



CANADIAN NIAGARA POWER INC.

A FORTIS ONTARIO Company

RECEIVED

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ONTARIO ENERGY BOARD

November 7, 2009

DELIVERED BY EMAIL

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, ON  
M4P 1E4

12/11/08

Dear Ms. Walli:

RE: CNPI EASTERN ONTARIO POWER – EB-2008-0222  
CNPI FORT ERIE – EB-2008-0223  
CNPI PORT COLBORNE – EB-2008-0224  
APPROVAL FOR CHANGES TO COST OF SERVICE DISTRIBUTION RATES, EFFECTIVE MAY 1, 2009  
PROCEDURAL ORDER NO. 1

In accordance with Procedural Order No. 1 dated October 10, 2008, Canadian Niagara Power – Fort Erie, Port Colborne, and Eastern Ontario Power (the “Applicant”) wishes to advise the Ontario Energy Board and intervenors that it is not requesting a technical conference prior to the filing of written interrogatory responses.

The Applicant looks forward to further discovery through a technical conference or oral hearing after the filing of written interrogatory responses.

Yours truly,

R. Scott Hawkes  
Vice President, Corporate Services  
and General Counsel

RSH:mar

Enclosures

c. Charles Keizer – Ogilvy Renault, LLP  
Douglas Bradbury – CNPI  
Intervenors

EB - 2008 - 0222  
EB - 2008 - 0223  
EB - 2008 - 0224

OEB BOARD SECRETARY	
File No:	SubFile: 19
Panel	
Licensing	Lee H.
Other	
00/04	1HC / TRIM.



**EB-2008-0222**  
**EB-2008-0223**  
**EB-2008-0224**

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

**AND IN THE MATTER OF** applications by Canadian  
Niagara Power Inc. – Eastern Ontario Power, Canadian  
Niagara Power Inc. – Fort Erie and Canadian Niagara  
Power Inc. – Port Colborne for an order approving just and  
reasonable rates and other charges for electricity  
distribution to be effective May 1, 2008.

### **PROCEDURAL ORDER No. 1**

Canadian Niagara Power Inc. – Eastern Ontario Power (CNPI – EOP), Canadian  
Niagara Power Inc. – Fort Erie (CNPI – FE) and Canadian Niagara Power Inc. – Port  
Colborne (CNPI – PC) (collectively CNPI or the Applicant) filed applications with the  
Ontario Energy Board, received on August 18, 2008, under section 78 of the *Ontario  
Energy Board Act, 1998*, (the Act), seeking approval for changes to the rates that CNPI  
– EOP, CNPI – FE and CNPI – PC charges for electricity distribution, to be effective  
May 1, 2009. The Board has assigned the CNPI – EOP application File Number EB-  
2008-0222, the CNPI – FE application File Number EB-2008-0223 and the CNPI – PC  
application File Number EB-2008-0224.

The Board issued Notices of Application and Hearing for each of the applications.

There are several common elements in these applications and the same intervenors are  
parties in all of the cases. To effect a more efficient process and pursuant to section  
21(5) of the Act, the Board has determined that the review of these applications will be  
combined into one proceeding, while maintaining the separate identification of each of  
the applications.

The Vulnerable Energy Consumers Coalition, the School Energy Coalition and the Energy Probe Research Foundation applied for intervenor status, together with the awarding of costs associated with their participation, for all three applications. No objections were received from the Applicant. The Board accepts the requests of these parties.

In addition, the Association of Major Power Consumers in Ontario (AMPCO) applied for intervenor status, together with the awarding of costs associated with their participation, for the applications. The Applicant objected to the request from AMPCO, primarily based on the fact that the requests were late and, in the case of CNPI – EOP, no member of the Association was a customer. At this time, the Board has not made a decision on the request. All parties will be informed through a subsequent Procedural Order once a decision has been made.

A list of intervenors is attached as Appendix A to this order.

As identified in the Notices of Application, the Board intends to proceed with its review of these applications by including an oral component. That component may be in the form of a technical conference or an oral hearing, or both. The extent of the oral component of the proceeding will be determined on a case by case basis.

The Board has decided to make provision for a phased approach to the discovery process for this proceeding. The first phase will consist of written interrogatories with the potential for a technical conference at the request of the Applicant, which would be held prior to the filing of written interrogatory responses. The purpose of the technical conference would be to allow the Applicant to better understand and discuss interrogatories received from the parties and Board staff to clarify the nature of the questions being asked and the responses being sought. The Board will accept a submission from the Applicant within one week of receipt of the interrogatories as to whether it wishes a technical conference.

At the completion of this first phase of the discovery process, the Board will determine whether further discovery, in the form of a technical conference or additional interrogatories is required, and whether to order that a Settlement Conference be held. Subsequently, the Board will determine what additional aspects of the review will be dealt with through an oral hearing and will advise the Applicant and parties accordingly.

Since the three applications are being combined into one proceeding, the Board will adapt the schedule to allow adequate time for interrogatories and the Applicant's responses.

Port Colborne Hydro Inc. (Port Colborne Hydro) continues as a licenced distributor with the Board (Licence Number ED-2003-0042). Because of the nature of the relationship between CNPI – PC and Port Colborne Hydro relating to the lease agreement, and pursuant to its authority under section 21(1) of the Act, the Board deems Port Colborne Hydro as a co-applicant for purposes of the CNPI – PC application. The Board directs CNPI to ensure that Port Colborne Hydro Inc. is aware of this aspect. Unless the Board is informed to the contrary, it assumes that CNPI will be acting on behalf of Port Colborne Hydro.

This Procedural Order speaks only to the first phase of discovery for this proceeding. Please be aware that this Procedural Order may be amended, and further procedural orders may be issued from time to time.

**THE BOARD ORDERS THAT:**

1. Intervenors and Board staff who wish information and material from the Applicant that is in addition to the Applicant's pre-filed evidence with the Board, and that is relevant to the hearing, shall request it by written interrogatories filed with the Board and delivered to the Applicant on or before Friday October 31, 2008. Where possible, the questions should specifically reference the pre-filed evidence.
2. If requested by the Applicant on or before Friday November 7, 2008, a transcribed technical conference will be held at 2300 Yonge Street, 25<sup>th</sup> floor, Toronto, Ontario in the Board's North Hearing Room. The technical conference would be held on Tuesday November 18, 2008 commencing at 9:00 a.m. and be expected to conclude by 4:30 p.m. The Board will inform the interested parties as to the status of the technical conference on or before Friday November 7, 2008.
3. The Applicant shall file with the Board complete responses to the interrogatories and deliver them to the intervenors no later than Friday December 12, 2008.

4. All filings to the Board must quote the three file numbers, EB-2008-0222, EB-2008-0223 and EB-2008-0224, be made through the Board's web portal at [www.errr.oeb.gov.on.ca](http://www.errr.oeb.gov.on.ca), 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. Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca). If the web portal is not available you may email your document to the address below. Those who do not have internet access are required to submit all filings on a CD or diskette in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.
  
5. 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.

**DATED** at Toronto, October 10, 2008

**ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary

**APPENDIX A**

**CANADIAN NIAGARA POWER INC.**

**EB-2008-0222**

**EB-2009-0223**

**EB-2008-0224**

**LIST OF INTERVENORS**

<b>Organization</b>	<b>Rep. And Address for Service</b>
<b>1. Vulnerable Energy Consumers Coalition</b>	Public Interest Advocacy Centre 34 King Street East, Suite 1102 Toronto, Ontario M5C 2X8 Attn: Mr. Michael Buonaguro  Tel: 416 767-1666 Fax: 416 348-0641 Email: <a href="mailto:mbuonaguro@piac.ca">mbuonaguro@piac.ca</a>
<b>AND</b>	Econalysis Consulting Services 34 King Street East, Suite 1102 Toronto, Ontario M5C 2X8 Attn: Mr. Bill Harper  Tel: (416) 348-0193 Fax: (416) 348-0641 Email: <a href="mailto:bharper@econalysis.ca">bharper@econalysis.ca</a>
<b>2. Energy Probe Research Foundation</b>	Mr. Peter T. Faye Barrister and Solicitor 42 Eastwood Crescent Markham, Ontario L3P 5Z7  Tel: (905) 294-2013 Email: <a href="mailto:pfaye@rogers.com">pfaye@rogers.com</a>

**AND**

Energy Probe Research Foundation  
225 Brunswick Ave.  
Toronto, Ontario  
M5S 2M6  
Attn: Mr. David S. MacIntosh

Tel: (416) 964-9223 Ext. 235  
Fax: (416) 964-8239  
Email: [DavidMacIntosh@nextcity.com](mailto:DavidMacIntosh@nextcity.com)

**3. School Energy Coalition**

Ontario Education Services Corporation  
% Ontario Public School Boards Association  
439 University Avenue, 18<sup>th</sup> Floor  
Toronto, Ontario  
M5G 1Y8

Attn: Mr. Bob Williams, Co-ordinator  
Tel: (416) 340-2540  
Fax: (416) 340-7571  
Email: [bwilliams@opsba.org](mailto:bwilliams@opsba.org)

**AND**

Shibley Righton LLP  
Barristers and Solicitors  
250 University Avenue, Suite 700  
Toronto, Ontario  
M5H 3E5

Attn: Mr. John De Vellis

Tel: (416) 214-5232  
Fax: (416) 214-5432  
Email: [john.devellis@shibleyrighton.com](mailto:john.devellis@shibleyrighton.com)

**AND**

Institutional Energy Analysis, Inc.  
250 University Avenue, Suite 700  
Toronto, Ontario  
M5H 3E5

Attn: Ms. Rachel Chen, Principal Consultant

Tel: (416) 214-5218  
Fax: (416) 214-5418  
Email: [rachel.chen@ieai.ca](mailto:rachel.chen@ieai.ca)