



**EB-2008-0237**

**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 **Niagara-on-the-Lake Hydro Inc.** for an order approving just and reasonable rates and other charges for electricity distribution to be effective **May 1, 2009**.

#### **PROCEDURAL ORDER No. 4**

Niagara-on-the-Lake Hydro Inc. ("NOTL" or the "Applicant") filed an application with the Ontario Energy Board, received on August 6, 2008 under section 78 of the *Ontario Energy Board Act, 1998*, seeking approval for changes to the rates that NOTL charges for electricity distribution, to be effective May 1, 2009. The Board has assigned the application File Number EB-2008-0237. The Board issued a Notice of Application and Hearing dated August 26, 2008, Procedural Order No. 1 on October 1, 2008, and Procedural Order No. 2 on October 17, 2008.

In the first Procedural Orders, the Board made provision for a phased approach to the discovery process, with the first phase consisting of written interrogatories and the possibility of a technical conference at the option of the Applicant. The Applicant chose not to have a technical conference.

The Board indicated that at the completion of this first phase of the discovery process, the Board would determine whether further discovery, either in the form of a further technical conference or further interrogatories, would be required and whether to order that a settlement conference be held.

The Board issued Procedural Order No. 3 on November 20<sup>th</sup>, 2008, seeking the views of the Applicant and all parties regarding the need for additional procedural steps in this proceeding. The Board asked that the Applicant, Board staff and all parties file

submissions with the Board on the following procedural issues before November 28, 2008:

1. Whether further discovery is required, either in the form of further interrogatories or a technical conference;
2. Whether a settlement conference would be appropriate; and
3. Whether a written or oral hearing is preferred.

All parties to this proceeding except Board staff filed submissions with the Board regarding the need for additional procedural steps for NOTL's 2009 rebasing application. NOTL submitted that it provided detailed responses to all interrogatory questions posed by Board staff and Intervenor. Vulnerable Energy Consumers Coalition ("VECC") submitted that it is content with the answers it received on its interrogatories and does not believe that further discovery is essential in this proceeding. School Energy Coalition ("SEC") submitted that clarifying questions from SEC would be minimal and noted that it believes parties may benefit from the opportunity to ask clarifying questions to the interrogatory responses. SEC then suggested that there be a second round of interrogatories restricted to clarifying questions on answers provided to interrogatories. Energy Probe submitted that it is in favour of a further round of interrogatories intended to clarify the responses of the Applicant. All parties indicated that a technical conference or a settlement conference would not be necessary and favoured a written hearing process.

The Board reviewed and considered the submissions from all parties. The Board is of the view that a second round of interrogatories is not required. The Board has also determined that this application can be decided by way of a written hearing process.

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. Board staff shall file and deliver any submission on the application no later than **Monday, January 5, 2009.**

2. Parties who wish to make a submission on the application must file that submission with the Board, and deliver it to the Applicant and all other parties no later than **Monday, January 12, 2009**.
3. The Applicant's reply submission must be filed with the Board and delivered to all parties no later than **Monday, January 26, 2009**.

All filings to the Board must quote file number EB-2008-0237, 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.

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, December 5, 2008

**ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary