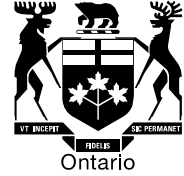


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BY EMAIL

March 07, 2011

Board Secretary
Ontario Energy Board
2300 Yonge Street, Ste. 2701
Toronto ON M4P 1E4

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: Board Staff Submission in EB-2010-0295 – LPP Generic Proceeding

Pursuant to the Board's Decision and Order dated February 22, 2011, please find attached the submissions of Board staff in the above matter. Please forward the following to Clinton Power Inc., West Perth Power Inc., Ottawa River Corporation, Hearst Power Distribution Co. Ltd. and Whitby Hydro Electric Corporation. Please also forward a copy to the Electricity Distributors Association and post the submission on the Board's webpage at <http://www.ontarioenergyboard.ca/html/EB-2010-0295>

Yours truly,

Original Signed By

Rudra Mukherji
Case Manager



IN THE MATTER OF a proceeding initiated by the Ontario Energy Board to determine whether the costs and damages incurred by electricity distributors as a result of the April 21, 2010 Minutes of Settlement in the late payment penalty class action, as further described herein, are recoverable from electricity distribution ratepayers, and if so, the form and timing of such recovery.

BOARD STAFF SUBMISSION

EB-2010-0295

MARCH 7, 2011

Background

By Notice of Proceeding (“Notice”) dated October 29, 2010, the Ontario Energy Board (the “Board”) commenced a generic written hearing on its own motion to determine:

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

For purposes of this proceeding, “Affected Electricity Distributors” means licensed Ontario electricity distributors that were named as defendant class members in Schedule F of the Minutes of Settlement, dated April 21, 2010.

On February 22, 2011 the Board issued its Decision and Order in the above matter and found that the costs and damages arising from the LPP class action are recoverable from ratepayers. The costs approved for recovery for each Affected Electricity Distributor was provided in Appendix A to that Decision and Order.

With respect to the method of recovery, the Board ordered that the costs sought for recovery, should be recovered by way of a fixed charge rate rider from all customers of each Affected Electricity Distributor. The Board stated:

The Board is of the view that the rate rider to be used to recover the subject costs should be established on the basis of a fixed customer charge for all utilities. Under this approach, a distributor shall first allocate the amount it is seeking to recover to each rate class by distribution revenue and then calculate a specific rate rider for each rate class based on the number of customers in that rate class. With respect to the unmetered rate classes, the rate rider shall be based on the number of connections in those rate classes. For the purposes of this calculation, each Affected Electricity Distributor (including THESL) shall use the 2009 year-end actual customer/connection data reported as part of each distributor’s RRR.

With respect to the timing of the recovery, the Board ordered that the amounts approved for recovery shall be recovered over 12 months, starting May 1, 2011 for all Affected

Electricity Distributors, except Toronto Hydro Electric System Limited (THESL). For THESL the recovery shall be over 24 months.

With respect to how the rate riders are to be incorporated in the tariff of rates and charges, the Board made a distinction between those Affected Electricity Distributors that currently have an application for 2011 rates before the Board and those Affected Electricity Distributors that do not have such an application before the Board.

For those Affected Electricity Distributors that have an application before the Board, the Board stated:

The Board directs all Affected Electricity Distributors (in Appendix A) that currently have an IRM or cost of service application before the Board, to file with the Board within seven days of the date of this Decision and Order, detailed calculations including supporting documentation, outlining the derivation of the rate riders based on the methodology outlined in this Decision. The submitted rate riders will be verified in the Affected Electricity Distributors' respective IRM or cost of service applications.

With respect to those Affected Electricity Distributors that do not have an application for 2011 rates currently before the Board, the Board ordered that:

[T]he Board directs these distributors to file with Board within seven days of the date of this Decision and Order, detailed calculations including supporting documentation outlining the derivation of the rate riders based on the methodology outlined in this Decision. These distributors shall also file a draft tariff of rates and charges that includes the proposed rate riders. Intervenors and Board staff wishing to make submissions on the information filed shall do so within six days of the filing. The Affected Electricity Distributor shall have nine days from the date of the filing to respond to any submissions.

This submission relates to those Affected Electricity Distributors that do not currently have an IRM or cost of service application before the Board. These are:

Clinton Power
West Perth Power Inc.
Ottawa River Power Corp.
Hearst Power Distribution Co. Ltd.
Whitby Hydro Electric Corp.

Submission

Clinton Power Inc. and West Perth Power Inc.

Board staff notes that Clinton Power Inc. and West Perth Power Inc. have not submitted a tariff of rates and charges as directed by the Board. Board Staff therefore submits that these distributors should file their most recent Board approved tariff of rates and charges and incorporate the LPP rate riders as part of that tariff.

Ottawa River Power Corporation

Ottawa River Corporation submitted that due to an error in its 2009 Reporting and Record Keeping Requirements (“RRR”), it had incorrectly reported the number of Street Light connections as 6,652. Ottawa River Corporation noted that the correct number of Street Light connections is 2,653 and has therefore used the corrected value to derive the LPP rate riders. Board staff submits that the approach used by Ottawa River Corporation is reasonable, however notes that Ottawa River Corporation should formally notify the Board of the corrections required to the information previously reported as party of the RRR.

Board staff also notes that Ottawa River Corporation did not file its tariff of rates and charges as directed by the Board. Board Staff therefore submits that Ottawa River Corporation should file a tariff of rates and charges incorporating the LPP rate riders as provided in its filing.

Hearst Power Distribution Co. Ltd. (“Hearst Power”)

Pursuant to the Board’s order, Hearst Power submitted its rate riders to recover the approved LPP class action costs. However, Board staff notes that Hearst Power did not file a tariff of rates and charges as directed by the Board.

Hearst Power currently has an application before the Board for 2010 rates. It is expected that the Board will issue a rate order in relation to the 2010 rate application in March 2011. Board staff submits that after a final tariff of rates and charges is approved by the Board in relation the Hearst Power’s 2010 rate application, Hearst Power should file the approved tariff of rates and charges incorporating the LPP rate riders as provided in its filing. The LPP rate riders as ordered by the Board should be effective from May 1, 2011 to April 30, 2012.

Whitby Hydro Electric Corp.

Board staff does not have any concerns with respect to the information provided by Whitby Hydro Electric Corp.

All of which is respectfully submitted