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EB-2007-0743

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 Grand
Valley Energy Inc., pursuant to section 78 of the
Ontario Energy Board Act seeking approval to amend
electricity distribution rates.

BEFORE: Paul Vlahos
Presiding Member

DECISION AND ORDER

Grand Valley Energy Inc. ("GVEI") filed an application with the Ontario Energy Board (the "Board"), received on August 31, 2007, under Section 78 of the *Ontario Energy Board Act*, 1998, S.O. 1998, c.15 (Schedule B) to adjust its approved electricity distribution rates. The Board assigned the application File No. EB-2007-0743.

GVEI's application included the proposed new rates, which had been adjusted for an error in the original 2006 and 2007 rates. These adjusted rates were subsequently revised by the applicant on October 26, 2007 to correct for additional errors.

GVEI's application was a result of making errors in its application for 2006 rates which were carried forward into the current 2007 rates. GVEI has estimated the error to lead to revenue under-recovery of approximately \$5,000 for 2007. GVEI requested to recover this entire annual amount through adjusted rates for the period November 1, 2007 to April 30, 2008.

Notice of Application was published on September 28, 2007. No party requested intervenor status. There was no provision for interrogatories but there was a provision for submissions. Pursuant to Procedural Order No. 1 issued October 29, 2007, Board Staff made submissions and GVEI responded to these submissions.

Board Findings

The Board notes Board Staff's submission to the effect that the magnitude of the annualized error for 2007 is indeed approximately \$5,000. The Board therefore considers that there is no dispute regarding the facts.

The Board notes Board Staff's submission that the Board's practice is not to permit retroactivity in circumstances of an error. In response to Board Staff's invitation for GVEI to provide reasons why the Board should depart from this practice in this case, GVEI in effect supported its request on the basis of lessening the pressure from increased costs it has been experiencing.

The Board does not find GVEI's reasons sufficient to cause the Board to depart from its practice not to permit retroactive rate increases that arise from an error caused by the utility itself. The current rates were set as final rates. Retroactivity in this case would have been considered possible in law if the rates were declared interim for this purpose. They were not. The Board did not receive

GVEI's application until the end of August 2007 and the Board requires a reasonable amount of time to process and assess the application. As the Board noted in its acknowledgment letter of September 10, 2007, the applicant should expect a decision by November 9, 2007.

In the result, the law and the Board's practice do not support a retroactive rate increase in this case. The Board finds that the effective date of the new rates to reflect the error shall be November 1, 2007, thereby providing relief of about half of the \$5,000 requested for 2007.

THE BOARD THEREFORE ORDERS THAT:

1. The Tariff of Rates and Charges set out in Appendix "A" of this Order is approved, effective November 1, 2007, for electricity consumed or estimated to have been consumed on and after November 1, 2007.
2. The Tariff of Rates and Charges set out in Appendix "A" of this Order supersedes all previous distribution rate schedules approved by the Ontario Energy Board for Grand Valley Energy Inc, and is final in all respects.
3. Grand Valley Energy Inc. shall notify its customers of the rate changes no later than with the first bill reflecting the new rates.

DATED at Toronto, November 5, 2007.

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

Appendix A

EB-2007-0743

November 5, 2007

ONTARIO ENERGY BOARD