



EB-2011-0231

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 Woodstock
Hydro Services Inc. for an order or orders approving or
fixing just and reasonable distribution rates and other
charges, to be effective May 1, 2011.

AND IN THE MATTER OF a Motion by Woodstock Hydro
Services Inc. pursuant to the Ontario Energy Board's
Rules of Practice and Procedure for a review by the
Board of its Rate Order in proceeding EB-2010-0145
dated May 6, 2011.

BEFORE: Paula Conboy
Presiding Member

Marika Hare
Panel Member

NOTICE OF MOTION FOR REVIEW AND PROCEDURAL ORDER NO. 1

INTRODUCTION

Woodstock Hydro Services Inc. ("Woodstock Hydro") filed a letter with the Ontario Energy Board (the "Board") on May 26, 2011 regarding the Rate Order issued by the Board on May 6, 2011 in proceeding EB-2010-0145. Woodstock Hydro requested that the letter be treated as a motion to review pursuant to Rule 44 of the Board's *Rules of Practice and Procedure*. The motion has been assigned file number EB-2011-0231.

In the motion, Woodstock Hydro requested that the Board review and vary the EB-2010-0145 Rate Order to provide for the recovery of Woodstock Hydro's share of the costs and damages incurred in the Late Payment Penalty ("LPP") Class Action by means of fixed rate riders over a 12 month period commencing June 1, 2011.

BACKGROUND

The Board held a generic proceeding (EB-2010-0295) with respect to the LPP matter and released its Decision and Order on February 22, 2011, and its Rate Order on April 18, 2011.

In the Decision and Order the Board directed Affected Electricity Distributors that currently had a 2011 IRM or cost of service rate application before the Board to file detailed calculations outlining the derivation of the LPP rate riders in each of their IRM or cost of service application. The LPP rate riders for these distributors would be verified as part of their respective application and would be incorporated in the Tariff of Rates and Charges to be approved as part of those proceedings. Woodstock Hydro filed a letter with the Board on February 28, 2011, along with the LPP rate riders, and referenced the generic LPP proceeding.

Woodstock Hydro's 2011 cost of service proceeding (EB-2010-0145) was the subject of a Settlement Conference, conducted at the Board's offices on March 24, 2011. The Settlement Conference resulted in a complete settlement of all issues in the proceeding. The Settlement Proposal was filed on April 8, 2011.

The Settlement Proposal addressed the LPP issue as follows (at page 33, Issue 9.2):

"The Parties have also agreed that Woodstock Hydro will withdraw the following requests, set out at Exhibit 9, Tab 2, Schedule 3 of the Application:

- That the Board approve Woodstock Hydro's request for recovery of a onetime expense in the amount of \$57,743.72, representing Woodstock Hydro's contribution toward the settlement of long-standing litigation against all former municipal electric utilities ("MEUs") in the Province in relation to late payment penalty ("LPP") charges collected pursuant to, first, Ontario Hydro rate schedules and, after industry restructuring, Ontario Energy Board rate orders (the "LPP Class Action").

- The Parties acknowledge that Woodstock Hydro's recovery of this amount has been addressed through the Board's Decision and Order EB-2010-0295 dated February 22, 2011. Accordingly, on February 28, 2011, WHSI filed detailed calculations and supporting documentation outlining the derivation of the rate riders to recover the one-time expense of \$57,743.72, based on the methodology outlined in that Decision."

On April 20, 2011, the Board issued its Decision and Order approving the Settlement Proposal, and directed Woodstock Hydro to prepare a draft Rate Order implementing the Decision and Order. The draft Rate Order was prepared and delivered by Woodstock Hydro on April 26, 2011. The draft Rate Order filed by Woodstock Hydro in its 2011 cost of service proceeding did not include the rate riders provided by Woodstock Hydro in the generic LPP proceeding.

On May 6, 2011, after Board staff and the intervenors in the proceeding had an opportunity to review the draft Rate Order, the Board issued Woodstock Hydro's final Rate Order. The Rate Order did not include rate riders to recover the LPP.

THE MOTION

Woodstock Hydro filed a letter with the Board on May 26, 2011 regarding the Rate Order issued by the Board on May 6, 2011 in proceeding EB-2010-0145. Woodstock Hydro requested that the letter be treated as a motion to review. The motion is to vary the May 6, 2011 Rate Order to provide for the recovery of Woodstock Hydro's share of the costs and damages incurred in the LPP Class Action by means of fixed rate riders over a 12 month period commencing June 1,

In the letter, Woodstock Hydro indicated that it had had no intention of foregoing the LPP settlement amount, that it believes that the Settlement Proposal clearly indicates that there was no intention to do so, and that all parties to the settlement understood this. Woodstock Hydro further stated that the intervenors have confirmed with Woodstock Hydro that they assumed that any LPP recovery would be incremental to the rates arising out of the Settlement Proposal and would be dealt with in the context of the EB-2010-0295 proceeding.

The Board considers it necessary to make provisions for the following matters related to this proceeding. Since the Board does not have evidence on the record from other parties to the Settlement Proposal on this matter, the Board will allow for written

submissions from Woodstock Hydro, the intervenors in the EB-2010-0145 proceeding and Board staff. The Board will proceed by way of a written hearing. The Board may issue further procedural orders from time to time.

THE BOARD THEREFORE ORDERS THAT:

1. Woodstock Hydro shall file its written submissions with the Board and serve to all intervenors in proceeding EB-2010-0145, on or before **July 6, 2011**.
2. Intervenors and/or Board staff wishing to file responding submissions shall file such submissions with the Board and serve on Woodstock Hydro and all intervenors on or before **July 13, 2011**.

All filings to the Board must quote file number **EB-2011-0231**, be made through the Board's web portal at, www.errr.ontarioenergyboard.ca and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.ontarioenergyboard.ca. If the web portal is not available parties may email their document to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

ADDRESS

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto ON M4P 1E4
Attention: Board Secretary

E-mail: Boardsec@ontarioenergyboard.ca
Tel: 1-888-632-6273 (toll free)
Fax: 416-440-7656

DATED at Toronto, June 24, 2011

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary