



EB-2011-0137

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
Burlington Hydro Inc. seeking a partial exemption to its
mandated time-of-use pricing date.

By delegation, before: Theodore Antonopoulos

DECISION AND ORDER

Burlington Hydro Inc. ("Burlington Hydro") filed an application dated May 9, 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 certain Regulated Price Plan ("RPP") consumers. The Board assigned file number EB-2011-0137 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 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

Burlington Hydro applied for an extension to its July 2011 TOU pricing date for all applicable RPP customers and requested a new date of January 1, 2012.

Burlington Hydro stated that the extension is necessary due to the impact of data transmission problems caused by extensive foliage as well as anticipated customer concerns with a new TOU environment. Burlington Hydro stated that foliage-related data problems primarily affected approximately 8,500 out of its 63,500 customers who lived in the heavily-treed northern part of the service area and certain other residential areas. Burlington Hydro indicated that the problem would be remedied by installing additional repeaters. With respect to customer concerns, Burlington Hydro stated an expectation of “significant customer distress” because of “larger bills resulting, in part, from their lack of experience in managing their electricity consumption in a TOU environment,” and presented a customer communications plan.

The Board issued a Notice of Application and Hearing on June 2, 2011 and interrogatories and submissions on the application were invited. Board staff filed interrogatories on the application on June 21, 2011. The Canadian Federation of Independent Business (“CFIB”) filed interrogatories on the application on June 24, 2011. Burlington Hydro responded to these interrogatories on June 28, 2011. On July 7, 2011 Board staff and the CFIB filed submissions. The applicant responded to the submissions in a single reply on July 13, 2011.

Board staff’s submission supported an extension only for the approximately 8,500 Burlington Hydro customers affected by data transmission problems. Staff submitted customers not affected by data transmission problems be placed on TOU billing as required by the Board’s determination. Board staff submitted that bill impacts do not represent an extraordinary or unanticipated circumstance that warrants an extension, drawing attention to staff’s submissions regarding applications based on bill impacts for PowerStream Inc. (EB-2011-0117) and Midland Power Utility Corporation (EB-2011-0133). In its decision on these applications the Board denied the applications, stating that extraordinary or unanticipated circumstances generally “relate to operational or technical issues which cannot be adequately resolved in time to meet the mandated

date. The fact that there are bill increases for some customers (and decreases for others) is not extraordinary or unanticipated.”

The CFIB supported Burlington Hydro’s TOU extension application. The CFIB considered the requested delay to be in the interest of GS<50kW customers. The CFIB was concerned about the majority of small businesses who will be faced with bill increases. The CFIB stated that the delay and the proposed programs would enable provincial policymakers to rethink the plan to impose the current TOU regime on small businesses.

In its reply submission, Burlington Hydro reiterated its request for an extension to its mandated TOU pricing date for all of its applicable RPP customers. Burlington Hydro agreed with CFIB’s submission on the application and disagreed with Board staff’s submission that an extension only be granted to customers affected by data transmission problems. Burlington argued that undertaking mixed-mode billing with its Daffron billing system was impractical and could compromise the accuracy of customers’ bills. Burlington Hydro also reiterated the need for additional customer education as part of its request for an extension.

BOARD FINDINGS

I find the request should be granted for all applicable RPP customers. This extension will cover all of Burlington Hydro’s customers because of Burlington Hydro’s stated difficulties with implementing mixed-mode billing. Burlington Hydro will be exempted from the requirement to apply TOU pricing under the Standard Supply Service Code until January 1, 2011.

However, this finding should not be construed as acceptance of the applicant’s argument that a “customer transition” period to address an expectation of “customer distress” warrants an extension. Extraordinary or unanticipated circumstances generally relate to operational or technical issues. As the Board stated in EB-2011-0117 and EB-2011-0133, “the fact that there are bill increases for some customers (and decreases for others) is not extraordinary or unanticipated.”

This extension is granted based on the evidence supporting Burlington Hydro's data transmission issues and the difficulty of implementing mixed-mode billing. As a result, I find that Burlington Hydro Inc. shall include reports on its progress towards resolving its data transmission issues as part of its required monthly filing with the Board on smart meter deployment and the application of TOU pricing.

When the data transmission is resolved Burlington Hydro will notify the Board and implement TOU pricing without further delay.

IT IS THEREFORE ORDERED THAT:

1. Burlington Hydro Inc. distribution licence ED-2003-0004, 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 January 1, 2012.
2. Burlington Hydro Inc. shall include status reports on its progress towards resolving its data transmission issues as part of its regularly monthly reporting requirements on smart meter deployment and the application of time-of-use pricing.
3. When the data transmission is resolved Burlington Hydro Inc. shall immediately notify the Board and implement time-of-use pricing without further delay.

DATED at Toronto, August 17, 2011

ONTARIO ENERGY BOARD

Original signed by

Theodore Antonopoulos
Manager, Electricity Rate Applications