



EB-2006-0087

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B;

IN THE MATTER OF a generic proceeding initiated by the Ontario Energy Board pursuant to section 74 of the *Ontario Energy Board Act, 1998* to amend the licences of electricity distributors to make provision for methods and techniques to be applied by the Board in determining distribution rates for licensed electricity distributors.

BEFORE: Pamela Nowina,
Presiding Member and Vice Chair

Paul Vlahos
Member

Bill Rupert
Member

EB-2011-0144
Ontario Energy Board

FILE No.
EXHIBIT No. K4.1
DATE Nov. 17
Cch, pc, MH, KS
06/09

DECISION

On April 27, 2006, the Board communicated its intention and plan to develop two codes in relation to its multi-year electricity rate-setting plan; namely, the review of cost of capital (EB-2006-0088) and the development of a 2nd generation incentive regulation mechanism (EB-2006-0089). The code development process is underway.

In conjunction with the code development plan, the Board commenced a proceeding on its own motion to amend the licences of electricity distributors to make provision for the eventual development of the above two codes. A *Notice of Proceeding and Notice of Hearing* was issued in this matter on July 7, 2006.

Pursuant to Procedural Order No. 1, the Board received fourteen submissions representing nineteen of the twenty-one registered intervenors. Many submissions dealt with jurisdictional matters. By Procedural Order No. 2, dated November 8, 2006, the Board provided an opportunity for Board Staff or any party that did not address the

jurisdictional issue in the first round of submissions to do so if they wished, and set out a timetable in that regard. The Board received submissions from Board Staff and further submissions from Energy Cost Management Inc. The Board has considered all the submissions.

Board Staff's submission noted that many of the parties' submissions contend that the Board does not have jurisdiction to proceed with the Plan and stated:

"The issue of the authority for, and appropriateness of, the proposed method for setting distribution rates through codes and licences amendments is unlikely to be resolved in the short term. At the same time there is a need to get on with establishing distribution rates for 87 distributors to be effective May 1, 2007. In these circumstances, Board Staff recommends that the Board discontinue the code-based approach and therefore discontinue this hearing. The work underway in the two related code proceedings should continue in the form of promulgation of filing guidelines for 2007 distribution rates ..."

This Board Panel agrees with Board Staff's submission that the first priority of the Board is to proceed promptly with 2007 distribution rates. Therefore the Panel also supports Board Staff's recommendation that the Board discontinue the code-based approach at this time. If the Board adopts this recommendation this proceeding (EB-2006-0087) will be terminated. If the Board does not adopt this recommendation, this proceeding will continue.

ISSUED at Toronto, November 20, 2006

Original Signed By

Pamela Nowina

Original Signed By

Paul Vlahos

Original Signed By

Bill Rupert