

## **Board Staff Submission on Union's Motion for Interim Rates**

### **Introduction**

Union has brought a motion to the Board for an interim order granting an increase to its existing rates effective January 1, 2008.

Although it is not unusual for the Board to declare a utility's existing rates interim where a final decision cannot be issued prior to the proposed effective dates for new rates, there appear to be few precedents for the Board granting interim rates that are higher than existing rates.

It is Board staff's view that there is no prohibition against ordering interim rates that are higher than existing rates. Section 21(7) of the *Ontario Energy Board Act* allows the Board to make interim orders pending the final disposition of a proceeding, and there are no restrictions in the Act fettering the scope of interim orders.

### **Submission**

The Board has three options in its consideration of Union's motion: it can grant Union's request and order interim rates that are higher than Union's existing rates; it can grant interim rates that are identical to the existing rates; or it can decline to order interim rates at all. What follows is Board staff's analysis of the impacts of each of these options.

### **Grant an Interim Rate Increase**

If the Board grants Union's motion and orders an interim rate increase, rates for Union's customers will increase on January 1, 2008. When the Board reaches a final decision in this proceeding, it would have the ability to retroactively adjust the rates between January 1 and the date of the final rate order. In that sense, the interim rates would not be considered final, and could be subject to change pending the Board's ultimate decision in the proceeding. In the event that the Board's final order resulted in an increase over the now existing rates, an interim rates increase would reduce or eliminate the need for any retroactive recovery of the difference. In the event that the Board's final order resulted in rates lower than the proposed interim rates, the Board would have the ability to essentially "refund" any excess recovery back to ratepayers. Interim rates, irrespective of whether or not they are increases over existing rates, can always be adjusted to match final rates where the Board finds this appropriate. As noted in Union's motion materials, the Board is reluctant to order retroactive rate increases. An interim rate increase could help to alleviate this concern.

**Declare Existing Rates Interim**

If the Board were to declare existing rates interim, it would give the Board the ability to adjust the interim rates retroactively after the final decision is reached. If the ultimate outcome of the proceeding is a rate increase, the Board would have the option of allowing Union to retroactively recover the increase for the period during which interim rates were in place. This could lead to a steeper “bump” in customer bills than would be the case if an interim rates increase were granted, although there would be no increase in the interim.

**Make no Order Regarding Interim Rates**

If no order is made regarding interim rates, Union’s existing rates will continue until there is a final decision in this proceeding. The rates arising from the final decision will replace the existing rates, and there would be no opportunity for a retroactive rate adjustment

Board staff note that Union has been prompt in filing its evidence and other materials and attempting to expedite the entire process. For these reasons, Board staff does not believe it would be fair to Union to make no order at all regarding interim rates.

All of which is respectfully submitted.

November 1, 2007.