

RATE RIDER OR Z-FACTOR TREATMENT
FOR RECOVERY OF LATE PAYMENT PENALTY LITIGATION COSTS

1. As part of this application, Essex Powerlines Corporation (“EPLC”) will be seeking recovery of a one-time expense in the amount of \$75,997 which is to be paid on June 30, 2011. This payment will serve to resolve long-standing litigation against all former municipal electric utilities (“MEUs”) in the Province in relation to late payment penalty (“LPP”) charges collected pursuant to, first, Ontario Hydro rate schedules and, after industry restructuring, Ontario Energy Board rate orders (the “LPP Class Action”).
2. On July 22, 2010, The Honourable Mr. Justice Cumming of the Ontario Superior Court of Justice approved a settlement of the LPP Class Action, the principal terms of which are the following:
 - (a) Former MEUs collectively pay \$17 million in damages;
 - (b) Payment is not due until June 30, 2011; and
 - (c) Amounts paid, after deduction for class counsel fee, will be paid to the Winter Warmth Fund or similar charities.
3. EPLC will make a payment of \$75,997 by June 30, 2011. This amount represents EPLC’s share of the settlement, applicable taxes and legal fees. EPLC believes that the settlement is in its best interest and the best interest of its customers and that the payment in connection with the settlement will be a prudent one.
4. EPLC, along with all other electricity distributors filing for cost of service and IRM applications for 2011 electricity distribution rates (the “LDCs”), proposes that the Board hold a generic hearing at the earliest opportunity to determine if all costs and damages incurred in this litigation and settlement are recoverable from customers and, if so, the form and timing of recovery from customers. If the Board agrees to hold this generic hearing, the LDCs will collectively file written evidence to address the prudence of the settlement, the costs incurred, the methodology of allocating total settlement costs amongst the LDCs, the proposed method of recovery, and any other matters the Board determines appropriate.
5. If the Board determines that it will not hold a generic proceeding, EPLC asks to be advised of this fact as soon as possible so that it can file, to permit adjudication as part of this proceeding, written evidence to address the prudence of the settlement, the costs incurred, the methodology of allocating total settlement costs amongst the LDCs, the proposed method of recovery, and any other matters the Board determines appropriate.