

ONTARIO ENERGY BOARD

IN THE MATTER OF the Ontario Energy Board Act,
1998, S.O. 1998, c. 15, Schedule B;
AND IN THE MATTER OF the Electricity Act, 1998,
S.O. 1998, c. 15, Schedule A;
AND IN THE MATTER OF the Statutory Powers
Procedure Act, R.S.O. 1990, c. S.22;
AND IN THE MATTER OF the Collection Agencies Act,
R.S.O. 1990, c. C.14;
AND IN THE MATTER OF the an application pursuant
to section 74 of the Ontario Energy Board Act, 1998,
S.O. 1998, c. 15, Schedule B; by Enwin Utilities Ltd. to
amend its Electricity Distribution Licence ED 2002-0527

B E T W E E N :

R. J. POTOMSKI

Appellant
(Affected Person/Consumer)

and

JENNIFER LEA

Respondent
(Employee of the Board)

and

ENWIN UTILITIES LTD.

Respondent
(Applicant)

**SUBMISSIONS OF R. J. POTOMSKI
ON PRELIMINARY ISSUES**

THE AFFECTED PERSON/CONSUMER, R. J. POTOMSKI, makes the following
submissions pursuant to the order of the Ontario Energy Board, dated January 24,
2012:

1. **Whether Mr. Potomski has standing to appeal the Order:**

- a. Mr. Potomski meets the criteria stated at Section 7 of the Ontario Energy Board Act.

2. **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:**

- a. The Appellant has complied with the statutes and regulations related to the appeal of the decision made by an employee of the Ontario Energy Board, dated December 12, 2011 (the Decision).
- b. The Appellant served and filed his Notice of Appeal on December 27, 2012 in a timely fashion as required.
- c. The Appellant has not directly or indirectly submitted a Request to Review the Decision.
- d. The Board's Management Committee has not requested the Board to review the Decision within the timeline required by the Ontario Energy Board. As such the OEB can not review the Decision.

3. **Whether to issue an interim order staying the Order until the appeal is disposed of:**

- a. The Decision is a decision of an employee of the OEB and not an Order of the Board.
- b. The Appeal of R.J. Potomski, dated December 27, 2011, is an appeal to the Ontario Energy Board that is an "appellate body" and not a court.

- c. Unlike an Order of the OEB that is not stayed by an Appeal to Divisional Court¹, the stay of the Decision is automatic on the filing of the Notice of Appeal of R. J. Potomski, dated December 27, 2012.²
- 4. **Whether to hear the appeal in writing or orally:**
 - a. The Respondent, Enwin Utilities Ltd. has made statements that have not been supported by evidence that is open to cross examination.
 - b. By way of an oral hearing the parties can be cross examined on their statements.
 - c. An Oral Hearing is the most expeditious and cost effective process that will result in a decision that will protect the interest of the consumer.
 - d. If the Appeal is heard orally in Windsor, Ontario it would allow the Ontario Energy Board to review and question the systems and employees of Enwin Utilities and then arrive at an informed decision.
- 5. Any other submissions and material the Appellant may submit.

Respectfully Submitted

January 31, 2012

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Appellant

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¹ Section 33(6) of the Ontario Energy Board Act.

² Section 25(1) of the Statutory Powers Procedures Act.

AND TO: Jennifer Lea,
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For the Respondent