



EB-2012-0220

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 London Hydro Inc. for an order or orders approving or fixing just and reasonable distribution rates and other charges, to be effective May 1, 2012.

AND IN THE MATTER OF a Motion to Review and Vary by London Hydro Inc. pursuant to the Ontario Energy Board's *Rules of Practice and Procedure* for a review of the Board's Decision and Order in proceeding EB-2011-0181.

BEFORE: Cynthia Chaplin
Presiding Member

Paula Conboy
Member

**NOTICE OF MOTION TO VARY
AND PROCEDURAL ORDER No. 1**

May 7, 2012

On April 25, 2012, London Hydro Inc. ("London Hydro") filed with the Ontario Energy Board (the "Board") a Notice of Motion to Review and Vary (the "Motion") the Board's Decision and Order dated April 4, 2012 in respect of London Hydro's 2012 rate application (EB-2011-0181). The Board has assigned the Motion file number EB-2012-0220.

The Motion seeks to vary the Board's EB-2011-0181 Decision and Order so that London Hydro may recover a Lost Revenue Adjustment Mechanism ("LRAM") amount of \$202,820.96, which represents the difference between London Hydro's total adjusted

LRAM claim of \$355,473.45 and the amount approved for recovery of \$152,652.49 for 2010 lost revenue related to 2010 CDM programs. The grounds for the Motion include an alleged inconsistency between the EB-2011-0181 Decision and Order and the Board's decision in Bluewater Power Distribution Corporation's 2012 rate application (EB-2011-0153). The Motion also alleges that the Board erred in rejecting interrogatory responses from London Hydro's 2009 cost of service proceeding, which London Hydro believes provide sufficient indication that London Hydro's cost of service application did not include lost revenue from CDM programs deployed in 2009 and persistence from 2009 programs in 2010. London Hydro proposed that the Motion be heard by way of a written hearing.

For this motion the Board will grant intervenor status and cost award eligibility to the Vulnerable Energy Consumers Coalition ("VECC"), which was the only intervenor in London's 2012 rate application.

Given the narrow scope of the Motion, the Board has determined that the most expeditious way of dealing with this Motion is to consider concurrently the threshold question of whether the matter should be reviewed (as contemplated in the Board's *Rules of Practice and Procedure*) and the merits of the Motion. The Board will proceed by way of a written hearing.

The Board also notes that London Hydro has requested an order declaring the Board's Rate Order for EB-2011-0181 to be interim pending the disposition of this Motion. London Hydro currently has a stand-alone smart meter application before the Board (EB-2012-0187). An interim Rate Order declaring London Hydro's May 1, 2012 rates interim was issued on Tuesday May 1, 2012. A Panel determination is therefore not required on this matter (i.e. on interim rates for this Motion) as London Hydro's rates have already been declared interim pending the decision on its smart meter application.

THE BOARD THEREFORE ORDERS THAT:

1. London Hydro shall file with the Board and deliver to VECC any additional material in support of its motion by no later than May 14, 2012.
2. VECC and Board staff may file written submissions with the Board and deliver it to London Hydro no later than May 22, 2012.

3. London Hydro may file a written reply submission with the Board and deliver it to VECC no later than May 25, 2012.

All filings to the Board must quote file number **EB-2012-0220**, 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. Parties shall 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. 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.

ADDRESS

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

E-mail: Boardsec@ontarioenergyboard.ca
Tel: 1-888-632-6273 (toll free)
Fax: 416-440-7656

DATED at Toronto, May 7, 2012

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary