



**EB-2012-0121**

**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 Erie Thames  
Powerlines Corporation for an order approving just and  
reasonable rates and other charges for electricity distribution  
to be effective September 1, 2012.

Before: Paula Conboy  
Presiding Member

Cynthia Chaplin  
Member

## **DECISION AND ORDER**

### **November 29, 2012**

Erie Thames Powerlines Corporation (“Erie Thames”) filed an application with the Ontario Energy Board (the “Board”), received on June 26, 2012, under section 78 of the *Ontario Energy Board Act, 1998*, seeking approval for changes to the rates that Erie Thames charges for electricity distribution, to be effective September 1, 2012. The Board has assigned the application File Number EB-2012-0121.

The Board issued a Notice of Application and Hearing on July 16, 2012. The Board issued Procedural Order No. 1 on August 8, 2012, which among other things, set dates for interrogatories and granted intervenor status to the School Energy Coalition (“SEC”), the Vulnerable Energy Consumers Coalition (“VECC”) and the Energy Probe Foundation (“Energy Probe”) in this proceeding. The Board also determined that SEC,

VECC and Energy Probe were eligible to apply for an award of costs under the Board's *Practice and Direction on Cost Awards*.

On September 27, 2012, the Board issued Procedural Order No. 2 providing for a transcribed Technical Conference to be held on October 10, 2012 and the filing of responses to any undertakings arising from the Technical Conference by October 18, 2012. Additionally, the Board ordered a Settlement Conference to be convened on October 18, 2012. The Board ordered that any Settlement Agreement arising from the Settlement Conference be filed on or before November 2, 2012.

On November 2, 2012, Erie Thames filed a proposed Settlement Agreement with the Board. Erie Thames, SEC, VECC and Energy Probe are the parties (collectively, the "Parties") to the proposed Settlement Agreement. The proposed Settlement Agreement is comprehensive with no unsettled matters.

### **Findings**

The Board commends the Parties on achieving settlement of all matters.

Having reviewed the proposed Settlement Agreement, the Board accepts it in its entirety and further, accepts its cost and rate consequences as reasonable. The Settlement Agreement is included as Appendix A to this Decision and Order.

The Board wishes to remind the Parties that, as settlements are the result of negotiations on many and complex issues, the particular results and terms of a given settled issue should not be viewed as a precedent.

### **Implementation**

Parties to the Settlement agreed that the new rates should be effective no later than January 1, 2013. In the event that the Board issued a decision such that rates may be implemented and effective December 1, 2012, the Parties also supported a December 1, 2012 implementation and effective date.

Given the timing of the issuance of this Decision and Order, the Board directs that the draft Rate Order should be prepared on the basis of a January 1, 2013 effective and implementation date.

The results of the Settlement Agreement are to be reflected in Erie Thames's Draft Rate Order, which will include a draft Tariff of Rates and Charges and any supporting documentation.

### **Payment in Lieu of Taxes ("PILs") Disposition**

The Board notes that proposed Settlement Agreement at page 9 states that:

Parties are in agreement that the PILs Disposition is appropriately dealt with for all of the former ETPL, WPPI and CPC together as it will be more efficient and reduce the potential for customer confusion. Further, the Parties are in agreement this issue should not hold up the implementation of rates as agreed to herein. The Parties would recommend the PILs Disposition for all of ETPL, WPPI and CPC be dealt with as part of the 2013 IRM proceeding or a separate proceeding as deemed appropriate by the Board.

In the event that Erie Thames does not include the matter of PILs disposition in its 2013 IRM application or if a 2013 IRM application is not filed before June 1, 2013, the Board directs Erie Thames to file a stand-alone application on the matter no later than June 1, 2013.

The Board reminds Erie Thames that on December 23, 2010, the Board issued its Decision on the Combined PILs proceeding EB-2008-0381 ("Combined PILS Decision"). In that Decision the Board indicated that if the distributor files evidence in accordance with the various decisions made in the course of the Combined PILS proceeding, including the use of the updated SIMPIL model, the determination of the final account balance will be handled expeditiously and in a largely administrative manner. However, if a distributor files on a basis which differs from what is contemplated by the Combined PILS Decision, the application can take some time to process, and therefore should not be included in an IRM application. Deviations from the Combined PILS Decision could include taking a different position on issues considered by the Board in the Combined PILs proceeding, addressing issues not arising in the Combined PILs proceeding or filing older SIMPIL models rather than the updated models containing the Excel worksheet 'TAXREC 3' as used by Halton Hills Hydro Inc. In advance of filing its PILs application, Erie Thames should review the Combined PILS Decision and decisions on subsequent PILs applications.

**International Financial Reporting Standards (“IFRS”)**

The Board notes that Erie Thames indicated in its application that it planned to adopt IFRS based reporting in 2013. The Board reminds Erie Thames that upon adopting IFRS based reporting, Erie Thames is to use *1575 IFRS-CGAAP Transitional PP&E Amounts* account which the Board has established to record the differences arising as a result of accounting policy changes caused by the transition from previous Canadian GAAP to modified IFRS.<sup>1</sup>

**2013 IRM**

The Board notes that the Notice of Application and Hearing indicated that the Board may also adjust the delivery charges based on the Board’s incentive regulation framework (“IRM”) for 2013 as part of this application. The Board has determined that it will not proceed with the IRM adjustment as part of this proceeding. However, it is open to Erie Thames, should it wish to seek a rate adjustment for 2013 rates, to file its application in a timely manner following the issuance of this rate order.

A Rate Order will be issued after the steps set out below are completed.

**THE BOARD ORDERS THAT:**

1. Erie Thames shall file with the Board, and shall also forward to the intervenors, a Draft Rate Order attaching a proposed Tariff of Rates and Charges and supporting documentation reflecting the Board’s findings in this Decision and Order within **7 days** of the date of this Decision and Order.
2. Intervenors and Board staff shall file any comments on the Draft Rate Order with the Board and forward to Erie Thames within **7 days** of the date that Erie Thames files the Draft Rate Order.

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<sup>1</sup> Accounting Procedures Handbook ( effective January 1, 2012) p.31

3. Erie Thames shall file with the Board and forward to intervenors responses to any comments on its Draft Rate Order within **4 days** of the date of receipt of Board staff and intervenor comments.

### Cost Awards

The Board may grant cost awards to eligible parties pursuant to its power under section 30 of the *Ontario Energy Board Act, 1998*. When determining the amount of the cost awards, the Board will apply the principles set out in section 5 of the Board's *Practice Direction on Cost Awards*. The maximum hourly rates set out in the Board's Cost Awards Tariff will also be applied.

1. Intervenors shall file with the Board and forward to Erie Thames their respective cost claims within **7 days** from the date of issuance of the final Rate Order.
2. Erie Thames shall file with the Board and forward to intervenors any objections to the claimed costs within **14 days** from the date of issuance of the final Rate Order.
3. Intervenors shall file with the Board and forward to Erie Thames any responses to any objections for cost claims within **21 days** of the date of issuance of the final Rate Order.
4. Erie Thames shall pay the Board's costs incidental to this proceeding upon receipt of the Board's invoice.

All filings with the Board must quote the file number EB-2012-0121, and be made through the Board's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must be received by the Board by 4:45 p.m. on the stated date. Parties should use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at [www.ontarioenergyboard.ca](http://www.ontarioenergyboard.ca). If the web portal is not available, parties may e-mail their documents to the attention of the Board Secretary at [BoardSec@ontarioenergyboard.ca](mailto:BoardSec@ontarioenergyboard.ca). All other filings not filed via the Board's web portal should be filed in accordance with the Board's *Practice Directions on Cost Awards*.

All communications should be directed to the attention of the Board Secretary and be received no later than 4:45 p.m. on the required date.

**DATED** at Toronto, November 29, 2012

**ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary

**APPENDIX A  
To The  
Decision and Order  
Erie Thames Powerlines Corporation  
November 29, 2012**

**SETTLEMENT AGREEMENT**