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Ontario

BY EMAIL

March 15, 2010

Ontario Energy Board
P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto ON M4P 1E4

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

**Re: Board Staff Submission on Newbury Power Inc.
2010 Electricity Distribution Rates Application
Board File Number EB-2009-0203**

Please see attached Board staff's submission for the above proceeding. Please forward the attached to Newbury Power Inc. and any intervenors in this proceeding.

Newbury Power Inc.'s reply to submissions is due April 6, 2010.

Yours truly,

Original Signed by

Martin Benum
Advisor, Applications and Regulatory Audit

Ontario

ONTARIO ENERGY BOARD

STAFF SUBMISSION

2010 ELECTRICITY DISTRIBUTION RATES

Newbury Power Inc.

EB-2009-0203

March 15, 2010

Board Staff Submission
Newbury Power Inc.
2010 IRM2 Rate Application
EB-2009-0203

Introduction

Newbury Power Inc. ("Newbury") filed an application with the Ontario Energy Board (the "Board"), received on November 20, 2009, under section 78 of the Ontario Energy Board Act, 1998, seeking approval for changes to the distribution rates that Newbury charges for electricity distribution, to be effective May 1, 2010. The application is based on the 2010 2nd Generation Incentive Regulation Mechanism.

The purpose of this document is to provide the Board with the submissions of Board staff based on its review of the evidence submitted by Newbury.

Board staff makes submissions on the following matters:

- Disposition of Deferral and Variance Accounts as per the Electricity Distributors' Deferral and Variance Account Review Report (the "EDDVAR Report");
- Adjustments to the Retail Transmission Service Rates; and
- Accounting for the implementation of the Harmonized Sales Tax ("HST").

DISPOSITION OF DEFERRAL AND VARIANCE ACCOUNTS AS PER THE EDDVAR REPORT

General Background

For purposes of 2010 IRM applications, the EDDVAR Report requires a distributor to determine the value of its December 31, 2008 Group 1 Deferral and Variance account balance and determine whether the balance exceeded the preset disposition threshold of $0.001 per kWh using the 2008 annual kWh consumption reported to the Board. When the preset disposition threshold is exceeded, a distributor is required to file a proposal for the disposition of Group 1 account balances (including carrying charges) and include the associated rate riders in its 2010 IRM Rate Generator for the disposition of the balances in these accounts. The onus is on the distributor to justify why any account balance in excess of the threshold should not be cleared.

Any distributor exceeding the preset disposition threshold was required to file a Deferral and Variance Account Workform.

Newbury Specific Background

Annual Disposition

In response to Board staff interrogatory #1a, Newbury stated that it did not perform any calculation to determine whether the preset disposition threshold for Group 1 accounts was exceeded. In response to Board staff interrogatory #1b, Newbury indicated that it "has not completed the Deferral Variance Account Workform V4 as it is in the process of reviewing the pre-acquisition (pre May 1, 2009) account activities. We propose to provide a verified Deferred Variance Account Workform at the time of the next IRM submission."

Submission

As indicated above, Newbury's parent company is in the process of reviewing the pre-acquisition account activities. Board staff believes that establishing the appropriateness and accuracy of accounting procedures and entries is important. In light of Newbury's circumstances, Board staff suggests that the Board may wish to consider deferring the review and disposition of Newbury's Group 1 account balances to 2011.

ADJUSTMENTS TO THE RETAIL TRANSMISSION SERVICE RATES (RTSR)

General Background

Electricity transmitters in Ontario charge Uniform Transmission Rates (UTR) to their transmission connected customers. These UTRs are charges for network, line connection and transformation connection services. Based on the Decision and Rate

Order of the Board in the EB-2008-0272 proceeding, the new UTRs effective July 1, 2009 were as follows:

• Network Service Rate was increased from $2.57 to $2.66 per kW per month, a 3.5% increase;

• Line Connection Service Rate remained unchanged at $0.70 per kW per month; and

• Transformation Connection Service Rate was decreased from $1.62 to $1.57 per kW per month, for a combined Line and Transformation Connection Service Rates reduction of 2.2%.

On July 22, 2009 the Board issued an amended "Guideline for *Electricity Distribution Retail Transmission Service Rates*" ("RTSR Guideline"), which provided electricity distributors with instructions on the evidence needed, and the process to be used, to adjust Retail Transmission Service Rates ("RTSRs") to reflect the changes in the UTRs effective July 1, 2009. The Board set as a proxy at that time an increase of 3.5% for the Network Service Rate and reduction of 2.2% for the combined Line and Transformation Connection Service Rates. The Board also noted that there would be further changes to the UTRs in January 2010.

Based on the Decision and Rate Order of the Board in the EB-2008-0272 proceeding, a Rate Order issued January 21, 2010 revised the UTRs effective January 1, 2010 as follows:

• Network Service Rate has increased from $2.66 to $2.97 per kW per month, an 11.7% increase over the July 1, 2009 level or 15.6% over the rate in effect prior to July 1, 2009;

• Line Connection Service Rate has increased from $0.70 to $0.73 per kW per month; and

• Transformation Connection Service Rate has increased from $1.57 to $1.71 per kW per month, for a combined Line and Transformation Connection Service

Rates increase of 7.5% over the July 1, 2009 level or 5.2% over the rate in effect prior to July 1, 2009.

Newbury Specific Background

Newbury has applied for an adjustment to its RTSR rates based on the July 22, 2009 RTSR Guideline proxy rate adjustments.

Submission

Board staff notes that very few distributors, including Newbury, included in their 2009 rates the July 1, 2009 level of UTRs since for most of them, distribution rates would have been implemented on May 1, 2009. Therefore, in accordance with the July 22, 2009 RTSR Guideline, Board staff submits that the revisions to the RTSRs ought to reflect the changes from the current level to the January 1, 2010 level, that is an increase of about 15.6% to the RTSR Network Service rate, and an increase of about 5.2% to the RTSR Line and Transformation Connection Service Rate.

ACCOUNTING FOR THE IMPLEMENTATION OF THE HARMONIZED SALES TAX

General Background

The Ontario provincial sales tax (“PST”) (currently at 8%) and the Federal goods and services tax (“GST”) (currently at 5%) will be harmonized effective July 1, 2010, at 13%, pursuant to Ontario Bill 218 which received Royal Assent on December 15, 2009.

The PST is currently an incremental cost applied to the price of goods purchased by an electricity distributor and is included in a distributor’s OM&A expenses and capital expenditures. The PST is therefore included in the distributor’s revenue requirement and is recovered from ratepayers through the application of distribution rates.

When the PST and GST are harmonized, distributors will pay the HST on purchased goods and service but will now claim an input tax credit for the PST portion. The mechanics of HST as a value added tax means that the distributor will no longer incur that portion of the tax that was formerly applied as PST (i.e. the 8%) on goods purchased. However, the current rates as applied will continue to effect cost recovery as if the PST was still in place. If no action is taken, the distributor will realize a savings in the cost of goods purchased while applying rates which do not reflect those savings.

Newbury Specific Background

In response to Board staff interrogatory # 4a which asked if Newbury agreed that a deferral account should be established to capture the reductions in OM&A and capital expenditures, Newbury stated it "is not agreeable to the establishment of a variance account to capture the reduction in OM&A and capital expenditures as the additional costs/efforts would likely outweigh the benefits." Newbury further noted that "the impact of harmonization on most LDCs is likely small as PST only applied to some OM&A and capital expenditures. As such, we propose that the impact of the tax changes be considered in future cost of service rate application and not incorporated in the IRM model."

Submission

Board staff notes that many distributors' comments on the administrative burden and costs of sales tax harmonization are at odds with the provincial and Federal governments' pronouncements regarding the stimulative and competitive results of harmonization. Because the costs and savings are not clear at this point, Board staff submits that tracking of these is warranted at this point to quantify, per government pronouncements, that the potential savings for corporations like Newbury could be significant. Accordingly, Board staff submits that the Board may wish to consider establishing a deferral account to record the amounts, after July 1, 2010 and until Newbury's next cost-of-service rebasing application, that were formerly incorporated as the 8% PST on capital expenditures and expenses incurred, but which will now be eligible for an HST Input Tax Credit ("ITC"). The intention of this account would be to track the incremental change due to the introduction of the HST that incorporates an ITC from the 5% to the 13% level. To qualify for this treatment, the cost of the subject items must be in the category of distribution revenue requirement. Tracking of these amounts would continue in the deferral account until Newbury's next cost of service application is determined by the Board or until the Board provides guidance on this matter, whichever occurs first.

Newbury would apply to clear the balance in the account as a credit to customers at the next opportunity for a rate change after the account balance information becomes available and is supported by audited financial statements.

All of which is respectfully submitted