



EB-2011-0019

IN THE MATTER OF the *Ontario Energy Board Act, 1998*,
S.O. 1998, c. 15, Schedule B;

AND IN THE MATTER OF an application pursuant to
section 74 of the *Ontario Energy Board Act, 1998* by
Newmarket-Tay Power Distribution Ltd seeking a partial
exemption to its mandated Time-of-use pricing date.

By delegation, before: Jennifer Lea

DECISION AND ORDER

Newmarket-Tay Power Distribution Ltd. ("Newmarket-Tay") filed an application with the Ontario Energy Board on January 17, 2011, under section 74 of the *Ontario Energy Board Act, 1998*, seeking a partial exemption to its mandated time-of-use ("TOU") pricing date for Regulated Price Plan ("RPP") customers. The Board assigned file number EB-2011-0019 to the application.

BACKGROUND

Under cover of a letter to all Ontario electricity distributors dated August 4, 2010, the Ontario Energy Board provided its determination of mandatory dates by which each distributor must bill those of its RPP customers that have eligible TOU meters using TOU pricing. The Board's determination was made pursuant to sections 3.4 and 3.5 of the Standard Supply Service Code for Electricity Distributors, which requires TOU pricing for RPP consumers with eligible TOU meters, as of the mandatory date. Compliance with this Code is a condition of licence for nearly all licensed electricity distributors in Ontario.

THE APPLICATION

Newmarket-Tay applied for a partial exemption from its mandated TOU date of June 2011 for General Service under 50 kW customers served with three phase services. Newmarket-Tay is requesting a new TOU date of November 2011 for this specific customer class only. The exemption would affect 2,584 customers under this class. Newmarket-Tay states it currently has all eligible residential customers on TOU pricing.

Newmarket-Tay's General Service under 50 kW customers require two types of smart meters, single phase and three phase. Newmarket-Tay experienced a delay in receiving the three phase meters it had ordered. The applicant provided a letter from the smart meter provider confirming the delay. Newmarket-Tay states it has been diligently seeking an alternate supplier for its three phase smart meters, but the utility cannot complete meter installation and TOU pricing implementation by the end of June, 2011. In its interrogatory responses Newmarket-Tay states it is not presently aware of any other factors that may hinder its ability to meet a November 2011 mandated TOU pricing date for the affected customers.

The Notice of Application and Written Hearing for Newmarket-Tay's application was issued on March 28, 2011, and interrogatories and submissions on the application were invited. The applicant responded to interrogatories filed by Board staff, providing more information about the delay and progress to date in implementing TOU pricing. Board staff filed a submission on the application stating it had no issues with the request for exemption. The applicant did not respond to the submission.

BOARD FINDINGS

I find the application should be granted. Newmarket-Tay will be exempted from the requirement to apply TOU pricing under the Standard Supply Service Code until November 30, 2011 for its General Service under 50 kW customers.

Newmarket-Tay has taken the responsible step of seeking an exemption from the Board in advance of its mandated TOU date. The reasons given in the application for missing the original date are credible and supported by the evidence filed with the application. The applicant has provided assurance that there are no other factors that would cause further delay in its implementation of TOU pricing. Newmarket-Tay has made a

considerable effort towards completing TOU pricing implementation, and has 100% of its eligible residential customers on TOU pricing. I find that the difficulties and delay encountered in the acquisition of three phase meters to be an extraordinary and unanticipated circumstance sufficient to justify an extension to Newmarket-Tay's mandated TOU pricing date for the affected customer class.

IT IS THEREFORE ORDERED THAT:

1. Newmarket-Tay Power Distribution Ltd.'s distribution licence ED-2007-0624, specifically Schedule 3 List of Code Exemptions, is amended to include an exemption from the requirement to apply time-of-use pricing by a mandatory date under the Standard Supply Service Code for Electricity Distributors, for its General Service under 50 kW customer class. This exemption will expire on November 30, 2011.

DATED at Toronto, May 26 2011

ONTARIO ENERGY BOARD

Original signed by

Jennifer Lea
Counsel, Special Projects