



ONTARIO ENERGY BOARD

BOARD STAFF SUBMISSION

Enersource Hydro Mississauga Inc.

EB-2012-0033

June 21, 2012

Background:

Enersource filed an application (the “Application”) with the Ontario Energy Board under section 78 of the *Ontario Energy Board Act, 1998*, seeking approval for changes to the rates that Enersource charges for electricity distribution.

In its evidence filed in support of the Application, Enersource filed a redacted Working Capital Requirement report (the “Report”) and letter which had been filed on September 18, 2009 in Enersource’s previous Cost of Service proceeding (EB-2007-0706). The Report and cover letter are found at Exhibit 2 Tab1 Schedule 4 of Enersource’s Application. The letter and Report were filed pursuant to the terms of a Settlement Agreement in EB-2007-0706 which required Enersource to complete and file such a report by September 2009. Specifically the Settlement Agreement stated:

The parties agree that the results of the Applicant’s Lead/Lag study will not be implemented until Enersource’s next rate rebasing application, at which time the Board will determine on the available evidence, including that study, the appropriate Working Capital Allowance to be applied

In the September 18, 2009 letter Enersource claimed confidentiality for the Report on the basis of potential harm to Enersource’s future competitive position in negotiations it might undertake with third party vendors of services including metering reading, customer service, customer information systems, billing, collections, payroll and benefits. As the Report did not impact that proceeding the Board did not make a determination at the time regarding confidential status.

While no specific request, separate from the September 18, 2009 letter, for confidential treatment of the Report has been made in this proceeding, in Procedural Order No. 1, the Board ordered that intervenors and Board staff wishing to object to the request for confidential treatment file their submissions by June 21, 2012.

Board staff makes the following submission with respect to the request for confidential treatment of the Report.

Submission

Board staff has reviewed the Report and does not agree that the information in the Report, which is based on 2007 historical data and adjusted for anticipated changes to determine the appropriate working capital requirement for the 2010 Test Year be treated as confidential.

Board Staff notes that section 5 of the Board's *Practice Direction on Confidential Filings* ("*Practice Direction*") sets out the general process for confidentiality requests. The *Practice Direction* notes that the onus is on the party requesting confidential treatment to demonstrate to the satisfaction of the Board that confidential treatment is warranted in any given case. The Board must also consider the appropriate balance between the need to protect confidential information and ensuring its proceedings are open and transparent.

Board staff submits that the Board has a longstanding policy to ensure that as much evidence as possible in a proceeding before it will be made publicly available in keeping with its mandate of transparency.

Board staff submits that there is no evidence that disclosure of the Report may prejudice Enersource's competitive position nor is there any evidence that public disclosure would impede Enersource's ability to enter into negotiations with third party vendors of services who would have its pricing information at its disposal as the majority of the information is out of date. Board Staff agrees with the submission filed by the School Energy Coalition that third parties will always have a very clear picture of a utility, as the utility is in a regulated business that is required to file financial and operational history and forecasts on the public record.

Further, the information in the Report does not necessarily align with what Enersource may purchase from third parties in the test year period or beyond and as such is of little value for third parties to develop competitive bids in the test year and beyond.

For the reasons set out above, Board staff submits that Enersource's claim for confidentiality should be denied.

- All of which is respectfully submitted-