



EB-2011-0272

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 Norfolk Power Distribution Inc. for an order approving just and reasonable rates and other charges for electricity distribution to be effective May 1, 2012.

Before: Karen Taylor
Presiding Member

Ken Quesnelle
Member

DECISION AND ORDER

Norfolk Power Distribution Inc. (“Norfolk Power”) filed an application with the Ontario Energy Board (the “Board”), received on August 29, 2011 under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B), seeking approval for changes to the rates that Norfolk Power charges for electricity distribution, to be effective May 1, 2012. The Board assigned File Number EB-2011-0272 to the application.

The Board issued a Notice of Application and Hearing dated September 15, 2011. Norfolk Power submitted their Affidavit of Publication on September 28, 2011, indicating that the Notice was published on September 23, 2011.

The Board issued Procedural Order #1 on October 7, 2011 which among other items, scheduled interrogatories and approved the intervenor status of Energy Probe Research Foundation (“Energy Probe”), Vulnerable Energy Consumers Coalition (“VECC”), and School Energy Coalition (“SEC”) in this proceeding. The Board also

determined that Energy Probe, VECC, and SEC were eligible to apply for an award of costs under the Board's *Practice and Direction on Cost Awards*.

As Norfolk Power had requested confidential status for a number of documents related to smart meter contracts with outside parties, on October 21, 2011 the Board issued its Decision on Confidentiality determining that it would grant confidential treatment for the documents as requested.

By letter dated November 9, 2011, Norfolk Power requested an extension to the deadline for filing its interrogatory responses. On November 10, 2011 the Board issued a letter granting an extension for the responses until November 28, 2011. On November 28, 2011 Norfolk Power's interrogatory responses were filed.

On December 6, 2011 the Board issued Procedural Order No. 2 where the Board determined that the application would proceed by way of a written hearing. The Board also made provision for Technical and Settlement Conferences.

On January 11, 2012, Norfolk Power filed responses to Technical Conference questions that were filed earlier by Board staff and intervenors. A transcribed Technical Conference was held on January 12, 2012 and Norfolk Power also filed responses to 12 Technical Conference Undertakings on January 17, 2012. The Settlement Conference took place on January 18, 2012.

On February 2, 2012, Norfolk Power filed a proposed Settlement Agreement with the Board. Norfolk Power, Energy Probe, SEC, and VECC are the parties (collectively, the "Parties") to the Settlement Agreement. The Settlement Agreement is included as Appendix A to this Decision and represents a comprehensive Settlement Agreement with no unsettled matters.

Findings

The Board has reviewed the Settlement Agreement and accepts the Settlement Agreement as filed on February 2, 2012. The Board has noted, however, two LRAM-related issues in the Settlement Agreement on which it is appropriate to comment.

The Board reminds Parties that elements of a settlement agreement do not create a precedent for the Board.

The two LRAM related issues in the Settlement Agreement are as follows:

- Regarding Issue 3.3 (page 19) where parties have agreed that variances relating to CDM adjustments in the load forecast would be captured in the LRAM. The Board notes that this does not reflect the policy set out in the Board's current CDM Guideline (EB-2008-0037) which states that lost revenues are only accruable until new rates (based on a new revenue requirement and load forecast) are set by the Board, as the savings would be assumed to be incorporated in the load forecast at that time. The treatment in the Settlement Agreement appears to reflect the proposed CDM guideline (EB-2012-0003) that is currently out for comment.
- Regarding Issue 10.1 (page 43) where parties have agreed that LRAM and SSM relating to 2011 and 2012 amounts will be tracked and recovered at a later date. This also does not reflect the current Board policy. Under the current approach, in 2011 the utility is eligible for persistence from 2010 programs and the effect of 2011 programs in 2011. Persistence from 2010 and 2011 programs and the effect of 2012 programs in 2012 would not be eligible, as they should have been captured in the load forecast approved for 2012 (for which a Settlement has been reached).

While the Board has noted the above inconsistencies with current Board Guidelines, the Board will approve the Settlement Agreement as filed while noting that any future disposition will be subject to the Board's CDM Guidelines at the time an application for disposition is made.

Implementation

The Board has made findings in this Decision which changes the initially proposed 2012 revenue requirement and therefore changes the distribution rates from those initially proposed by Norfolk Power. In filing its draft Rate Order, the Board expects Norfolk Power to file detailed supporting material, including all relevant calculations showing the impact of the Settlement Agreement and this Decision on Norfolk Power's revenue requirement, the allocation of the approved revenue requirement to the classes and the determination of the final rates. Supporting documentation shall include, but not be limited to, filing a completed version of the Revenue Requirement Work Form excel spreadsheet, which can be found on the Board's website.

A Rate Order will be issued after the steps set out below are completed.

THE BOARD ORDERS THAT:

1. Norfolk Power shall file with the Board, and shall also forward to intervenors, a draft Rate Order attaching a proposed Tariff of Rates and Charges reflecting the Board's findings in this Decision within **7 days** of the date of the issuance of this Decision. The draft Rate Order shall also include customer rate impacts and detailed supporting information showing the calculation of the final rates including the Revenue Requirement Work Form in Microsoft Excel format.
2. Board staff and intervenors shall file any comments on the draft Rate Order with the Board and forward to Norfolk Power within **7 days** of the date of filing of the draft Rate Order.
3. Norfolk Power shall file with the Board and forward to intervenors responses to any comments on its draft Rate Order within **4 days** of the date of receipt of Board staff and intervenor comments.

Cost Awards

The Board may grant cost awards to eligible parties pursuant to its power under section 30 of the *Ontario Energy Board Act, 1998*. When determining the amount of the cost awards, the Board will apply the principles set out in section 5 of the Board's *Practice Direction on Cost Awards*. The maximum hourly rates set out in the Board's Cost Awards Tariff will also be applied.

1. Intervenors shall file with the Board and forward to Norfolk Power their respective cost claims within **7 days** from the date of issuance of the final Rate Order.
2. Norfolk Power shall file with the Board and forward to intervenors any objections to the claimed costs within **14 days** from the date of issuance of the final Rate Order.
3. Intervenors shall file with the Board and forward to Norfolk Power any responses to any objections for cost claims within **21 days** of the date of issuance of the final Rate Order.
4. Norfolk Power shall pay the Board's costs incidental to this proceeding upon receipt of the Board's invoice.

All filings with the Board must quote the file number EB-2011-0272, and be made through the Board's web portal at www.errr.ontarioenergyboard.ca, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must be received by the Board by 4:45 p.m. on the stated date. Parties should use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.ontarioenergyboard.ca. If the web portal is not available, parties may e-mail their documents to the attention of the Board Secretary at BoardSec@ontarioenergyboard.ca. All other filings not filed via the Board's web portal should be filed in accordance with the Board's *Practice Directions on Cost Awards*.

DATED at Toronto, February 13, 2012

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary