



EB-2014-0252

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 Burlington
Hydro Inc. for an order, approving the recovery of certain
amounts related to the restoration of electricity service in
the City of Burlington due to an ice storm in December
2013.

BEFORE: Christine Long
Presiding Member

Allison Duff
Member

DECISION AND ORDER

January 29, 2015

Burlington Hydro Inc. (Burlington Hydro) filed an application with the Ontario Energy Board (the Board) on July 31, 2014 under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B), seeking approval for the recovery of certain amounts related to the restoration of electricity service in the City of Burlington due to an ice storm in December 2013.

The Energy Probe Research Foundation (Energy Probe) and the Vulnerable Energy Consumers Coalition (VECC) applied for and were granted intervenor status and cost eligibility. The hearing process included interrogatories and written submissions.

The following issues are dealt with in this Decision:

- Materiality
- Prudence
- Causation
- Cost Recovery
- Implementation

Background

On December 21st and 22nd an ice storm swept across Southern and Eastern Ontario. Falling trees and power lines resulted in extensive damage to electricity distribution systems across the Province. Approximately 7,500 Burlington Hydro customers, almost 11% of its customer base, were without power at the height of the ice storm. To aid in restoring power, Burlington Hydro obtained the assistance of three external contractors and three electricity distributors. Power was restored to all customers by December 29, 2013.

On May 23, 2014 Burlington Hydro notified the Board of the damage caused by the ice storm and its intention to file a “Z-factor” claim. A Z-factor claim is an option available to an electricity distributor to seek the recovery of costs arising from unforeseen events outside of its control. If a claim is approved, the distributor can establish a new, incremental rate, without having to wait until its next cost of service proceeding.

In this application, Burlington Hydro requested the recovery of \$579,365 for Operations, Maintenance & Administration (OM&A) costs which included carrying costs of \$6,317. Burlington Hydro did not seek recovery of ice-storm related capital or allocated costs in its Z-factor claim.

Burlington Hydro proposed recovery of its Z-factor costs through fixed rate riders, charged to all customer rate classes based on the average customer counts for 2013. The proposed rate riders would be charged for 18 months beginning November 1, 2014 and ending April 30, 2016, to coincide with the expiration of four other rate riders.

Z-factor claims must satisfy three eligibility criteria¹:

¹ Board's Report on 3rd Generation Incentive Regulation for Ontario's Electricity Distributors dated July 14, 2008 (http://www.ontarioenergyboard.ca/oeb/Documents/EB-2007-0673/Report_of_the_Board_3rd_Generation_20080715.pdf)

- **Materiality** – The amounts must exceed the Board-defined materiality threshold and have a significant influence on the operation of the distributor, otherwise they should be expensed in the normal course and addressed through organizational productivity improvements.
- **Prudence** – The amounts must have been prudently incurred. This means that the distributor's decision to incur the amounts must represent the most cost-effective option (not necessarily least initial cost) for ratepayers.
- **Causation** – Amounts should be directly related to the Z-factor event. The amount must be clearly outside of the base upon which rates were derived.

Materiality

Burlington Hydro's approved revenue requirement at the time of the ice storm was \$29,253,965 from its 2010 cost-of-service application². The Board-defined materiality threshold for a Z-factor claim is 0.5% of distribution revenue requirements greater than \$10 million and less than or equal to \$200 million. Therefore, Burlington Hydro's materiality threshold is \$146,270.

All parties submitted that the Z-factor claim of \$579,365 exceeded the materiality threshold.

Board Findings

The Board finds that the materiality test has been met.

Prudence

A summary of Burlington Hydro's Z-factor costs are as follows:

² EB-2009-0259

Table 1 – Claimed Z-Factor Costs

Cost Category	
Materials	\$9,679
Labour	
Field and Back-office	\$185,549
Non-Union Overtime	\$34,204
Contractor	
Powerlines	\$208,067
Tree Trimming	\$67,189
Neighbouring LDCs and Customer Service	\$29,464
Other	
Fleet	\$22,480
Twitter	\$6,950
Meals, Miscellaneous and Tool repair	\$9,466
Projected carrying charges	\$6,317
Total Claimed Z-Factor Costs	\$579,365

VECC took issue with Burlington Hydro's claim of \$34,204 for Non-Union Overtime and submitted that only overtime costs for Trade Supervisors should be eligible for recovery in the Z-factor claim. VECC indicated that Burlington Hydro's Overtime Policy indicates that non-union overtime is not paid in the normal course of business with the exception of Trade Supervisors; therefore, all other non-union overtime should be deducted from the approved Z-factor amount.

In its reply submission, Burlington Hydro submitted that the ice storm was extraordinary and non-union or management overtime was required to coordinate an unprecedented level of specialized resources and minimize the duration of the service disruption. Burlington Hydro indicated that normal field work activities include planning and advance communication, which were not possible during the ice storm. Burlington Hydro clarified that its Z-factor claim excluded costs associated with two executives who helped during the ice storm.

Regarding the \$22,480 in Fleet costs, VECC was unclear whether the costs were incremental or allocated. Unless Burlington Hydro confirmed the costs were incremental, VECC submitted that \$22,480 should be excluded from the approved Z-

factor amount. In its reply submission, Burlington Hydro clarified that the Fleet costs were incremental, incurred as a result of the ice storm.

Energy Probe submitted that Burlington Hydro's Z-factor claim should be reduced by the under spending on tree trimming in 2013. Actual tree trimming expenditures for 2013 were nearly \$100,000 less than the budget of \$345,000. Energy Probe submitted that in the absence of adequate rationale to support the decrease in expenditure, the Board should reduce Burlington Hydro's Z-factor claim by \$100,000. VECC supported Energy Probe's submission in this matter.

In its reply argument, Burlington Hydro indicated that the area trimmed in 2013 included areas affected by the ice storm which may have reduced the outage period subsequent to the ice storm. Burlington Hydro also indicated that it has developed a plan to catch-up on the backlog of routine tree trimming work in 2014 and 2015, if necessary.

Board Findings

The Board finds the expenses included in Burlington Hydro's Z-factor claim of \$579,365 to be prudently incurred. The two issues in dispute among the parties are the payment of management overtime and tree trimming costs, as Burlington Hydro confirmed the Fleet costs were incremental.

The Board regards the ice storm recovery efforts as extraordinary and not within the "normal course of business". The Board finds that it was prudent to pay overtime to non-union employees during the ice storm. Emergency situations occur in which electricity is disconnected and efforts are required to restore service to customers, situations in which the Overtime Policy would apply. However, the December 2013 ice storm resulted in the disconnection of 11% of Burlington Hydro's customers for up to 7 days. Management was required to coordinate the activities of three external contractors and three electricity distributors to restore service effectively and efficiently.

The Board also finds the \$67,189 in claimed Tree Trimming expenses to be prudently incurred. Burlington Hydro indicated that the areas trimmed in 2013 may have reduced the costs incurred after the ice storm. There was no evidence to indicate that the \$67,189 was imprudent or higher than necessary because routine tree trimming had been delayed in 2013.

Causation

Burlington Hydro provided a comparison of its “Distribution Maintenance Expenses” from 2009 to 2013:

Table 2: Distribution Maintenance Expenses

	2009	2010	2011	2012	2013
Budget	\$4,268,417	\$4,454,559	\$3,971,132	\$4,468,860	\$5,054,057
Actual	\$3,970,724	\$3,710,754	\$4,157,034	\$4,514,630	\$5,378,080

Burlington Hydro indicated that its Distribution Maintenance Expenses budget relates to a wide range of activities, including its unplanned costs to restore service subsequent to inclement weather. However, the budget did not include costs for major storms or extreme weather.

Board staff indicated that the evidence did not clearly demonstrate the storm-related spending planned for each year. Board staff submitted that, due to the lack of granularity, it was not possible to discern how much storm or emergency-related costs were already funded in Burlington Hydro’s 2013 rates. Accordingly, Board staff submitted that, a deduction to the Z-factor claim amount was warranted. Board staff recommended a reduction of \$106,865, or about 18%, and submitted that it was a reasonable reduction based on a cost of “\$63 per customer restored” approved by the Board in Milton Hydro’s Z-factor proceeding³.

In its reply submission, Burlington Hydro indicated that its accounting and record keeping is consistent with other distributors and it does not explicitly budget for storm and inclement weather costs in its budgets.

Burlington Hydro disagreed that Milton Hydro’s Z-factor costs could be linked or expected to resemble its service restoration cost per customer. Burlington Hydro submitted that Board staff’s recommended reduction was inappropriate, arbitrary and lacked causality.

³ EB-2014-0162

Board Findings

The Board finds that Burlington Hydro's Z-factor claim meets the causation criterion. All costs included in the claim were incurred as a result of the ice storm. The Board also finds that there is sufficient evidence to indicate the claimed expenses were outside the base upon which rates were derived.

The evidence indicates that Burlington Hydro's total budget for Distribution Maintenance Expenses was exceeded in 2013, before the ice storm occurred. The lack of granularity in Burlington Hydro's budget is not at issue. The Board is satisfied that Burlington Hydro had exceeded its budget when the December ice-storm occurred in 2013 and did not have any excess funds to allocate or pay for its ice storm-related expenses.

In addition, the Board does not find it appropriate to reduce Burlington Hydro's cost claim based on Milton Hydro's restoration costs per customer. Milton Hydro's Z-factor claim was double Burlington Hydro's claim and the number of customers affected was also double. The cost per customer to restore service would be based on a number of factors, differing from one utility to another.

In summary, the Board finds that Burlington Hydro's Z-factor claim satisfies the 3 eligibility criteria of materiality, prudence and causation.

Cost Recovery

Once the cost of the claim has been determined, the Board must decide on the manner in which costs will be allocated to customers for recovery. By convention, costs for Z-factor claims are recovered by dedicated rate riders.

Burlington Hydro proposed fixed rate riders for all customer classes based on its average 2013 customer/connection count and 2013 distribution revenue. Burlington Hydro also sought Board approval to track the variance between its approved claim amount and actual revenue recovery.

Board staff, Energy Probe and VECC submitted that it would be preferable to allocate costs on the basis of Burlington Hydro's last Board-approved distribution revenue from its 2014 cost-of-service rate application⁴, not 2013 as proposed.

⁴ EB-2013-0115

Board staff submitted that the fixed rate riders should be based on the actual customer/connection count numbers as of December 31, 2013, not the average in 2013. Energy Probe submitted that the fixed rate rider should either be based on the September 30, 2014 actuals or the April 2015 forecast to minimize the potential over collection. VECC supported the use of the September 30, 2014 actual customer counts.

Board Findings

The Board finds it appropriate to recover the approved claim across all rate classes based on Burlington Hydro's 2014 Board-approved distribution revenue by rate class. This finding is consistent with prior Board decisions⁵.

The Board has considered the collection period over which the rate riders will be charged. Given the timing of this Decision and to allow sufficient time for the draft rate order process, the Board finds it appropriate to establish February 1, 2015 as the start date for the rate riders. As a result, the Board directs Burlington Hydro to accrue interest until January 31, 2015, recalculate its total claim, and calculate the rate riders based on a 15-month recovery period with an April 30, 2016 end date.

The Board finds it appropriate to calculate the rate riders based on the actual customer numbers as of September 30, 2014. The Board finds it preferable to use the latest actual customer count data provided in evidence. The Board also approves the proposed true-up mechanism. As a result, the Board directs Burlington Hydro to transfer the final balance from Account 1572 "Extraordinary Event Costs" to separate sub-accounts of Account 1595 applicable to principal and interest carrying charges. The use of Account 1595 "Disposition and Recovery of Regulatory Balances Control Account" will allow the difference between the approved claim and the amount collected from the fixed rate riders to be tracked.

Implementation

The Board has made findings in this Decision which change the calculation of the rate riders proposed by Burlington Hydro. In filing its draft Rate Order, the Board expects Burlington Hydro to file detailed supporting material, including all relevant calculations

⁵ Milton Hydro (EB-2014-0162), Halton Hills Hydro (EB-2014-0211)

showing the impact of the implementation of this Decision on its Z-factor rate riders, including the bill impacts.

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

THE BOARD ORDERS THAT:

1. Burlington Hydro shall file with the Board, and shall also forward to Energy Probe and VECC, a draft Rate Order attaching a proposed Tariff of Rates and Charges and other filings reflecting the Board's findings in this Decision and Order within **4 days** of the date of this Decision and Order.
2. Energy Probe and VECC and Board staff shall file any comments on the draft Rate Order with the Board and forward to Burlington Hydro within **2 days** of the date that Burlington Hydro files the draft Rate Order.
3. Burlington Hydro shall file with the Board and forward to Energy Probe and VECC responses to any comments on its draft Rate Order within **2 days** of the date of receipt of comments.

Cost Awards

The Board will issue a separate decision on cost awards once the following steps are completed:

1. Energy Probe and VECC shall submit its cost claims no later than **7 days** from the date of issuance of the final Rate Order.
2. Burlington Hydro shall file with the Board and forward to Energy Probe and VECC any objections to the claimed costs within **17 days** from the date of issuance of the final Rate Order.
3. Energy Probe and VECC shall file with the Board and forward to Burlington Hydro any responses to any objections for cost claims within **24 days** from the date of issuance of the final Rate Order.
4. Burlington Hydro shall pay the Board's costs incidental to this proceeding upon

receipt of the Board's invoice.

All filings to the Board must quote the file number, **EB-2014-0252**, 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 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, Suresh Advani at suresh.advani@ontarioenergyboard.ca and Board Counsel, Ljuba Djurdjevic at Ljuba.Djurdjevic@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 29, 2015
ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary