



EB-2016-0085

InnPower Corporation

Application for electricity distribution rates and other charges beginning July 1, 2017

DECISION and PROCEDURAL ORDER NO. 7 November 10, 2017

InnPower Corporation (InnPower) filed an amended cost of service application with the Ontario Energy Board (OEB) on May 11, 2017 under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B (the Act), seeking approval for changes to the rates that InnPower charges for electricity distribution, to be effective July 1, 2017. The OEB had previously declared InnPower's Tariff of Rates and Charges interim as of January 1, 2017.

The OEB issued Procedural Order No. 1 on May 16, 2017, which provided for the filing of interrogatories and responses. Procedural Order No. 2 was issued on May 26, 2017 and required InnPower to provide notice of the application to three specific customer groups that would be directly impacted by one or more of the proposed changes to specific service charges, and provided for further interrogatories and responses.

On August 23, 2017, the OEB received a letter from InnPower's counsel advising that InnPower was withdrawing its request to increase rates for two of the customer groups (pole attachment customers and microFIT customers) and that it had no customers in the third group (net metering customers). InnPower indicated that it will await the outcome of the Pole Attachment Working Group in EB-2015-0304 prior to determining a new pole attachment charge.

On August 24, 2017, the OEB received a letter from the School Energy Coalition (SEC), an intervenor in this proceeding. SEC submitted that the evidence filed by InnPower shows that the pole attachment charge should be increased, and as a result of proper cost allocation, the rates to all other customers would be decreased. SEC therefore submitted that the appropriate pole attachment charge remains a relevant issue in this proceeding.

By way of letter dated August 28, 2017, InnPower's counsel challenged SEC's position and requested that the OEB allow it to withdraw its proposal to change the pole attachment charge.

The OEB issued Procedural Order No. 3 on September 1, 2017, which set dates for an oral hearing regarding all issues in the application, except InnPower's pole attachment and microFIT charges for which separate procedural steps were to be established.

The OEB issued Procedural Order No. 6 on October 10, 2017 inviting parties to provide written submissions on the following question:

Should the OEB consider a change to InnPower's pole attachment and microFIT charges in this proceeding?

The OEB received submissions from InnPower, Rogers Communication Canada Inc. (Rogers), SEC, the Vulnerable Energy Consumers Coalition (VECC) and OEB staff. Rogers and SEC submitted the OEB should consider a change to InnPower's pole attachment charge. Rogers recommended the OEB convene a settlement conference to deal with the issue efficiently and expeditiously, without the need for a more comprehensive process. SEC submitted that without responses to interrogatories already filed, SEC was unable to test the evidence initially filed to ensure InnPower used the correct inputs and methodology approved by the OEB (RP-2003-0249). VECC supported SEC's submissions.

OEB staff and InnPower submitted that the OEB should not consider changes to the pole attachment charge. OEB staff also submitted that InnPower should continue to apply the current pole attachment charge of \$22.35.

InnPower indicated that it does not believe that it can discharge the evidentiary burden to support the change to the pole attachment charge or the proposed change to the microFIT charge that it had proposed in an earlier version of its application.

InnPower also submitted that the total value of the incremental pole attachment revenue in a year would be less than InnPower's materiality threshold of \$61,927. Given this, InnPower stated that the issue does not merit the time and expense associated with a hearing on this issue. OEB staff noted in its submission that the revenue associated with InnPower's original request to increase its pole attachment charge was \$164k, as confirmed in the technical conference¹.

No party objected to InnPower maintaining the current microFIT charge of \$5.40. SEC submitted that InnPower had clarified it did not have ongoing costs that should be added to the current charge. OEB staff submitted that the current charge was based on the

¹ InnPower_transcript_vol1_TC_20170912, page. 128-130

province-wide standard and there was no basis to change it. VECC and Rogers did not take a position on the issue.

Findings

The OEB will not consider a change to the microFIT charge of \$5.40. The OEB calculates a province-wide microFIT charge based on an OEB-approved methodology. In May 2017, the OEB confirmed that the province-wide charge will remain at \$5.40. The OEB finds that the record is sufficient to conclude that a change to the microFIT charge from the province-wide charge is not required.

The OEB will consider a change to the current pole attachment charge of \$22.35. The OEB finds that it has jurisdiction pursuant to section 78 of the Act to determine pole attachment charges. This finding is consistent with the OEB's decision in the Hydro Ottawa application (Hydro Ottawa Decision)² in which the OEB found that pole attachments are incidental to the distribution of electricity as the poles are an essential facility properly considered under section 78 of the Act.

Since 2005, Ontario electricity distributors have charged a common pole attachment charge of \$22.35 as approved by the OEB. The \$22.35 is an annual charge for each attacher on a pole. The OEB issued its decision in the RP-2003-0249 proceeding on March 7, 2005 (the 2005 Decision). The 2005 Decision also indicated that if the province-wide standard charge was not appropriate for a distributor, a distributor could apply for a different charge based on its own costs.

The OEB finds that there is sufficient evidence to indicate that InnPower has higher costs related to the provision of pole attachment services than used in the calculation of the current charge. There is insufficient evidence for the OEB to quantify the additional costs. The OEB does not accept InnPower's back-of-the-envelope analysis as evidence, as indicated in its August 28, 2017 letter. In addition, the OEB does not consider InnPower's \$60,000 materiality threshold relevant in the OEB's decision to consider pole attachment charges. This is an issue involving cost identification and cost allocation to different customer classes. Cost allocation to different customer classes is revenue neutral to InnPower and therefore it is important to look at materiality from the perspective of a customer, or group of customers. Rogers, SEC and VECC submitted that the OEB should consider a change to the pole attachment charge.

As referenced in InnPower's letter of August 23, 2017, the OEB has initiated a generic policy review of pole attachment charges. This review is considering the methodology to

² OEB Decision and Rate Order on Pole Attachment Charge EB-2015-0004

be used for determining pole attachment charges. In Procedural Order No. 6, the OEB indicated that the expected issuance date of a new policy on pole attachment charges is unknown. Until any new methodology is determined, the OEB is guided by its 2005 Decision.

The OEB finds the evidence currently on the record insufficient to enable parties to assess, and the OEB to determine, the appropriate pole attachment charge for InnPower. The OEB directs InnPower to file updated evidence at Exhibit 8, Section 5, Table 3-44 Account 4210 Rent from Electric Property, and Appendix 2-H Other Operating Revenue, with a proposed new pole attachment charge based on evidence it can support. InnPower's evidence should be based on the current methodology for determining pole attachment charges as set out in the 2005 Decision. Consistent with the Hydro Ottawa Decision on pole attachments, the evidence must include InnPower's number of attachers per pole, and distinguish between direct and indirect costs.

The OEB is providing for an interrogatory and a settlement process regarding the evidence to be refiled by InnPower related to its pole attachment costs. The procedural dates in Procedural Order No. 5 are unchanged.

The OEB will proceed to determine the issue on the basis of the updated evidence contemplated in this procedural order. The OEB expects intervenors and OEB staff to file interrogatories based on the updated evidence. The OEB will not direct InnPower to update responses to interrogatories filed by intervenors and OEB staff on June 13, 2017.

It is necessary to make provision for the following matters related to this proceeding. Further procedural orders may be issued by the OEB.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. InnPower shall file updated evidence at Exhibit 8, Section 5, Table 3-44 Account 4210 Rent from Electric Property, and Appendix 2-H Other Operating Revenue, by **November 27, 2017**.
2. Intervenors and OEB staff shall request any relevant information and documentation from InnPower that is in addition to the updated evidence, by written interrogatories filed with the OEB and serve on all parties by **December 4, 2017**.
3. InnPower shall file with the OEB complete written responses to all interrogatories and serve them on all intervenors and OEB staff by **December 18, 2017**.

4. A Settlement Conference among the parties and OEB staff will be convened on **January 8, 2018** starting at 9:30 a.m., at 2300 Yonge Street, 25th floor, Toronto. If necessary, the Settlement Conference will continue on **January 9, 2018**.
5. Any settlement proposal arising from the Settlement Conference shall be filed with the OEB on or before **January 31, 2018**.
6. Any submission from OEB staff on a settlement proposal shall be filed with the OEB and served on all parties within 7 days from when a settlement proposal is filed.
7. If there is no settlement proposal arising from the Settlement Conference, InnPower shall file a statement to that effect with the OEB by **January 15, 2018**.

All filings to the OEB must quote the file number, EB-2016-0085, be made in searchable / unrestricted PDF format electronically through the OEB's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>. Two paper copies must also be filed at the OEB's address provided below. 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.oeb.ca/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.

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, Fiona O'Connell at fiona.oconnell@oeb.ca and OEB Counsel, Ljuba Djurdjevic at ljuba.djurdjevic@oeb.ca.

ADDRESS

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DATED at Toronto, **November 10, 2017**

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary