



**RP-2002-0077**  
**EB-2002-0086**

**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  
Burlington Hydro Inc. for an order or orders  
approving or fixing just and reasonable rates.

**BEFORE:** Paul Vlahos  
Vice Chair and Presiding Member

George Dominy  
Vice Chair and Member

## **DECISION AND ORDER**

On December 21, 2001 the Ontario Energy Board (“the Board”) issued filing guidelines to all electricity distribution utilities for the March 1, 2002 distribution rate adjustments. Supplemental instructions were issued on January 18, 2002.

Burlington Hydro Inc. (“the Applicant”) filed an Application (“the Application”), dated January 25, 2002, for an order or orders under section 78 of the *Ontario Energy Board Act, 1998* approving or fixing just and reasonable rates for the distribution of electricity, effective March 1, 2002.

The Board published a generic Notice in newspapers across Ontario informing ratepayers of the distribution rate adjustments to be effective March 1, 2002 and

providing the opportunity for ratepayers to participate in the proceeding or comment on the utility's application. In response to the Board's generic Notice, the Board received a total of 148 submissions in the form of a letter, facsimile, or e-mail. The total may be apportioned to the following four categories:

- 100 were copies of a template submission seeking an oral hearing, wanting to make oral submissions, claiming that rates are not just and reasonable. Another 9 were of the same template but indicated they did not wish to make an oral submission.
- 10 indicated that there should be an oral hearing and wanted to make a submission.
- 11 indicated that there should be an oral hearing but did not wish to make an oral submission.
- 18 made substantive submissions.

In some cases the person named a specific electricity distributor, in other cases it did not. The Applicant was not named in any of the submissions.

By letter dated February 11, 2002 the Board directed electricity distributors to serve the Notice to the municipal corporation in the distributors' service area. No submissions were received.

The Applicant applied to adjust its distribution rates for the following:

- Input Price Inflation (IPI) and Productivity Factor as provided for in the Performance Based Regulation (PBR) Plan.

- the second of three installments of the utility's incremental Market Adjusted Revenue Requirement (MARR), \$2,157,862.
- the 2001 deferred Payments in Lieu of Taxes (PILs), \$1,050,154.
- the 2002 Payments in Lieu of Taxes (PILs), \$3,234,741.
- a change in the utility's late payment penalty and a provision to account for revenue losses incurred by this change, \$435,609.

Copies of the Application and supporting material are available for review at the Board's offices.

While the Board has considered all of the evidence filed in this proceeding, the Board has only referenced the evidence to the extent necessary to provide background to its findings.

### **Board Findings**

As noted above, a number of persons have written to the Board requesting that the Board hold an oral hearing in the matter of the applications by electricity distributors.

Under subsection 5.1(2) of the *Statutory Powers Procedure Act*, the Board shall not hold a written hearing where a party satisfies it that there is good reason not to hold a written hearing, in which case the Board will proceed by way of an oral or electronic hearing. Good reasons for proceeding by way of an oral hearing may include the existence of questions of credibility in which the Board will be assisted by the ability to observe the demeanor of witnesses or the complexity of evidence which parties should have the ability to test through cross-examination.

Another good reason may be where an oral hearing would allow the Board to more expeditiously deal with an application.

The persons who have requested an oral hearing have not cited any such reasons but have in most cases merely stated that “the rates are not just and reasonable” and that they “would like the opportunity to present to the Board on this matter”.

The current proceeding is an extension of the process undertaken by the Board to restructure Ontario’s electricity distribution industry. To facilitate this work, the Board developed a regulatory framework that was the result of extensive consultation and public hearings. The current applications are the result of this framework, which is largely formulaic and includes for the first time the provision for the legislative requirement of PILs.

Persons have received an opportunity to make their concerns known to the Board through the published Notice which invited written submissions on the applications. The Board notes that a written hearing is a public process in which all documents received by the Board are available to the public. The Board further notes that most of the issues raised by the submissions of the persons requesting an oral hearing are outside of the scope of the Board’s jurisdiction in this proceeding. For example, some persons raised issues of privatization of electricity services and limitations in international trade agreements on the ability of the government to make changes to Ontario’s electricity system in the future. These are not relevant to the Board’s duty in this proceeding to approve just and reasonable rates for an individual distributor regulated by the Board.

Therefore, the Board has decided not to hold an oral hearing in this matter.

The Board finds that the Applicant's proposals conform with the Board's earlier decisions, directives and guidelines and that the resulting rates are just and reasonable.

**THE BOARD ORDERS THAT:**

- 1) The rates set out in Appendix "A" of this Order are approved effective March 1, 2002.
- 2) The Applicant shall notify its customers of the rate changes coincident with the first bills reflecting the new rates.

DATED at Toronto, February 22, 2002.

ONTARIO ENERGY BOARD

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Peter H. O'Dell  
Assistant Board Secretary

Appendix "A"

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February 22, 2002

ONTARIO ENERGY BOARD

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Assistant Board Secretary