



**EB-2012-0153**

**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 Northern  
Ontario Wires Inc. for an order approving or fixing just and  
reasonable rates and other charges for the distribution of  
electricity to be effective May 1, 2013.

**BEFORE:** **Paula Conboy**  
Presiding Member

**Jerry Farrell**  
Member

**DECISION AND RATE ORDER**  
**June 27, 2013**

Northern Ontario Wires Inc. ("NOW") filed a complete application with the Ontario Energy Board (the "Board") on December 18, 2012 under section 78 of the *Ontario Energy Board Act, 1998* seeking approval for changes to the rates that NOW charges for electricity distribution to be effective May 1, 2013.

The Board issued a Notice of Application and Hearing dated January 8, 2013. The Association of Major Power Consumers in Ontario ("AMPCO"), School Energy Coalition ("SEC") and Vulnerable Energy Consumers Coalition ("VECC") applied for and were granted intervenor status and cost eligibility.

Details on the various procedural steps which followed are available on the Board's website.

A Settlement Agreement was filed on May 31, 2013 and revised on June 6, 2013.

The revised Settlement Agreement is included as Appendix A to this Decision. Parties reached full settlement on all matters. NOW also filed material supporting a draft Rate Order and the resulting Tariff of Rates and Charges and indicated that it has the support of all Parties. NOW stated that the Parties accepted the Tariff of Rates and Charges as accurately reflecting the rates that result from this Settlement Agreement, a process to review a further draft Rate Order may not be necessary, if the Settlement Agreement is accepted without modification.

The Board has reviewed the revised Settlement Agreement and finds that the resultant rates and other charges would be just and reasonable if the Board were to approve the revised Settlement Agreement as filed. The Board accordingly does so without, however, making any findings on the individual provisions *per se* of the revised Settlement Agreement.

The Board has also reviewed the information provided in support of the proposed Tariff of Rates and Charges. The Board is satisfied that the Tariff of Rates and Charges accurately reflects the revised Settlement Agreement.

### **Confidentiality**

In accordance with Procedural Order No. 3, dated April 25, 2013, the Board made provision for parties to make submissions on NOW's confidentiality request with respect to the Strategic Financial Plan that NOW filed as its response to SEC's supplementary interrogatory 5-SEC-12s. That document was referred to in NOW's response to Board staff's interrogatory 5.0-Staff-24, in which NOW explained that the reason for the increase in the principal balance of a specific loan was its acceptance of a recommendation set out in the Strategic Financial Plan and SEC asked NOW to file a copy of it. NOW requested that its filing be treated as confidential. NOW's reasons for its request are summarized in Procedural Order No. 3, in which the Board provided a procedural schedule for submissions objecting to NOW's request and for NOW to reply to any such submissions.

The Board received a submission from SEC on April 30, 2013 and a reply submission from NOW on May 1, 2013.

In its submission, SEC cited the Board's *Practice Direction on Confidential Filings* ("the Practice Direction"):

The onus is on the person requesting confidentiality to demonstrate to the satisfaction of the Board that confidential treatment is warranted in any given case.<sup>1</sup>

SEC stated that NOW had not described what or why the information in the Strategic Financial Plan is sensitive and/or why it is propriety information to the third party who prepared it. SEC further explained that Strategic Financial Plan comprises of an analysis of financial trends, regulatory and management analysis and recommendations, a copy of NOW's dividend policy and what was at the time future financial projections (2009-2011). SEC stated that this information is regularly produced by regulated utilities in cost of service proceeding to support the determination of managerial and financial prudence and submitted that there is no reason that any portion of the Strategic Financial Plan should be accorded confidentiality treatment.

SEC also submitted that if the Board granted the confidentiality request, NOW should be required to redact such information and place the remainder of the document on the public record.

In its reply, NOW indicated that the Strategic Financial Plan was prepared for internal purpose only and believed that the recommendations made in the document may be misinterpreted by an uninformed reader. NOW also viewed that the Strategic Financial Plan is similar in nature to a Business Plan, as such the Board's findings with respect to Toronto Hydro-Electric System Limited's request for confidential filing of its Business Planning documentation should apply to NOW (EB-2010-0142).

NOW submitted that the Board should follow a similar course of action in this proceeding, allowing the Strategic Financial Plan to remain confidential in its entirety.

NOW further stated that if the Board decided that the document should not be afforded confidential treatment, NOW would request that the information be withdrawn from the record in accordance with section 5.1.12 of the Practice Direction.

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<sup>1</sup> The Board's *Practice Direction on Confidential Filings*, page 2

## Board Findings

The Board denies NOW's request that the Strategic Financial Plan be held in confidence.

It is the Board's general policy that all records should be part of public record unless there is a good reason for affording them confidential treatment. The approach that underlies the Practice Direction is that the placing of materials on the public record is the rule, and confidentiality is the exception.

The Board finds that NOW has not demonstrated that the Strategic Financial Plan should be kept in confidence. It has not explained what information may be of a confidential nature and why should be protected as such. NOW simply states that the "Strategic Financial Plan contains information that is sensitive in nature and proprietary to the third-party who prepared them." The Board finds that this is not sufficient. The onus is on NOW as the entity requesting confidentiality to demonstrate to the satisfaction of the Board that confidential treatment is warranted in any given case. NOW has not met this burden. Referencing a past Board decision on confidentiality on Toronto Hydro Corporation's<sup>2</sup> Business Plan does not provide any compelling reasons for why NOW's Strategic Financial Plan should also be afforded such treatment, particularly because NOW is a rate-regulated utility that based its response to staff's interrogatory 5.0-Staff-24 on its own plan.

The Board concurs with SEC that the Strategic Financial Plan is an analysis of financial trends, regulatory and management analysis and recommendations, a copy of NOW's dividend policy and what was at the time future financial projections (2009-2011). NOW's Strategic Financial Plan is not analogous to a typical business plan that contains forward looking financial information. The Board therefore finds that NOW's Strategic Financial Plan will form part of the public record to this proceeding.

NOW has requested that, pursuant to section 5.1.12 of the Practice Direction, it be permitted to withdraw the Strategic Financial Plan if it is not accorded confidential treatment. Section 5.1.12 does not enumerate the factors that the Board should consider when deciding whether, or not, to permit NOW to withdraw the Strategic

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<sup>2</sup> NOW referred to the Board's decision in EB-2010-0142 to be related to the Business Plan of Toronto Hydro-Electric System Limited. However, the Board determination was in respect to Toronto Hydro Corporation's Business Plan

Financial Plan, and so the Board has the discretion to select the factors that would, in its opinion, be appropriate for it to select having regard to the record in this proceeding. The Board accordingly invites NOW and SEC to make submissions in this regard. Any such submissions must be filed with the Board and served on all other parties on or before **July 5, 2013**.

The Strategic Financial Plan filed by NOW as its response to SEC's supplementary interrogatory 5-SEC-12s shall be placed on the public record of this proceeding in its entirety if the Board subsequently denies the request of NOW for permission to withdraw the document.

#### **THE BOARD ORDERS THAT:**

1. The Tariff of Rates and Charges for Northern Ontario Wires Inc. set out in Appendix B of this Decision and Rate Order is approved effective June 1, 2013 for electricity consumed or estimated to have been consumed on and after June 1, 2013. Northern Ontario Wires Inc. shall notify its customers of the rate changes no later than with the first bill reflecting the new rates.

#### **Cost Awards**

The Board may grant cost awards to eligible parties pursuant to its power under section 30 of the *Ontario Energy Board Act, 1998*. When determining the amount of the cost awards, the Board will apply the principles set out in section 5 of the Board's *Practice Direction on Cost Awards*. The maximum hourly rates set out in the Board's Cost Awards Tariff will also be applied.

1. Association of Major Power Consumers in Ontario, School Energy Coalition and Vulnerable Energy Consumers Coalition shall file with the Board and forward to Northern Ontario Wires Inc. their respective cost claims within **7 days** from the date of this Decision and Rate Order.
2. Northern Ontario Wires Inc. shall file with the Board and forward to Association of Major Power Consumers in Ontario, School Energy Coalition and Vulnerable Energy Consumers Coalition any objections to the claimed costs within **17 days** from the date of this Decision and Rate Order.

3. Association of Major Power Consumers in Ontario, School Energy Coalition and Vulnerable Energy Consumers Coalition shall file with the Board and forward to Northern Ontario Wires Inc. any responses to any objections for cost claims within **24 days** of the date of this Decision and Rate Order.
4. Northern Ontario Wires Inc. shall pay the Board's costs incidental to this proceeding upon receipt of the Board's invoice.

All filings with the Board must quote the file number EB-2012-0153, and 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 be received by the Board by 4:45 p.m. on the stated date. Parties should use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at [www.ontarioenergyboard.ca](http://www.ontarioenergyboard.ca). If the web portal is not available, parties may e-mail their documents to the attention of the Board Secretary at [BoardSec@ontarioenergyboard.ca](mailto:BoardSec@ontarioenergyboard.ca).

**DATED** at Toronto, June 27, 2013

**ONTARIO ENERGY BOARD**

*Original Signed By*

Kirsten Walli  
Board Secretary

**APPENDIX A**

TO DECISION AND RATE ORDER

Northern Ontario Wires Inc.

SETTLEMENT AGREEMENT

Board File No: EB-2012-0153

DATED: June 27, 2013

**APPENDIX B**

TO DECISION AND RATE ORDER

Northern Ontario Wires Inc.

TARIFF OF RATES AND CHARGES

Board File No: EB-2012-0153

DATED: June 27, 2013