

Tel: 248-677-6482
Fax: 877-702-8993
E-mail: rip@potomski.com

The Applicant

EnWin Utilities Ltd.
P.O.Box 1625 Stn A
787 Oulette Ave
Windsor ON N9A 5T7
Attention: Mr. Andrew J. Sasso

Tel: 519-255-2735
Fax: 519-973-7812
E-mail: regulatory@enwin.com

DATED at Toronto, January 24, 2012

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary