



**EB-2011-0184**

**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 Newmarket-Tay  
Power Distribution Ltd. for an order approving just and  
reasonable rates and other charges for electricity distribution  
to be effective May 1, 2012.

**PROCEDURAL ORDER NO. 1**

**October 17, 2012**

Newmarket-Tay Power Distribution Ltd. ("Newmarket-Tay Power") has applied to the Ontario Energy Board (the "Board") for permission to maintain its current delivery charges subject to the Board's review of the evidence filed in this proceeding. The application was filed on November 29, 2011, revised on December 14, 2011 and July 27, 2012 under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B), under the Board's guidelines for 3<sup>rd</sup> Generation Incentive Regulation Mechanism which provides for a mechanistic and formulaic adjustment to distribution rates between cost of service applications. Newmarket-Tay Power also requested to dispose of the balance in Account 1562 – Deferred Payments in Lieu of Taxes ("Deferred PILs"). The Board assigned the application file number EB-2011-0184.

The Board issued a Notice of Application and Hearing dated August 9, 2012. No letters of comment and no letters of intervention were received. Board staff participated in the proceeding. The Board proceeded by way of a written hearing.

On September 21, 2012, Board staff filed its written interrogatories with the Board. On October 5, 2012, Newmarket-Tay Power filed its responses to Board staff interrogatories. In addition to its responses to Board staff interrogatories, a letter from Newmarket-Tay Power's counsel requested that an oral hearing be convened in this

proceeding to specifically address Newmarket-Tay Power's Account 1562 Deferred PILs balance.

Newmarket-Tay Power indicated that, as set out in response to Board staff interrogatory #16b, it has become apparent to Newmarket-Tay that an error was made in regard to the Board's 2002 Decision and Order (RP-2002-0080/EB-2002-0089). Specifically, Newmarket-Tay Power is alleging that in the Board's 2002 Decision, the Board decided to reduce Newmarket-Tay Power's PILs proxy by \$347,920 and ordered that the Board-prepared rates set out in the rate schedule attached at Appendix "A" to the 2002 Decision and Order be approved effective March 1, 2002. Newmarket-Tay Power further stated that those rates erroneously did not factor in the \$347,920 reduction to the PILs proxy as decided by the Board. Newmarket-Tay requested an oral hearing to introduce evidence on the issue of the appropriate quantum of interest that should be recorded in Account 1562. In the event that the Board denies the request for an oral hearing, Newmarket-Tay Power requested that it be given an opportunity to provide further evidence regarding the appropriate interest to be included in Account 1562.

The Board will grant Newmarket-Tay Power's request for an oral hearing to hear additional evidence on the appropriate amount of interest to be included in Account 1562. The evidence to be filed by Newmarket-Tay Power shall also include a proposed disposition period for Account 1562 and responses to Board staff interrogatory # 19.

The Board considers it necessary to make provision for the following matters related to this proceeding. The dates for submission and reply submission contained in this procedural order supersede the dates contained in the Notice of Application and Hearing issued on August 9, 2012. The Board may issue further procedural orders from time to time.

**THE BOARD ORDERS THAT:**

1. Newmarket-Tay Power shall file additional evidence on the appropriate amount of interest that should be recorded in Account 1562 Deferred PILs by October 26, 2012. The evidence shall also address a proposed disposition period for Account 1562 and responses to Board staff interrogatory # 19.

2. An oral hearing to consider the additional evidence will commence on November 15 at 9:30 a.m. in the Board's hearing room on the 25<sup>th</sup> Floor at 2300 Yonge Street, Toronto.
3. Newmarket-Tay shall file an argument-in-chief with the Board on or before November 22, 2012.
4. Board staff shall file a written submission with the Board and delivered to Newmarket-Tay Power on or before November 29, 2012.
5. Newmarket-Tay Power shall file with the Board its reply written submission on or before December 6, 2012.

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.

All filings to the Board must quote the file number, EB-2011-0184, be made through the Board's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>, 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 must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <http://www.ontarioenergyboard.ca/OEB/Industry>. 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.

### **ADDRESS**

Ontario Energy Board  
P.O. Box 2319  
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Attention: Board Secretary

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**DATED** at Toronto, October 17, 2012

**ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary