



EB-2016-0255

Milton Hydro Distribution Inc.

**Motion to Review and Vary the Ontario Energy Board's
Decision and Order dated July 28, 2016 re Milton Hydro
Distribution Inc.'s 2016 Distribution Rate Application
(EB-2015-0089)**

**PROCEDURAL ORDER NO. 2
January 20, 2017**

On August 17, 2016, Milton Hydro Distribution Inc. (Milton Hydro) filed a motion to review and vary certain findings in the EB-2015-0089 Decision and Order (the Decision) of the Ontario Energy Board (OEB) related to the regulatory treatment of the proceeds of proceeds of the sale of a property at Fifth Line and Main Street.

Relying on an affidavit sworn August 17, 2016 and certain provisions of the OEB's Accounting Procedures Handbook (APH), Milton Hydro takes the position that the OEB erred in fact in making its findings in the Decision related to:

- a) The market value of the Fifth and Main property;
- b) The percentage of the capital gain on that property to be returned to customers;
and
- c) The mechanism by which any portion of the capital gain is to be returned to customers.

Milton Hydro effectively seeks to re-open the record in the EB-2015-0089 proceeding to change and reduce the value range of \$400,000 to \$450,000 and the rate per acre of

\$425,000 described in the body of the appraisal report and in the Decision on the grounds that those elements of the appraisal were typographical errors.

In Procedural Order No. 1, the OEB established a process for a written hearing of this matter. Written submissions were filed by Milton Hydro, Energy Probe, the School Energy Coalition, and OEB staff. One of the submissions argued that the OEB should not accept the affidavit without first affording an opportunity to test it.

After considering these submissions, the OEB determined that it wished to question a representative of Milton Hydro and the appraiser with respect to facts in the EB-2015-0089 record related to the property valuation and percentage allocation findings that Milton Hydro seeks to vary.

The OEB asked its staff to arrange with Milton Hydro a suitable date for a brief oral hearing to deal with the issues raised. In a December 22, 2016 letter to the Chair of the OEB, the President of Milton Hydro objected to this proposal and requested that the OEB consider written responses to any questions that needed to be answered to enable the OEB to render an informed decision on the motion.

The questions that the OEB has of Milton Hydro and the appraiser are contained in Attachment 1. These questions arise from facts in the EB-2015-0089 record and relate to the weight to be ascribed to the new evidence that Milton Hydro asks the OEB to consider and the variance relief that it seeks.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Milton Hydro shall file with the OEB, with a copy to the other parties in this proceeding, written responses to the questions in Attachment 1 by February 3rd, 2017.

All filings to the OEB must quote the file number, EB-2016-0255, be made in searchable/ unrestricted PDF format electronically through the OEB's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>. Two paper copies must also be filed at the OEB's address provided below. 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, Harold Thiessen at harold.thiessen@ontarioenergyboard.ca and OEB Counsel, Ian Richler at ian.richler@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, **January 20, 2017.**

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

**Milton Hydro Distribution Inc.
Motion to Review and Vary
EB-2016-0255
Procedural Order No. 2**

Attachment 1

OEB Questions for Milton Hydro and Appraiser

1. Was the 2009 purchase price for the Fifth Line and Main Street property (the Property) recorded in the financial statements for the utility for the years 2009 to 2015?
2. What Account Number in the OEB's Uniform System of Accounts was used to record the cost of the Property?
3. (a) Was Colliers involved in preparing the 2010 appraisal in the amount of \$600,000 to \$700,000 for the 1.3 acres of privately held property at Fifth Line and Main Street referenced in the EB-2015-0089 record?

(b) If not, then at any time prior to the completion of the August 5, 2015 Colliers appraisal, did Milton Hydro inform Colliers of this appraisal and the \$750,000 offer that it made in 2011 to buy the 1.3 acres of privately held property and the owner's rejection of that offer?
4. (a) Was Colliers involved in the November 14, 2012 \$450,000 per acre and \$2.7 M value estimate for the Property contained in the Greenfield Budget presented by Milton Hydro management and included in the EB 2015-0089 record?

(b) If not, then, prior to the completion of the August 5, 2015 appraisal, did Milton Hydro inform Colliers of the \$450,000 per acre and \$2.7 M value for the Property shown in the November 14, 2012 presentation?
5. (a) Did Colliers provide the \$4,040,000 appraisal of the land at 200 Chisholm Drive in 2014 referenced in EB-2015-0089 record?

(b) If so, then were any of the comparators used in the August 5, 2015 appraisal also used in the 2014 appraisal of the 200 Chisholm Drive land?
6. Why was a valuation date of August 5, 2015 prescribed?
7. Does the August 5, 2015 appraisal reflect the imminent availability of water and sanitary servicing at the Property by the end of 2015 described in Milton Hydro's January 7, 2014 letter to the OEB seeking a deferral of its 2015 cost of service application?
8. Was Milton Hydro provided with draft copies of the appraisal report?
9. What did each of the successive drafts of the appraisal report say about the reasonable value range and the rate per acre?

10. What were the reasons for reducing the \$400,000 to \$450,000 value range and the \$425,000 rate per acre?
11. What communications/discussions, if any, took place between Milton Hydro and Colliers as to the values to be included in the appraisal report?
12. Please explain how the errors came to form part of the appraisal report.
13. (a) Milton Hydro sold the Property to its affiliate in December 2015. Had water and sanitary servicing reached the Property by the end of December 2015?

(b) If not, then when did that servicing reach the Property?
14. In Milton Hydro's 2011 rate case 50% of the cost of the Property was treated as in-service rate base. What USA account number was used to record the portion of the cost of the Property that was not being used?
15. Can Milton Hydro please explain why, in the presentation referenced in Question 4, it proposed to apply the full amount of the capital gain on a sale of the property to defray the total capital costs constructing the new utility office/service centre at a replacement property?
16. In its motion Milton Hydro takes the position that certain provisions of the OEB's Accounting Procedures Handbook (APH) apply to the capital gain realized on the disposition of the Property. What is Milton Hydro's position on the applicability of section 2040 B of the APH to determine the amount of the gain or loss realized on land held for future utility use to be allocated to ratepayers?