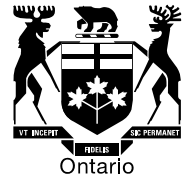


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BY EMAIL

July 13, 2011

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

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

**Re: Woodstock Hydro Services Inc. Motion for Review
2011 Electricity Distribution Rates
Board Staff Submission
Board File No. EB-2011-0231**

In accordance with the Notice of Motion for Review and Procedural Order No. 1, please find attached the Board Staff Submission in the above proceeding. Please forward the following to Woodstock Hydro Services Inc. and to all other registered parties to this proceeding.

Yours truly,

Original Signed By

Daniel Kim
Analyst, Applications & Regulatory Audit

Encl.



ONTARIO ENERGY BOARD

STAFF SUBMISSION ON MOTION TO REVIEW THE DECISION AND ORDER IN EB-2010-0145

Woodstock Hydro Services Inc.

EB-2011-0231

July 13, 2011

**Board Staff Submission
Woodstock Hydro Services Inc.
2011 Electricity Distribution Rates
EB-2011-0231**

Background

Woodstock Hydro Services Inc. (“Woodstock Hydro”) filed its cost of service distribution rate application on November 1, 2010. A settlement conference was convened on March 24, 2011 and a complete settlement was reached on all issues. On April 20, 2011 the Ontario Energy Board (the “Board”) issued its Decision approving the Settlement Proposal and directing Woodstock Hydro to prepare a draft Rate Order implementing the Decision and Settlement Proposal. The Board issued a Rate Order on May 6, 2011.

Woodstock Hydro submitted that, when the Board issued Woodstock Hydro’s Rate Order and the press release confirming the approval of Woodstock Hydro rates, it first became aware of the fact that the Board misunderstood certain paragraphs in the Settlement Agreement dealing with the recovery of Woodstock Hydro’s contribution to the late payment penalty (“LPP”) charges. The paragraphs in question are set out below:

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 one-time 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.¹

Motion to Review

On May 26, 2011 Woodstock Hydro filed a letter with the Board regarding the Rate Order issued by the Board on May 6, 2011 and 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 was assigned file number EB-2011-0231.

In this 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 LPP class action by means of fixed rate riders (the "LPP rate riders") over a 12-month period commencing June 1, 2011. Woodstock Hydro indicated that it had had no intention of foregoing the LPP settlement amount, that it believes 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 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 generic proceeding.

On June 24, 2010, the Board issued a Notice of Motion for Review and Procedural Order No. 1 providing for written submissions from Board staff and all parties in the EB-2010-0145 proceeding.

Woodstock Hydro filed its submission on July 5, 2011. Woodstock Hydro submitted that there was an error in fact, which led to the Board's understanding that the recovery of the LPP amounts were being waived by Woodstock Hydro. Woodstock Hydro however agreed that the LPP rate riders should have been included in the draft Rate Order filed by Woodstock Hydro, and acknowledged that failing to do so may have avoided any error in fact that has led to the making of this motion.

¹ Settlement Agreement EB-2010-0145, pg. 33 of 78

Woodstock Hydro requested that the Board vary its Final Rate Order of May 6, 2011 to include the LPP rate riders as set out in Woodstock Hydro's February 28, 2011 correspondence to the Board in EB-2010-0295. Woodstock Hydro reiterated its request that it be permitted to recover the LPP amounts as set out in that letter over a 12-month period. Woodstock Hydro also requested that the 12-month period for the riders commence August 1, 2011 if the revised Rate Order is issued by August 8, 2011; or September 1, 2011, if the revised Rate Order is issued after August 8, 2011 and by September 8, 2011, and that the Board take a similar approach with respect to timing of the commencement date of the 12-month period if the revised Rate Order is issued after September 8, 2011.

Submission

Board staff submits that if all parties to the Settlement Agreement support the position of Woodstock Hydro; that it was never Woodstock Hydro's intention to withdraw its request for recovery of its contribution to the LPP, then, Board staff submits that the Board should vary the Rate Order in the manner requested by Woodstock Hydro; that is the Rate Order should be revised to include the LPP rate riders as reflected in Woodstock Hydro's letter to the Board dated February 28, 2011.

Further, if all parties to the EB 2010-0145 proceeding agree that it was never Woodstock Hydro's intention to withdraw its request for recovery, then it is Board staff's view that the failure of Woodstock Hydro to include the LPP rate riders in the draft Rate Order filed in the EB 2010-0145 proceeding was in error. To date, Energy Probe has filed a submission in support of Woodstock Hydro's request.

Board staff has reviewed the proposed LPP rate riders submitted by Woodstock Hydro on February 28, 2011 and confirms that the rate riders are accurate and are based on the methodology outlined in the EB-2010-0295 Decision.

All of which is respectfully submitted