

ONTARIO ENERGY BOARD

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 ENWIN Utilities Ltd. pursuant to section 78 of the *Ontario Energy Board Act* for an Order or Orders approving just and reasonable rates for the delivery and distribution of electricity effective August 1, 2007.

SUBMISSIONS

On Behalf of

VULNERABLE ENERGY CONSUMERS COALITION (VECC)

November 23, 2007

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1 Introduction

- 1.1 These are the submissions of the Vulnerable Energy Consumers Coalition (VECC) in relation to an application by ENWIN Utilities Ltd. (“ENWIN”) for approval of its proposed adjusted distribution rates for the period August 1, 2007 to April 30, 2008.
- 1.2 VECC’s interest in this proceeding is to ensure that consumer interests and in particular the interests of the low-income and vulnerable users of electricity are fully represented in the determination of just and reasonable 2007 distribution rates for ENWIN.
- 1.3 VECC’s intervention in ENWIN’s 2007 Rate Application was predicated by two issues. First, the fact that the utility’s request departed from the standard IRM methodology and, second, by the implementation timing proposed in ENWIN’s request.

2 Departure from the 2007 IRM Model

- 2.1 In its application, ENWIN has made two adjustments to the 2007 IRM Model calculations in order to address historically based issues. The first is to correct an error in the capital cost allowance that was used in the 2006 rate application. The second is to remove the impact that loss carry-forwards available for 2006 had on the 2006 PILs liability.
- 2.2 ENWIN agrees¹ that neither of these adjustments meet the definition of a Z-factor as defined by the Board in its 2nd Generation Incentive Regulation Mechanism Report (EB-2006-0089). Indeed, in its 2nd GIRM Report, the Board noted² that

¹ See response to VECC IR #3 (a)

² EB-2006-0089 Report, page 48

there were limited adjustments available under its Incentive Regulation Mechanism. If the need arose, the Board indicated that it expected electricity distributors to file a comprehensive cost of service application.

- 2.3 In principle, VECC has no specific objections to the incorporation of the two issues raised by ENWIN into the consideration of 2007 rates. However, in light of the Board's 2nd GIRM Report, VECC submits that ENWIN should have addressed them through a forward test year application. In limiting the types of adjustments allowable under the incentive regulation mechanism the Board was responding³ to concerns raised by consumer groups that utilities would not equally pursue adjustment that captured cost decreases/revenue increases.
- 2.4 VECC acknowledges that a cost of service application requires more effort to prepare. However, VECC also notes that ENWIN did not file its 2007 Rate Application until July 27, 2007 – six months after the due date set by the Board for IRM-based applications⁴ - with no apparent reason for the delay.

3 Proposed Effective Date for Rate Change

- 3.1 ENWIN has requested that the proposed rates become effective August 1, 2007. To this end, ENWIN requested that its current rates be made interim as of August 1, 2007 and the Board granted this request on September 14, 2007. However, in doing so, the Board also made is clear that “this action should in no way be construed as predictive, in any degree, of the final determination of this application”.
- 3.2 VECC understands that the purpose of declaring rates “interim” is to give notice that the rates are potentially subject to change and, therefore, avoid the issue of retroactive rate making. VECC also acknowledges that the Board has declared ENWIN's distribution rates as interim as of August 1. 2007. However, VECC is

³ EB-2007-2006-0089, pages 35-36

⁴ VECC IR #1 (a)

concerned that the timing of the Application's submission and the publishing of Notice will result in retroactive ratemaking in principle if not in fact.

- 3.3 ENWIN's Application was received by the Board on July 30, 2007 and receipt of such was not acknowledged until August 9th, 2007. A Letter of Direction was then sent to ENWIN on August 17, 2007 regarding publication of the Notice of Application. VECC submits that, given this timeline, it's unlikely that electricity consumers served by ENWIN would have been aware of the potential for a rate change as of August 1, 2007.
- 3.4 In VECC's view it is inappropriate for any approved rate increase to be made effective August 1, 2007. It is VECC's submission that the earliest date any rate increase should be effective is September 1, 2007. This is based on the assumption that Notice (which referenced the request for Interim Rates) was published in the latter half of August 2007. However, VECC even has reservations regarding this date, given that the Board did not declare the rates interim until the middle of September 2007. VECC notes that there is past precedent⁵ to the Board not declaring rates effective on the date they were declared interim.

4 Implications for 2008 Rates

- 4.1 In its application ENWIN notes that its rate adjustment will be implemented over a shorter period time than the 12 months assumed by the 2007 IRM Model. Indeed, assuming a November 1, 2007 implementation date the new rates would only apply for 6 months. To address this fact, ENWIN has "doubled" the proposed recoverable amount of \$2,991,605 for purposes on using the 2007 IRM Model. Should the Board decide that use of the 2007 IRM Model (as opposed to a full cost of service application) is acceptable then the approach used by ENWIN is reasonable (subject to the early arguments regarding the effective date and the

⁵ RP-2005-0020/EB-2005-0361/EB-2006-0197 re: Erie Thames Powerlines Corporation

potential need to also adjust the implementation date⁶).

- 4.2 However, VECC submits, it would be inappropriate to use the resulting approved rates for 2007 as the starting point for application of the 2nd GIRM for purposes of determining ENWIN's 2008 rates. Indeed, to do so would artificially inflate the base 2007 rates. Rather, the starting point should be based on rates calculated as if the annualized incremental PILs liability⁷ has been reflected in rates approved for implementation as of May 1, 2007.

5 Costs

- 5.1 VECC submits that its participation in this proceeding has been focused and responsible. Accordingly, VECC requests it be awarded 100% of its reasonably-incurred fees and disbursements.

Respectfully Submitted this 23th Day of November 2007

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⁶ Given the timing of the current regulatory process, an implementation date of either December 1, 2007 or January 1, 2008 is more likely.

⁷ \$3,988,808 – according to ENWIN's Application