



3240 Mavis Road
Mississauga, Ontario
L5C 3K1

Tel: (905) 566-2727
Fax (905) 566-2737

November 12, 2010

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P. O. Box 2319
2300 Yonge Street
Toronto, Ontario
M4P 1E4

Dear Ms. Walli:

**Re: Enersource Application for Distribution Rates Effective May 1, 2011
(EB-2010-0078)**

Please find enclosed an update to the above-captioned application and evidence submitted by Enersource Hydro Mississauga Inc. ("Enersource") for new rates under Third Generation Incentive Regulation Mechanism, effective May 1, 2011.

Specifically, Enersource encloses an updated Tab 5 (Z-Factor Treatment of Late Payment Penalty Settlement Costs) in order to reflect the Board's announcement that it will hold a generic proceeding (EB-2010-0295) to address this issue.

If further information is required, please do not hesitate to contact me at (905) 283-4098 or gdejulio@enersource.com.

Sincerely,

(Original signed by)

Gia M. DeJulio
Director, Regulatory Affairs

cc. Dan Pastoric, Executive Vice-President and Chief Operating Officer
Norman Wolff, Executive Vice-President and Chief Financial Officer
Intervenors of Record in EB-2007-0706

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Z-Factor Treatment of Late Payment Penalty

Settlement Costs

Enersource seeks the Board's approval to recover, via a Z-factor rate rider for each customer, a late payment penalty settlement amount, resulting from a class action (the "LPP Settlement") in the amount of a one-time expense of \$1,011,298. Enersource makes this proposal for the following reasons:

- the event triggering the expense is a Z-factor event and the amount involved is outside the base upon which Enersource's rates have been derived;
- the amount is material; and
- Enersource believes that the amount has been prudently incurred.

The LPP Settlement will serve to resolve long-standing litigation against all former municipal electric utilities ("MEUs") in the province in relation to late payment penalty charges collected pursuant to, first, Ontario Hydro rate schedules and, after industry restructuring, OEB rate orders (the "LPP Class Action").

1

2 On July 22, 2010, The Honourable Mr. Justice Cumming of the Ontario Superior Court of
3 Justice approved a settlement of the LPP Class Action, the principal terms of which are
4 the following:

- 5 a) Former MEUs collectively pay \$17 million in damages;
6 b) Payment is not due until June 30, 2011; and
7 c) Amounts paid, after deduction for class counsel fee, will be paid to the Winter
8 Warmth Fund or similar charities.

9 Enersource will make a payment of \$1,011,298 by June 30, 2011. This amount
10 represents Enersource's share of the settlement, applicable taxes and legal fees.

11 Enersource believes that the settlement is in its best interest and the best interest of its
12 customers and that the payment in connection with the settlement will be a prudent one.

13 Enersource proposes to recover this amount as a Z-factor rate rider for each customer
14 class by allocating the incremental expense to different rate classes in proportion to
15 customer numbers. This is a reasonable proxy for the distribution of late payment
16 charges across classes. Furthermore, the funds are to be provided to a selected charity
17 or charities, and are expected to be used by low income consumers in the residential
18 class. The late payment charges associated with unmetered scattered load, streetlighting
19 and sentinel lights are negligible, and therefore are not included in this calculation.

Enersource has used actual customer numbers as of December 31, 2009 of 189,738 in order to calculate a rate rider of \$0.44 per customer per month effective for the period May 1, 2011 to April 30, 2012. Please note this amount has not been included in the 2011 IRM3 Rate Generator Model nor is it included in the summary of bill impacts tables.

By Notice of Proceeding dated October 29, 2010, the Board has announced that it will hold a generic hearing (EB-2010-0295) to address the following issues:

1. As a threshold question, whether Affected Electricity Distributors (as defined in the Notice of Proceeding) should be allowed to recover from ratepayers the costs and damages incurred in the LPP Class Action; and
2. If the answer to Issue 1. is yes, what would be an appropriate methodology to:
 - a. apportion costs across customer rate classes; and
 - b. recover such allocated costs in rates?

The Board has directed all Affected Electricity Distributors to collectively file evidence on these issues. The Electricity Distributors Association has filed this evidence (the "EDA Evidence") on behalf of its members, including Enersource. In particular, see paragraphs 66-71 of the EDA Evidence, which reflect Enersource's proposal in this Application.

1 Pending receipt of Board Decisions in both this Application as well as in EB-2010-0295,
2 Enersource has recorded the expense related to the LPP settlement payments and the
3 expected recovery of same from customers in the appropriate regulatory accounts.

4
5 Enersource proposes that any difference between its portion of the LPP Settlement and
6 the amount billed to customers, together with any potential refund due to an
7 overestimation in respect of total legal fees, costs and taxes to the end of the
8 administration of the settlement and this proceeding, including interest, be recorded in an
9 appropriate variance account. Any residual balance in the variance account upon the
10 expiry of the rate riders and finalization of the revenues obtained therefrom would be
11 subject to future disposition.