



EB-2012-0033

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 Enersource
Hydro Mississauga Inc. for an order approving just and
reasonable rates and other charges for electricity
distribution to be effective January 1, 2013 and January 1,
2014.

**DECISION AND ORDER ON CONFIDENTIAL FILING AND
PROCEDURAL ORDER NO. 4
August 14, 2012**

Enersource Hydro Mississauga Inc. ("Enersource") filed an application (the "Application") with the Ontario Energy Board ("the Board") on April 27, 2012 under section 78 of the Ontario Energy Board Act, 1998, seeking approval for changes to the rates that Enersource charges for electricity distribution, to be effective January 1, 2013 and January 1, 2014. The Application was updated on May 17, 2012.

Pursuant to Procedural Order No. 1, a Settlement Conference was held on August 8, 2012. The Board's understanding is that no settlement was reached on any of the issues.

The procedural steps set out in Procedural Order No. 1 remain in effect except for the cancellation of the presentation of the Settlement Proposal. The Board has added an additional hearing day for the oral examination of the unsettled issues. The hearing dates are September 4, 6, 10 and 11, 2012.

To ensure that the best use is made of the time available for the evidentiary portion of the oral proceeding, the parties are to file a hearing plan with the Board by **August 28, 2012**. A room will be made available on **August 24, 2012** for the purposes of a non-transcribed pre-hearing conference in order to establish the hearing plan. The plan will

identify the issues that the intervenors and Board staff propose to examine orally, including the estimated time required for each issue. The Board will assume that any issues not identified by each party will not be examined any further during the oral hearing and may be included in each party's final argument. In that the Board does not expect the oral hearing to last more than four days, parties are encouraged to weigh the materiality and priority of the issues they wish to examine. The hearing plan will also identify and establish the sequence of Enersource's witness panels.

The Board expects that it will hear the final arguments orally, the timing of which is dependent on the Board's availability and will be confirmed at a later date.

Confidentiality:

In Procedural Order No. 3, dated June 26, 2012, the Board provided for the filing of submissions on the matter of confidentiality claimed by Enersource regarding responses to 4 interrogatories.

- SEC IR No. 3 under Issue: General (Investor Presentation);
- SEC IR No. 5 under Issue: General (Shareholders' Agreement);
- SEC IR No. 27 under Issue: 4.1 (Third Party Customer Care Agreement); and
- AMPCO IR No.13 under Issue: 2.3 (FIT correspondence).

With respect to AMPCO IR No.13, the Board noted that it had no concern with the proposed treatment, being the redaction of customer and corporate names in the appended correspondence.

On August 4, 2012 SEC submitted that the documents attached to SEC IR No.3 and SEC IR No. 5 should be filed on the public record without redaction. SEC noted that the redaction to SEC IR No.3 is limited to one page and that the redacted content is available publicly. SEC believed that as a matter of principle the Shareholders' Agreement, attached to SEC IR No. 5 should be a matter of public record. Enersource in its reply submission dated August 7, 2012 indicated it had reviewed SEC's submission and was prepared to withdraw its request for confidentiality regarding the documents at SEC IR Nos. 3 and 5.

The Board accepts Enersource's agreement to withdraw the request for confidential treatment of the responses to SEC IR Nos.3 and 5. Accordingly, the document attached to SEC IR No.3 will be placed on the public record in its entirety as a response

to SEC IR No.3. Similarly, the document attached to SEC IR No.5 will be placed on the public record in its entirety as a response to SEC IR No.5.

With respect to the document attached to SEC IR No. 27, SEC concurred that the actual signatures of the individuals on page 2 of the change order and page 9 of the original Third Party Customer Care Agreement should be redacted and noted that the pricing items, on pages 12 and 13, for services that are no longer provided are perhaps not material to the current Application and need not be on the public record if they are commercially sensitive. SEC submitted that the redaction of the current pricing on page 2 of the Request for Change form is unnecessary because, with the method of pricing described on page 12 and information on the public record, the current price can be calculated; and that at any rate the current price per call should be on the public record. SEC asserted that for similar reasons, the redaction on page 12 of the original Third Party Customer Care Agreement would appear to be unnecessary.

Enersource in its reply submission reiterated that the document is a third party contract and that the third party has expressed concerns about the redacted information being placed on the public record in light of its treatment of commercially sensitive pricing information. While appreciating the Board's preference to have all material evidence on the public record, Enersource submitted that only the redacted version of the document should be placed on the public record in light of the limited probative value of this information in setting rates and of the continued concern disclosing third party pricing information on the public record.

The Board will accept that the disputed information is commercially sensitive to the service provider and will afford the information confidential treatment. The redacted response to SEC IR No. 27 will be placed on the public record as a response to the interrogatory.

By way of letter filed August 10, 2012 Enersource indicated that the following undertaking responses from the Technical Conference no longer needed confidential treatment: JTC2.14, JTC2.15, JTC2.16, JTC2.17, JTC2.18, JTC2.19, JTC2.20 and JTC2.21. The Board accepts this treatment and notes that Enersource will file them publicly the week of August 13, 2012.

Regarding undertaking JTC2.13 and JTC2.22 the Board asks that Enersource review the respective responses, and inform the Board by **August 17, 2012** whether there is any part of the response that is not confidential, and if so, file a redacted version of the undertaking response on the public record.

The Board directs Enersource to file with the Board a redacted version of the in-camera portion of the Technical Conference transcript, dated July 31, 2012, that identifies all portions of the transcript for which confidentiality is claimed by **August 17, 2012**.

The Board considers it necessary to make provision for the following procedural matters. Further procedural orders may be issued from time to time.

THE BOARD ORDERS THAT:

1. The date for the presentation of the Settlement Proposal is cancelled.
2. The proposed hearing plan described in this Procedural Order shall be filed with the Board by **August 28, 2012**. A room will be provided on **August 24, 2012** in the Board's offices on the 25th floor at 2300 Yonge Street, Toronto, for purposes of a non-transcribed pre-hearing conference amongst the parties to prepare the hearing plan.
3. The oral hearing will commence at 9:30 am on **September 4, 2012** in the Board's North Hearing room on the 25th floor at 2300 Yonge Street, Toronto. If necessary, the oral hearing will continue on **September 6, 10 and 11, 2012**.

All filings to the Board must quote file number EB-2012-0033, be made through the Board's web portal at www.pes.ontarioenergyboard.ca/eservice/, 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 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, Richard Battista at richard.battista@ontarioenergyboard.ca and Board Counsel, Maureen Helt at maureen.helt@ontarioenergyboard.ca.

ADDRESS

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DATED at Toronto, August 14, 2012

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary