



EB-2011-0240

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

By delegation, before: Theodore Antonopoulos

DECISION AND ORDER

Waterloo North Hydro Inc. ("Waterloo North") filed an application dated June 14, 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-2011-0240 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

Waterloo North applied for an extension to its June 2011 TOU pricing date and requested a new date of January 31, 2012 for all General Service under 50 kW customers. Waterloo North is requesting a new TOU date for this specific customer class only. Waterloo North has approximately 5,400 General Service under 50 kW customers.

Waterloo North stated that an extension is necessary due to an issue with certain new three phase meters that are delivering suspect interval data due to improper time-alignment of the consumption intervals. The applicant provided a letter from the smart meter provider confirming the problem. Waterloo North stated that while this problem affected only 2,957 of its General Service under 50 kW customers, it was applying for the extension for all customers in this class because it was “concerned that a rollout of TOU pricing to only a portion of these customers may produce an unfair competitive advantage or disadvantage to individual customers.” Of Waterloo North’s remaining General Service under 50 kW customers, 2,312 had functioning eligible TOU meters and 161 did not have an eligible TOU meter installed. In its interrogatory responses Waterloo North stated that it is not presently aware of any other factors that may hinder its ability to meet a January 31, 2012 TOU pricing date for the affected customers.

The Notice of Application and Written Hearing for Waterloo North’s application was issued on July 11, 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. No other parties participated in this proceeding.

Board staff filed a submission on the application stating that an extension should be granted for only those General Service under 50 kW customers with meters with improper time-alignment of the consumption intervals. Staff submitted that customers with functioning meters not requiring firmware upgrades should be placed on TOU pricing without further delay. Staff was of the view that bill impacts are not extraordinary and unanticipated circumstances that warrant an extension, noting the Board's recent decisions denying extension applications based on bill impacts for PowerStream Inc. (EB-2011-0117) and Midland Power Utility Corporation (EB-2011-0133). Therein, the Board stated 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.”

In its reply submission, Waterloo North stated that it did not agree with Board staff’s submission and maintained that a rollout of TOU pricing to a portion of its General Service under 50kW customers would create an unfair competitive advantage or disadvantage to individual customers. Waterloo North submitted that customers may have competing businesses and that equitable treatment may not be applied if some of these General Service under 50 kW businesses are billed on TOU pricing and the other businesses are billed on RPP pricing.

BOARD FINDINGS

I find the request should be granted for those General Service under 50 kW customers with meters with improper time-alignment of the consumption intervals. Waterloo North will be exempted from the requirement to apply TOU pricing under the Standard Supply Service Code until January 31, 2012 for those affected General Service under 50 kW customers.

I find that the difficulties and delay encountered for those specific customers to be an extraordinary and unanticipated circumstance sufficient to justify an extension to Waterloo North’s mandated TOU pricing date for those affected customers. However, I find the evidence provided by the applicant to be insufficient to justify an extension to the applicant’s mandated TOU pricing date for customers with functioning meters not requiring firmware upgrades. I note that Waterloo North’s claim of competitive advantages or disadvantages caused by staggering TOU conversions is a factor that represents neither a technical nor operational barrier to TOU implementation. Further, Waterloo North provided no evidence to support its claim that competitive advantages or disadvantages will exist with a staggered approach to the implementation of TOU pricing for the subject class. I also note that Waterloo North’s interrogatory responses presented a proposed TOU implementation schedule that did not place all customers in the subject class on TOU pricing at the same time in any event. The evidence indicates that the proposed rollout of TOU conversions would have taken place over the course of two months, during February and March 2012.

The applicant has indicated that it faces no technical or operational barriers to TOU implementation for the unaffected customers. I find that TOU conversion for these customers should begin without further delay.

I expect that Waterloo North will continue to provide timely information regarding the implementation of TOU pricing to all customers in the subject class.

IT IS THEREFORE ORDERED THAT:

1. Waterloo North Hydro Inc.'s distribution licence ED-2002-0575, 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 customers in its General Service under 50 kW customer class with meters with improper time-alignment of the consumption intervals. This exemption will expire on January 31, 2012.
2. Waterloo North Hydro Inc. shall apply time-of-use pricing for customers in its General Service under 50 kW customer class with functioning eligible time-of-use meters as soon as possible, with implementation beginning without further delay.

DATED at Toronto, August 30, 2011

ONTARIO ENERGY BOARD

Original Signed By

Theodore Antonopoulos
Manager, Electricity Rates