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2010 November 12

via RESS e-filing – original to follow by courier

Ms. Kirsten Walli, Board Secretary
Ontario Energy Board
2300 Yonge St, 27th Floor
P.O. Box 2319
Toronto, ON M4P 1E4

Dear Ms. Walli:

RE: EB-2010-0295
Recovery of Late Payment Penalty Settlement Amounts
Toronto Hydro-Electric System Limited Supplementary Evidence

By way of letter dated 2010 November 10, Toronto Hydro-Electric System Limited (THESL) advised the Board that THESL had concluded that it is necessary for it to file limited supplementary evidence pertaining to certain topics in the EB-2010-0295 proceeding (the LPP Proceeding).

THESL has enclosed its supplementary evidence herewith. Please note that this evidence does not challenge or rebut the collective evidence filed by the EDA in this proceeding, upon which THESL continues to rely.

Furthermore, as a procedural matter, the Board has confirmed that it will sever the LPP issue from the EB-2010-0142 proceeding, which deals with THESL's 2011 rate application. Therefore, THESL files the enclosed evidence in this LPP proceeding for transparency and completeness of the record in this case.

As stated in its letter of November 10, THESL is aware that the filing of supplementary evidence by distributors in the EB-2010-0295 proceeding is not contemplated in the Notice of Hearing but anticipates that its supplementary evidence will be helpful to the Board in this proceeding and will not be prejudicial to the interests of any party in that proceeding.

Given the Board's decision to sever this issue from the EB-2010-0142 proceeding, THESL has as a courtesy to intervenors in that case copied them on this filing.

Yours truly,

[Original signed by]

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encl.

:CJM/acc

cc: Alan Mark, Jennifer Teskey, EDA Counsel, by email only
Rick Zebrowski, Maurice Tucci, EDA, by email only
Intervenors of Records in EB-2010-0142, by email only

Supplementary Evidence of Toronto Hydro-Electric System Limited

Introduction

On its own motion, the Board has convened a proceeding under file number EB-2010-0295 (the “LPP Proceeding”) to determine whether certain Electricity Distributors should be allowed to recover from their ratepayers the costs and damages incurred as a result of the Minutes of Settlement in the late payment penalty class action (more particularly described in the associated Notice of Hearing), and if so, the form and timing of such recovery.

Pursuant to the direction given by the Board in the Notice of Hearing, Toronto Hydro-Electric System Limited (“THESL”) has cooperated with the Electricity Distributors Association (“EDA”) to produce and file on November 8, 2010 the collective evidence required by the Board. Subsequent to the filing of that evidence, THESL advised the Board by letter dated November 10, 2010 of THESL’s view that further evidence particular to the circumstances of THESL would be necessary in order to produce a complete and transparent record in the LPP Proceeding.

The supplementary evidence set out here pertains to the elimination of certain legal costs from the amount that would be recoverable by THESL in connection with this proceeding, and to both the method of allocation of the recoverable amount to rate classes and the manner of recovery of those amounts.

Elimination of Legal Costs Previously Paid and Recovered

Under the terms of a cost sharing agreement between THESL and the EDA, THESL contributed 27% of defendant legal costs, which were incurred directly by the EDA and billed over the history of the subject legal actions by EDA counsel. From January 1998 to date, THESL has for this purpose been invoiced by or has paid to the EDA the amount of \$185,628 in total.

THESL believes that the successive regulatory frameworks in place from the commencement of THESL’s payments to the current date have provided for THESL’s recovery of these amounts, which individually were relatively minor. For periods during which rates were effectively based on historically realized costs (i.e., prior to 2008), the amounts paid would have been reflected in historical actual amounts. For more recent periods based on future test year cost of service applications, the budgeted amount for external legal costs comprised part of the successive proposed revenue requirements and as such notional recovery would have been provided for in approved rates.

Consequently THESL proposes that the amount of \$185,628, which has already been invoiced to or paid by THESL to the EDA, and which has been notionally recovered in THESL's rates, should be deducted from the Allocated Amount assigned to THESL for the purpose of determining the net amount now recoverable by THESL pursuant to this proceeding.

As documented in Appendix A to the collective evidence filed by the EDA on behalf of the Affected Electricity Distributors, THESL's portion of the Allocated Amount is \$7,723,348, representing approximately 42 % of the total Allocated Amount of \$18,362,125. After deduction of the amount already paid and recovered of \$185,628, the amount requested for recovery by THESL (the "Recovery Amount") is \$7,537,720.

THESL's Existing Evidence Concerning Allocation and Recovery

Prior to the Board's issuance of the Notice of Hearing in this proceeding, THESL filed in its 2011 rate application evidence as to the amount (as it was then known) requested for recovery related to the Late Payment Penalty Settlement, as well as the allocation of that amount among rate classes, and the manner of its recovery through rates. That evidence is found at Exhibit J1, Tab 1, Schedule 2 in the EB-2010-0142 proceeding. That schedule deals generally with regulatory assets and variance and deferral accounts, and includes other material not related to the LPP issue.

The Board has now severed the LPP issue from the THESL 2011 rate application and will instead determine it in this proceeding. As a result, THESL restates here the relevant material from Exhibit J1, Tab 1, Schedule 2 in the EB-2010-0142 proceeding.

At the time of filing the evidence summarized below in the EB-2010-0142 proceeding, THESL had to presume that the Board would make findings specific to THESL in that proceeding, and the evidence was submitted on that basis. THESL accepts that in the present context of a generic proceeding, the Board may wish to make findings that apply uniformly to all distributors and may not find that differences in THESL's particular circumstances warrant differential treatment for THESL. Therefore THESL offers the evidence set out below simply as an alternative to the collective evidence that could be appropriate for THESL and does not put it forward to challenge or rebut the collective evidence, upon which THESL continues to rely.

Allocation of the Recovery Amount to Rate Classes

THESL proposed that the amount sought by it for recovery (now the Recovery Amount of \$7,537,720) be allocated according to the historical percentages of Late Payment Revenue by rate class, parallel to the allocation of late payment penalties. For THESL, these percentages are given in Table 1 below:

Table 1: Recovery Allocation Percentages and Amounts by Rate Class

Rate Class	Residential	General Service <50 kW	General Service 50-999 kW	General Service 1000-4999 kW	Large User	Street Lighting	Unmetered Scattered Load
Allocation Percentage	53.0%	21.4%	20.1%	4.6%	0.9%	0.0%	0.0%
Allocation Amount	\$ 3,994,991	\$ 1,613,072	\$ 1,515,082	\$ 346,735	\$ 67,839	\$ -	\$ -

Manner of Recovery

In its EB-2010-0142 evidence, THESL proposed recovery of the net amount by rate class of all of the deferral and variance account balances proposed to be cleared by means of a volumetric rate rider expressed in kWh or kW terms as appropriate to each class. That approach permitted the implementation of one consolidated rate rider for each class as opposed to several, each with a possibly different manner or period of recovery. For purposes of this generic proceeding, although a single volumetric rate rider for all regulatory balances approved for clearance would represent a simpler alternative for THESL, it is able to implement either type of rider (per volume unit or per customer) and multiple rate riders.

Assuming that recovery is to occur over a 12-month period, and that THESL's proposed allocation by class is accepted by the Board for THESL, Table 2 below sets out the LPP rate riders that would apply when calculated on both a volumetric and per customer basis.

Table 2: Class Rate Riders by Manner of Recovery

Rate Class	Residential	General Service <50 kW	General Service 50-999 kW	General Service 1000-4999 kW	Large User
Allocation Amount	\$ 3,994,991	\$ 1,613,072	\$ 1,515,082	\$ 346,735	\$ 67,839
Volume Units (kWh or kW)	4,986,768,673	2,139,318,076	26,935,191	10,587,119	4,993,733
Volumetric Rider (cents)	<u>0.080/kWh</u>	<u>0.075/kWh</u>	<u>5.625/kW</u>	<u>3.275/kW</u>	<u>1.358/kW</u>
Number of Customers	623,406	65,792	13,067	514	47
Customer Charge Rider (\$ per 30 days)	<u>\$ 0.53</u>	<u>\$ 2.02</u>	<u>\$ 9.53</u>	<u>\$ 55.45</u>	<u>\$ 118.64</u>

Were the Board instead to adopt a per-customer method of allocation and recovery, the uniform rate rider for THESL applicable to all of the classes shown above would be \$0.88/per customer/per 30 days.