

**IN THE MATTER** of the *Ontario Energy Board Act 1998*, Schedule B to the *Energy Competition Act*, 1998, S.O. 1998, c.15;

AND IN THE MATTER OF an Application by Enersource Hydro Mississauga Inc. for an Order or Orders approving just and reasonable rates for the distribution of electricity, effective February 1, 2010 by way of the clearance of certain deferral and variance accounts.

**SUBMISSIONS**  
**OF THE**  
**SCHOOL ENERGY COALITION**

1. On November 27, 2009 the Applicant Enersource Hydro Mississauga Inc. applied for an order for the clearance of Group 1 deferral and variance account balances as of December 31, 2009, and the Account 1588 Global Adjustment as of September 30, 2009. With certain exceptions, the Application purports to follow the procedures set out in the Board's July 31, 2009 Report on the Electricity Distributors' Deferral and Variance Accounts Review Initiative (the "EDDVAR Report").
2. By Procedural Order dated December 21, 2009, the Board sought submissions from intervenors by December 24, 2009, and responding submissions from the Applicant by January 7, 2010. These are the submissions of the School Energy Coalition.
3. This appears to us to be the first proceeding in which the exceptional clearance of Account 1588 Global Adjustment is being proposed under the EDDVAR Report, and one of the first to follow that report with respect to the remaining Group 1 accounts. It also deals with very substantial accrued balances in the accounts, relative to the revenues of the Applicant.
4. For the reasons set forth below, we believe that the Board should not grant the relief as sought, but should grant alternative relief that is more appropriate given the circumstances.

**Procedure**

5. We have two comments on the procedure being following by the Board in this proceeding.
6. First, we note that the Board has determined that the streamlined written hearing approach should be used for this Application. It is our understanding that the EDDVAR Report has

stipulated the streamlined written hearing only for Account 1588. The clearance of the other Group 1 accounts is, as set out in the EDDVARR Report, to be carried out as part of the IRM application of the utility.

7. The 2010 IRM application of this utility was filed early, however, as it was seeking a January 1<sup>st</sup> change in rates, as opposed to the normal May 1<sup>st</sup> date. That request was declined by the Board in a decision on December 15, 2009, but it meant that the IRM application was filed too early to include the clearance of the non-1588 Group 1 accounts.
8. It would appear to us that given the early filing of the IRM application, and the essentially non-controversial nature of the Group 1 accounts other than Account 1588, folding the Group 1 clearance into the streamlined process for considering Account 1588 is a practical and efficient approach. We raise it, however, because as we note later, the combination of the two applications may have obscured the calculation of the Account 1588 threshold test, and the failure to meet the threshold test has implications for the relief to be granted by the Board. This is discussed further below.
9. Second, we note that the Procedural Order on this matter was issued on December 21, 2009, and there was no Notice of Hearing preceding it. Thus, with a December 24<sup>th</sup> date for submissions, most intervenors have effectively been excluded from participation in this proceeding. It was only by chance that School Energy Coalition noticed the filing last week, and was able to be prepared for it.
10. If the Application had been, in all respects, compliant with the EDDVAR Report, we might understand the very limited notice. In this case, the first major application after that report, and one that is materially non-compliant, in our submission the timing was inappropriate. While we were not prejudiced, there may be other ratepayer groups that have been.
11. It is therefore submitted that, at the very least, applicants using the streamlined written hearing process should be required, at the time they file their application with the Board, to provide copies to all parties that were intervenors in their previous cost of service rate case, and any other parties that they know or expect will have a specific interest in the application. Further, applicants seeking to use the streamlined process should include in their application certification that they are fully compliant with the policy, or specifically identifying all instances in which they are non-compliant, to demonstrate that none of those instances are material.

### **Group 1 Other Than Account 1588**

12. The Applicant is seeking clearance of a credit balance totaling \$20,086,187 for all Group 1 Accounts other than Account 1588. We have derived this figure by taking the total of \$29,008,065 at Tab B, Attachment A, page 11 (which includes a credit balance in Account 1588), and deducting from it the total of \$8,921,878 in Account 1588 (Excluding Global Adjustment) on the preceding page 10.

13. We have reviewed these accounts and the continuity, and we believe that this clearance is appropriate and, subject to the clearance period, discussed below, complies with the EDDVAR Report.
14. The Applicant has proposed that this clearance take place over two years, rather than one year as set forth in the EDDVAR Report. We agree with that proposal, but for different reasons. In our view, it is not in the ratepayers' interests to have a see-sawing of rates from one year to the next. In this case, the net amount to be cleared (excluding Account 1588) is 17.31% of the Applicant's 2010 Distribution Revenue as set forth in its EB-2009-0193. To clear this over one year would be a sizeable drop in rates for the RPP customer, but at the end of the year that would all come to an end, and there would be again a big jump in rates.
15. This may be exacerbated if the Applicant, as we expect, applies for 2011 rates on a cost of service basis to take advantage of the change in ROE established in the Board's December 11<sup>th</sup> Report on Cost of Capital. Aside from any increases in revenue requirement that might be included in a cost of service application, it would appear to us that the Cost of Capital Report could result in a further increase in 2011 rates of just under \$5 million. If this is added to a \$20 million see-saw effect, the impact on ratepayers would, in our view, be unreasonable.
16. We therefore submit that the proposal to clear these accounts, other than Account 1588, over two years is a reasonable one that will keep rates more stable, and partially ameliorate any impact in 2011 of the Cost of Capital Report.

### **Account 1588**

17. We have two concerns about the clearance of Account 1588:
  - a. By our calculations, the threshold set out on page 15 of the EDDVAR Report has not been met or exceeded in one, and probably both, of the relevant quarters.
  - b. The impact of this clearance, in the manner proposed, on ratepayers, particularly in the GS>50KW class, exceeds a reasonable amount.
18. On the first point, we note that the Board determined, in this very recent report, and after a debate between stakeholders, that Account 1588 should be cleared on a quarterly basis in "exceptional cases only". After due deliberation, the Board determined that the "exceptional" designation would be met if the preset disposition threshold of \$0.01/kWh is met or exceeded for two consecutive quarters.
19. In this case, in our submission the threshold has not been met, because the calculation in Tab B, Attachment B, Schedule 6 is incorrect. In our submission, the EDDVAR Report is clear that the test of clearance of Account 1588 is for the whole of that account, not just the Global Adjustment sub-account. The corrected calculations would be as follows:

- a. As of September 30, 2009, the debit balance in the Global Adjustment sub-account of \$41,787,641 is partially offset by the credit balance in the rest of the same account of \$8,288,868 as of September 30, 2009 [Tab B, Attach. B, page 10], for a net balance of \$33,498,773. When that is compared to the cumulative volume of 4,108,835,699 kWh, the result is .008153/kWh, which does not meet or exceed the threshold.
  - b. As of June 30, 2009, the debit balance in the Global Adjustment sub-account of \$31,180,546 will be partially offset by the credit balance in the rest of the same account. That figure is not disclosed in the Application, but we can calculate that if that credit exceeded \$4,327,597 as of June 30, 2009, the threshold would not have been met on that date as well. When we review the continuity schedule, it would appear to us likely that the credit exceeded this amount on that date.
20. It is therefore submitted that, as Account 1588 balances did not exceed the Board's recently-established threshold for at least one of the two quarters in question, and probably for both, the Application does not comply with the EDDVAR Report and clearance of this account on a quarterly basis should not be ordered.
21. On the second point above, we note that the impact of this clearance on GS>50KW customers, even after taking in account the two year period, and even after the offset for the credit balances, is still a 24.48% increase in distribution charges [Tab B, Attach. B, Sched 5, page 2].
22. This is a real cost to ratepayers. By way of example, we estimate that the increase in distribution bills for the approximately 235 schools in Mississauga would be more than \$550,000 in each of the next two years as currently proposed. Even after the offset from the clearance of the other Group 1 accounts, this is more than \$360,000 per year, which is a significant budget concern, particularly piled on top of the many other pressures on electricity costs in 2010. Many other customers, including small businesses, would have similar impacts.
23. We readily understand that the Global Adjustment is a true-up mechanism, and ultimately customers have to pay it. Schools do not object to paying amounts they are required to pay. However, we also understand that the Global Adjustment varies both up and down, as can be seen from the continuity schedules in the Application from 2006 to date.
24. We further understand that, for this utility, the buildup in the Global Adjustment sub-account has become a significant concern. While there is the possibility that the adjustments will be credits in the coming year, the utility cannot count on that. Further, the utility's situation is particularly challenging if it is refunding more than \$20 million in the other Group 1 accounts, but is left still holding a net regulatory asset of more than \$33 million in Account 1588.

### **Proposed Resolution of Account 1588**

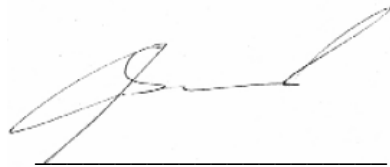
25. In our view, it would be inappropriate for the Board to order clearance of Account 1588 on the basis proposed, when the Board has only four months ago completed the development of a process that specifically decided on a different threshold. It is submitted that the Board should determine that the Application is not in compliance with the EDDVAR Report in this respect, and the Board cannot order this clearance, particular using a streamlined process that is only appropriate for policy-compliant, non-controversial applications.
26. Having said that, we believe that the Board should provide the utility with some relief from the cash flow pressure that obviously arises in this situation. This is an unusual situation, given the timing of the Applicant's IRM application. If it were not for that timing, this would all be considered in the context of the IRM application, over a more manageable timeframe. It is also unusual in that it is the first application of its kind, and so all parties are dealing with a new procedure.
27. It is submitted that a fair solution for this utility is to allow an extraordinary one-time recovery of \$20,086,187 from Account 1588 over two years, to match the refund of the non-1588 Group 1 Accounts. This keeps the utility whole by providing an additional clearance in excess of that provided in the policy, while still minimizing the ratepayer impacts of departing from that policy. It would leave a net balance in Account 1588 of \$12,779,576 (a debit of \$21,701,454 in the Global Adjustment sub-account, offset by \$8,921,878 credit in the remainder of the account), which is an amount that is easier to manage, and within the normal ups and downs of that account year by year.
28. We note that, because of the difference in recovery and payment between RPP and non-RPP customers, this is not a wash for the ratepayers. Assuming that the amount cleared from Account 1588 is all from the Global Adjustment sub-account, there is still a bill decrease for RPP customers, and still an increase for non-RPP customers. \
29. Using the examples in Tab B, Attach. B, Schedule 5, we calculate that the sample Residential non-RPP bill would go up \$0.50 plus GST/HST, or about 2.2%, and the sample GS>50 bill non-RPP bill would go up \$89.50 plus GST/HST, or about 8.73%. These increases are not insignificant, but are more palatable for customers than those originally proposed. The Mississauga schools, for example, would still face a net distribution rate increase of about \$136,000, but that is a far cry from the net of \$360,000 in the Application.
30. In our submission, this resolution would balance the interests of the utility, in relieving cash flow pressures, the interests of the ratepayers, in maintaining rate stability and avoiding sharp lurches in one direction or the other, and the interests of the Board, in supporting its own recent policy while still being mindful of the practical realities faced by this particular distributor.
31. We have one residual concern. If the Board allows its own streamlined process to be used for an application to which it clearly doesn't apply, this may send a signal to other regulated entities that they can also seek similar treatment. The Board has already seen, with the

QRAM process in natural gas, that a relatively mechanistic process can become a problem if utilities feel they can include in their applications more controversial, and less mechanistic, requests. In our submission the Board should make very clear in its decision on this matter that streamlined applications must stay within the boundaries of the EDDVAR Report, and anything outside of those boundaries will be considered only by way of a full application with normal procedural safeguards.

### **Conclusion**

32. The School Energy Coalition submits that it has participated responsibly in this process, with a view to assisting the Board in an efficient manner, and therefore requests that the Board order payment of its reasonably incurred costs of that participation.

Respectfully submitted on behalf of the School Energy Coalition this 24<sup>th</sup> day of December, 2009.

A handwritten signature in black ink, appearing to read 'Jay Shepherd', is written over a horizontal line.

Jay Shepherd  
Counsel for the School Energy Coalition