Ontario Energy Board

Commission de l'énergie de l'Ontario

EB-2013-0072

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 Hydro Ottawa Limited for an order to amend its electricity distribution licence (ED-2002-0556)

BEFORE: Paula Conboy
Presiding Member

Emad Elsayed
Member

Decision and Order
August 2, 2013

Introduction

Hydro Ottawa Limited ("Hydro Ottawa") filed with the Ontario Energy Board (the "Board") an application under section 74 of the *Ontario Energy Board Act, 1998* (the "Act"). The application was filed on March 18, 2013 and amended on May 3, 2013. The amended application seeks an order of the Board amending Hydro Ottawa's electricity distribution licence to reflect an exemption from the long term load transfer ("LTLT") provisions set out in section 6.5.4 of the Distribution System Code (the "DSC") in relation to 40 customers of Hydro Ottawa.

The Board assigned file number EB-2013-0072 to the application and issued its Notice of Application and Hearing on April 19, 2013. The Board has proceeded by way of written hearing. No request for intervenor status was filed with the

Board. However, the Board deemed Hydro One Networks Inc. (“Hydro One”) to be an intervenor in the proceeding. Board staff participated in the proceeding by way of filing interrogatories and a submission. Hydro One also filed a submission. In addition, the Board received a letter of comment from one of the subject customers.

The full record of this proceeding is available for review at the Board’s offices. While the Board has considered the full record, the Board has summarized and referred only to those portions of the record that it considers helpful to provide context to its findings.

The Policy and the Requested Relief

LTLTs occur when a customer is located in the licensed service area of one electricity distributor (the “geographic distributor”) but physically connected to another electricity distributor’s distribution system (the “physical distributor”). Under the LTLT arrangement, while the customer is connected to the physical distributor’s distribution system, that LTLT customer is billed by the geographic distributor and pays the geographic distributor’s electricity distribution rates, which may be higher or lower than the physical distributor’s rates. The physical distributor, in turn, charges the geographic distributor, based on the physical distributor’s electricity distribution rates, in accordance with an LTLT agreement.

In this case, the subject 40 customers are located within Hydro Ottawa’s service area but are physically connected to Hydro One’s distribution system. Hydro Ottawa, as the geographic distributor, pays Hydro One, as the physical distributor, based on Hydro One’s approved electricity distribution rates, but charges the 40 customers based on Hydro Ottawa’s rates, which are presently lower than Hydro One’s rates.

Section 6.5.4 of the DSC requires geographic distributors to eliminate their LTLT arrangements by June 30, 2014 and sets some related reporting requirements. Specifically, section 6.5.4 of the DSC, in part, states:

> During the period between May 1, 2002 and June 30, 2014, a geographic distributor that services a load transfer customer shall either:
>
> a. negotiate with a physical distributor that provides load transfer services so that the physical distributor will be responsible for providing distribution services to the customer directly, including application for changes to the licensed service areas of each distributor; or
>
> b. expand the geographic distributor's distribution system to connect the load transfer customer and service that customer directly.

In this application, by way of a licence amendment, Hydro Ottawa seeks a permanent exemption from the DSC's LTLT elimination provisions in order to maintain its LTLT arrangement with Hydro One for these 40 customers.

Parties' Positions

It is Hydro Ottawa's position that maintaining the current LTLT arrangement with Hydro One is the least cost and least disruptive solution to the subject customers and to Hydro Ottawa's ratepayers[1]. Hydro Ottawa also submits that the issues that initially gave rise to the need to eliminate LTLT arrangements have largely been addressed. Hydro Ottawa stated that it had already eliminated 249 or 85% of its 293 LTLT arrangements[2].

Hydro One supports Hydro Ottawa's application and submits that until a rate impact solution to all reciprocal transfers between Hydro One and neighbouring electricity distributors is implemented, maintaining LTLT arrangements ensures the optimal use of existing infrastructure[3]. Hydro One also recommends that the Board consider amending the DSC to eliminate section 6.5.4, granting an exemption for all existing LTLTs upon request, or extending the current deadline for eliminating LTLTs for a further five years[4].

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1 Page 4 of Hydro Ottawa's amended application dated May 3, 2013 - EB-2013-0072
2 Page 2 of Hydro Ottawa's reply submission dated July 9, 2013 - EB-2013-0072
3 Page 1 of Hydro One's submission dated June 24, 2013 - EB-2013-0072
4 Page 3 of Hydro One's submission dated June 24, 2013 - EB-2013-0072

In its submission, Board staff describes the history of the LTLT elimination policy, highlights some issues in the application and submits that a five-year temporary exemption is reasonable as potential consolidations in the electricity distribution sector could affect LTLT elimination requirements. Hydro Ottawa, however, does not agree with Board staff's recommendation stating that there is no guarantee that in five years industry consolidation or new construction or housing developments will resolve any or all of the subject 40 LTLT arrangements.

Hydro Ottawa provided evidence showing that the average cost of connecting the subject LTLT customers to Hydro Ottawa's distribution system is approximately $2.5 million due to the remoteness of these customers and their respective distance to Hydro Ottawa's nearest feeder[5]. Hydro Ottawa submits that it is not economically prudent to incur such cost to connect the subject customers for the purpose of eliminating the LTLT arrangement with Hydro One. Both Board staff and Hydro One agree with Hydro Ottawa's position in this regard. Hydro Ottawa further submits that transferring the customers to Hydro One by way of service area amendment is not an economically viable option for the subject LTLT customers. To support this argument, Hydro Ottawa provided evidence showing that transferring the subject customers to Hydro One by way of a service area amendment will increase the customers' total monthly bills. Specifically, residential customers would experience a monthly total bill increase of approximately $30 or 26% and commercial customers would experience a monthly total bill increase of approximately $75 or 27.7%[6]. In its submission, Board staff acknowledges the unfavourable bill impact that would result from transferring the subject customers to Hydro One and submits that it should be considered by the Board. However, Board staff also submits that this issue is not unique to Hydro Ottawa and acknowledges that the Board generally considers rate impacts as part of service area amendment applications. Hydro One submits that a resolution to the rate impact issue must be implemented before "wholesale" LTLT eliminations can be carried out.[7]

Board Findings

[5] Hydro Ottawa's response to Board staff interrogatory No. 5.2 - EB-2013-0072
[6] Page 4 of Hydro Ottawa's amended application dated May 3, 2013 and page 4 of Hydro Ottawa's reply submission dated July 9, 2013 - EB-2013-0072
[7] Page 2 of Hydro One's submission dated June 24, 2013 - EB-2013-0072

By licence condition, all licensed electricity distributors must comply with regulatory instruments developed by the Board including the DSC except where a distributor has been specifically exempted from such compliance by the Board. Any exemptions granted to the distributor are to be set out in schedule 3 of the distributor's licence. Section 74(1) of the Act allows the Board to amend distributors' licences where the amendment is in the public interest, having regard to the objectives of the Board and the purposes of the *Electricity Act, 1998*. For the reasons set out below, the Board is not persuaded that Hydro Ottawa's proposed licence amendment is in the public interest.

The Board's policy on the elimination of LTLTs was adopted as a result of the commercialisation of the distribution sector and the concomitant discontinuation of the use of municipal boundaries as demarcation identifiers of distribution franchise service areas. The policy addresses the recognition that LTLTs can give rise to cross subsidization between customers. Customers being served under the terms of LTLTs that are paying less than other similar customers who are not being served under the terms of an LTLT agreement are being subsidized.[8]

There is nothing in Hydro Ottawa's evidence to justify a departure from the Board's policy on LTLT arrangements.

In this case, Hydro Ottawa's 40 LTLT customers have always been connected to Hydro One's distribution system. However, they have been charged Hydro Ottawa's electricity distribution rates which are, as shown in the evidence considerably lower than Hydro One's electricity distribution rates. Hydro Ottawa pays Hydro One based on Hydro One's approved distribution rates, but charges the 40 customers its own approved distribution rates. The difference between the amount paid by Hydro Ottawa and the amount collected is recovered from all Hydro Ottawa customers. The Board does not believe that continuing this arrangement, knowing that the subsidy exists, is in the public interest. Accordingly, the Board does not accept Hydro Ottawa's assertion that issues that initially gave rise to the need to eliminate LTLT arrangements have been addressed. The Board is also mindful that the opposite situation exists for 281

[8] Decision and Order dated July 25, 2017 in EB-2007-0917 and EB-2007-0947

LTLT customers that are connected to Hydro Ottawa's distribution facilities, but are located in Hydro One's service area and are paying Hydro One's distribution rates[9]. Dealing with the issue of cross subsidization remains an objective of the Board and granting the requested relief would not be consistent with this objective.

Considering the estimated cost of connection by Hydro Ottawa, the Board agrees with the parties that it is not economically prudent for Hydro Ottawa to expand its system to connect the subject customers. However, the Board is not convinced that an application to the Board to transfer the customers to Hydro One is not a viable option. The customers have been connected to Hydro One's distribution system and if transferred to Hydro One, they will continue to be connected to the same assets. The Board recognizes that, in this case, the customers will be subject to higher electricity distribution rates and will experience an unfavourable impact on their bills as a result of this transfer. However, the Board is of the view that this can be addressed through establishment or adoption of bill impact mitigation methodologies.

Board staff submitted that potential consolidations in the electricity distribution sector could affect LTLT elimination requirements and that a five-year temporary exemption is reasonable. The Board disagrees. A temporary exemption is not warranted in this case. Hydro Ottawa has not presented a specific plan which would allow it to meet the LTLT elimination requirement within a specified period of time. In fact, Hydro Ottawa has stated that the 40 subject customers are in areas that Hydro Ottawa has deemed "dependent on future growth" or "uneconomic" and that there is no guarantee that in five years industry consolidation or new construction or housing developments will resolve any or all of the subject 40 LTLT arrangements.

The Board also does not accept Hydro One's recommended options for dealing with the Board's LTLT elimination policy. The scope of this proceeding is limited to Hydro Ottawa's exemption application, and a re-examination of the Board's LTLT elimination policy is not an issue before the Board in this proceeding.

[9] Page 10 of Hydro Ottawa's reply submission dated July 9, 2013 - EB-2013-0072

THE BOARD ORDERS THAT:

1. Hydro Ottawa's application for a licence amendment to reflect an exemption from section 6.5.4 of the DSC is denied.

2. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Hydro Ottawa shall pay the Board's costs of and incidental to, this proceeding immediately upon receipt of the Board's invoice.

DATED at Toronto, August 2, 2013

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary