



EB-2012-0109

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 Brantford
Power Inc. for an order approving just and reasonable rates
and other charges for electricity distribution to be effective
November 1, 2013.

PROCEDURAL ORDER NO. 3
October 28, 2013

Brantford Power Inc. ("BPI") filed a complete application (the "Application") with the Ontario Energy Board (the "Board") on August 15, 2013 under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B), seeking approval for changes to the rates that BPI charges for electricity distribution, to be effective November 1, 2013.

In Procedural Order No. 1, issued on September 19, 2013, the Board granted intervenor status to The School Energy Coalition ("SEC"), Energy Probe Research Foundation ("Energy Probe"), Vulnerable Energy Consumers Coalition ("VECC") and Brant County Power ("BCP"), as well as cost eligibility to SEC, Energy Probe and VECC. The Board also set dates for interrogatories and interrogatory responses. Procedural Order No. 2 was issued October 1, 2013, granting late intervenor status to the HVAC Coalition and setting a date for its interrogatories and BPI's responses.

On October 23, 2013, BPI filed its responses to interrogatories, including a request for confidential treatment for three of its responses. BPI requested confidential treatment for 4.0 Staff -19 (a) and 4.0 Staff-20 in accordance with Section 4.3.1 of the Board's *Practice Direction on Confidential Filings*, as the responses contained financial information about identifiable individuals.

Interrogatory 5.0 SEC-18 requested all outstanding debt instruments not already provided in evidence. BPI was legally required to seek consent of its third party lenders to file the relevant agreements. One lender, RBS Royal Bank requested that the loan agreement between RBC and BPI remain confidential, as public disclosure of the proprietary, commercial and financial information contained within it could reasonably be expected to significantly prejudice its competitive position or interfere with its contractual or other negotiations. BPI also stated that disclosure of the agreement would result in similar information no longer being supplied to BPI, where it is in the public interest for such information to continue to be supplied. In support of its request, BPI filed a letter from RBS stating that the Loan Agreement may be submitted to the OEB by the Borrower, but requesting that the Loan Agreement not be filed publicly.

In accordance with the *Practice Direction on Confidential Filings*, BPI submitted paper copies of the material for which confidentiality is requested (“the Proposed Confidential Material”) with the Board and publicly filed redacted versions of the affected interrogatory responses.

The Board has decided to designate as confidential, on an interim basis, the Proposed Confidential Material. The Board will allow intervenors that wish to review the Proposed Confidential Material to do so after signing a copy of the Board’s Declaration and Undertaking (which can be found in Appendix C of the Board’s *Practice Direction on Confidential Filings* (the “Practice Direction”), filing it with the Board and serving it on BPI.

Intervenors and Board staff who object to BPI’s request for confidential treatment shall file their submissions according to the schedule set out below. If the Board ultimately decides that the Proposed Confidential Material should not be afforded confidential treatment, it will be placed on the public record unless BPI makes a request under section 5.1.12 of the Practice Direction within five business days that the material be withdrawn and the Board grants BPI’s request.

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. BPI shall provide unredacted versions of the Proposed Confidential Material to all parties that have executed a Declaration and Undertaking pursuant to the Board's *Practice Direction on Confidential Filings*.
2. Parties wishing to make a submission on the confidentiality status of the Proposed Confidential Material shall file such submissions with the Board and deliver them to BPI by **November 1, 2013**.
3. If BPI wishes to respond to any submissions on the confidentiality status of the Proposed Confidential Material, it shall file such submissions with the Board and deliver them to the intervenors by **November 6, 2013**.
4. To the extent possible, parties shall frame submissions related to the Proposed Confidential Material in a manner that will allow the submissions to be placed on the public record. If parties are not able to frame submissions in a manner that allows them to be placed on the public record, those submissions must be marked confidential.
5. Parties in receipt of the Proposed Confidential Material shall, in accordance with the signed Declaration and Undertaking, either return the material to the Board and communicate to BPI that they have done so, or destroy the material and execute a Certificate of Destruction, following the closing of the record to this proceeding. The Certificate must be filed with the Board and a copy sent to BPI.

All filings to the Board must quote the file number, EB-2012-0109, be made through the Board's web portal at <https://www.pes.ontarioenergyboard.ca/service/>, 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.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Martha McOuat at martha.mcouat@ontarioenergyboard.ca and Board Counsel, Ljuba Djurjevic at ljuba.djurjevic@ontarioenergyboard.ca.

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, October 28, 2013

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary