



EB-2012-0031

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

AND IN THE MATTER OF a review of an application filed
by Hydro One Networks Inc. for an order or orders
approving a transmission revenue requirement and rates
and other charges for the transmission of electricity for
2013 and 2014.

PROCEDURAL ORDER NO. 5

October 26, 2012

Hydro One Networks Inc. ("Hydro One") filed an application, dated May 28, 2012, with the Ontario Energy Board under section 78 of the *Ontario Energy Board Act, 1998*, c.15, Schedule B, seeking approval for changes to its 2013 and 2014 transmission revenue requirement and for changes to the provincial uniform transmission rates charged for electricity transmission, to be effective January 1, 2013 and January 1, 2014. The Board assigned File Number EB-2012-0031 to the application.

The Board issued a Notice of Application and Hearing dated June 20, 2012. The Board issued Procedural Order No. 1 on July 12, 2012 which approved a number of intervention requests and requests for cost award eligibility. The Board also provided a draft issues list and invited parties to make written submissions on the issues in this proceeding.

On August 13, 2012, the Board issued Procedural Order No. 2 and its Decision on the draft issues list. On September 20, 2012 Hydro One filed its responses to interrogatories filed by Board staff and intervenors.

On October 1, 2012, the Board issued Procedural Order No. 3 where it issued a Decision on confidentiality and set the dates for a Technical Conference and Settlement Conference and set the dates for the oral hearing.

The Technical Conference was held on October 11, 2012. On October 17, 2012 the School Energy Coalition (SEC) filed a Motion seeking an order requiring Hydro One to provide information and/or documents requested in certain interrogatories posed by SEC, and requested again at the Technical Conference.

The Board heard the SEC Motion on Tuesday, October 23, 2012. After hearing submissions from SEC, Energy Probe and Hydro One, the Board issued its oral decision and order. The Board ordered that Hydro One provide the forecast in-service dates of the various capital projects as requested in SEC Interrogatory 24. The Board also determined that the information requested in SEC Interrogatory 27, the Global Insight report, is relevant and should be produced on a confidential basis. In addition, the Board ordered Hydro One to produce the Canadian Electricity Association (CEA) survey, *Transmission COPE 2011 Comprehensive Annual Report* (the "COPE Report") in response to SEC Interrogatory #3. The Board stated that this information could also be filed on a confidential basis. In response to a request from Hydro One, the Board allowed Hydro One two days to produce this information.

On October 25, 2012, the CEA filed an application requesting that the Board stay the Order of October 23, 2012, specifically with respect to the production of the COPE Report, pending appeal or other review. In the covering letter to the application CEA counsel more particularly stated:

By analogy to Section 5.1.14 of the Board's Practice Direction on Confidential Filings, CEA advises that it intends to appeal the Order or otherwise seek review of the Order and, therefore, CEA requests that the Board not place the Report on the public record or make the report available to any person (irrespective of whether that person has signed the Board's Confidentiality Undertaking) until the aforementioned appeal or review has been concluded.

Second, the CEA requests that the Board stay the Order. A notice of application is attached in the latter regard. In our submission, in light the CEA's application for a stay, the Board should not receive from Hydro One the Report.

The CEA also requested intervenor status with respect to the issue of the COPE Report. The Board approves the CEA as an intervenor in this proceeding with respect to this limited issue.

The Board will stay the Order of October 23, 2012 with respect to the production of the COPE Report on an interim basis. In its letter to the Board, the CEA indicates a willingness to discuss what information could be made available. The Board concludes that in the interests of resolving this matter in a manner which addresses the various interests in a substantive and expeditious way, it is appropriate to make provision for the parties most directly involved (CEA, Hydro One, and SEC) to consider whether a mutually acceptable resolution can be reached. The Board therefore directs Hydro One, SEC, and the CEA to make best efforts to determine if the information can be provided in a manner that will address the concerns of the CEA and also satisfy SEC and Hydro One. Board staff will also participate in those discussions. If SEC, CEA and Hydro One are able to reach agreement on what can be produced, the parties are directed to notify the Board as soon as possible and no later than Wednesday October 31, 2012. If no agreement is reached then the Board will set a date for a hearing of the application for a stay and any review motion brought by CEA.

The Board considers it necessary to make provision for the following matters related to this proceeding. The Board may issue further procedural orders from time to time.

THE BOARD ORDERS THAT:

1. The Board's Decision and Order dated October 23, 2012 is stayed, on an interim basis pending discussions between Hydro One, SEC and the CEA to reach an agreement with respect to producing information from the COPE Report that addresses the parties' concerns.
2. The parties will notify the Board by no later than Wednesday, October 31, 2012 whether their discussions have resulted in an agreement with respect to producing information from the COPE Report.
3. The parties will file a letter with the Board Secretary advising as to the substance of the agreement, if any, and indicate whether confidential treatment is requested for the letter, or any part thereof.

DATED at Toronto, October 26, 2012

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary