



EB-2011-0092

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
London Hydro Inc. seeking an extension to its
mandated time-of-use pricing date.

By delegation, before: Jennifer Lea

DECISION AND ORDER

London Hydro Inc. ("London Hydro") filed an application dated March 31, 2011 with the Ontario Energy Board under section 74 of the *Ontario Energy Board Act*, 1998, for a licence amendment granting an extension in relation to the mandated date for the implementation of time-of-use ("TOU") pricing rates for Regulated Price Plan ("RPP") consumers. The Board assigned the application file number EB-2011-0092.

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 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 determination stated that: "the Board acknowledges that distributors may encounter extraordinary and unanticipated circumstances during the implementation of

TOU pricing. The Board requests that any distributor encountering such circumstances bring these matters to the Board's attention without delay in order that the Board can assess the impact on the distributor's mandatory TOU date and assess whether any adjustment in that date is warranted."

THE APPLICATION

London Hydro applied for an extension to its June 2011 mandated TOU pricing date and requested a new date of May 2012. London Hydro stated the extension is necessary due to advanced metering infrastructure ("AMI") vendor delays, Measurement Canada compliance issues and customer acceptance of TOU.

The Board issued a Notice of Application and Written Hearing for London Hydro's application on April 14, 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. On May 13, 2011, Board staff filed a submission on the application. The applicant responded to the submission on May 20, 2011. No other parties filed interrogatories or submissions on this application.

London Hydro stated that prior to its application it informed the Board of network congestion issues with its AMI wireless network and that it likely would not meet the deadline for implementation of TOU rates. London Hydro listed as a factor in requesting the extension the fact that the AMI vendor design assumptions resulted in inadequate numbers of radio transceivers to achieve the throughput performance requirements. London Hydro also stated that it was delayed by the obligation to comply with Measurement Canada billing requirements. In addition, London Hydro indicated that it required additional time to foster customer acceptance of TOU rates. In response to interrogatories London Hydro gave further details on the technical delays it experienced implementing TOU pricing. In addition it provided information on its plans for customer acceptance of TOU. London Hydro also outlined its TOU implementation plan and proposed an implementation schedule that would begin in November 2011 and end in May 2012.

In its submission on the application Board staff stated that it accepted the evidence that London Hydro experienced network congestion issues in relation to the AMI wireless network. However, Board staff did have concerns with London Hydro's proposed implementation schedule. Board staff stated that it was not persuaded that reasons for the proposed implementation schedule prevented London Hydro from rolling out TOU rates in a more expedited manner. Board staff was of the view that London Hydro did not provide sufficient evidence indicating that an extended seven month TOU billing implementation period was an extraordinary or unanticipated circumstance. Board staff indicated that London Hydro's five month period of enrolling meters and flowing meter data to the MDM/R prior to the requested seven month TOU rollout appeared a prudent amount of time to verify data quality. Board staff submitted that while a TOU extension is necessary for London Hydro, it may be appropriate to direct London Hydro to amend its TOU billing schedule to a more reasonably efficient timeline.

In its reply submission London Hydro outlined a number of additional AMI issues that have arisen since the filing of their TOU extension application. However, London Hydro maintained its commitment to resolving these issues by November 2011. London Hydro indicated reasons as to its plan for a five month cutover in testing TOU billing prior to TOU rollout. London Hydro also responded to the submission of Board staff and stated that it felt its transition plan for moving customers to TOU over the November 2011 to May 2012 timeframe is a prudent and carefully designed process to ensure a smooth transition that would minimize customer complaints and concerns. London Hydro submitted that a mandatory TOU end date prior to May 2012 would introduce higher risks and increased ratepayer costs.

BOARD FINDINGS

I find that an extension to London Hydro's TOU date should be granted, but only to March 31, 2012. London Hydro has made a considerable effort towards completing TOU pricing implementation, and has installed smart meters for all of its eligible customers. I accept that the AMI issues described in the application are sufficient to constitute an extraordinary and unanticipated circumstance that justifies some delay in the implementation of TOU pricing for this utility. However, the evidence suggests that these issues are anticipated to be resolved by the end of November, 2011. Even

allowing for some delay in resolving the AMI issues, considering staffing issues during the second half of December, and providing adequate notice to customers, I am not persuaded by the evidence that a six month implementation period following the end of November is warranted. Granting the application as filed would allow for a delay of eleven months from the Board's mandatory date of June 2011. Such a lengthy delay is not adequately supported by the evidence in this application.

It should be noted that the Board found, in EB-2011-0117 and EB-2011-0133, a combined decision respecting requests for TOU extensions from PowerStream Inc. and Midland Power Utility Corporation that generally customer impacts and customer acceptance of TOU pricing do not qualify as "extraordinary and unanticipated circumstances" justifying a delay in TOU pricing implementation. The applicants sought a delay due to concerns about potential bill increases, and a desire to educate certain customers about TOU pricing and Conservation and Demand Management programs that might mitigate customer bill impacts. In denying the applications, the Board said:

"Following review of the record of these applications the Board does not find the justifications provided by the applicants to be sufficient to justify an extension to either applicant's mandated TOU pricing date. Generally speaking "extraordinary" or "unanticipated circumstances" would relate to operational or technical issues which cannot be adequately resolved in time to meet the mandated date."

I therefore find that the arguments made by London Hydro regarding customer acceptance, aside from the problems directly related to the AMI delays, do not constitute "extraordinary and unanticipated circumstances" justifying an eleven month delay from the original mandatory TOU implementation date.

The findings in this decision should in no way be construed as determinative of any future cost recovery applications that the applicant may make.

IT IS THEREFORE ORDERED THAT:

1. London Hydro Inc.'s distribution licence ED-2002-0557, 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. This exemption will expire on March 31, 2012.

DATED at Toronto, July 25, 2011

ONTARIO ENERGY BOARD

Original signed by

Jennifer Lea
Counsel, Special Projects