

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 Algoma Power Inc. for an order approving just and reasonable rates and other charges for electricity distribution to be effective January 1, 2014.

Algoma Power Inc.

Reply Submission and Notice of Motion

INTRODUCTION

Algoma Power Inc. ("API") submitted its 2014 4th Generation Incentive Rate-setting Application, EB-2013-0110, on August 16, 2013. On October 28, 2013, API submitted complete responses to interrogatories posed by Board staff and, in addition, submitted supplemental evidence in respect of the assignment of a stretch factor to an individual distributor (the "Supplemental Evidence").

Board staff in its submission dated November 8, 2013, provided commentary on both the original application and API's Supplemental Evidence. This is API's reply submission on the issues for which the evidentiary record has been tested by Board staff, being: (i) shared tax-savings rate riders; and (ii) the RRRP adjustment factor.

As explained below, Board staff has not had the opportunity to pose interrogatories on API's Supplemental Evidence on stretch factor assignment. As such, API hereby includes a Notice of Motion requesting, *inter alia*, that Board staff be permitted to pose further interrogatories on API's Supplemental Evidence.

PART I: REPLY SUBMISSIONS

SHARED TAX-SAVINGS RATE RIDERS

Board staff noted that on sheet 3 of the Shared Tax Savings Work form, API had inserted the kWh rate for the Street Lighting class into column O as opposed to column N. The result of this input error lead to an understated revenue requirement for the Street Lighting class by approximately \$123,000. Board staff submitted that when corrected, the model computes a rate rider of \$(0.0004) for the Street Lighting class.

API agrees with the Board staff submission in this matter.

RRRP ADJUSTMENT FACTOR

In its submission Board staff provided a calculation of the average increase in distribution rates as of October 31, 2013 in order to determine the applicable RRRP Adjustment Factor. Board staff submitted that the RRRP Adjustment factor for API's 2014 IRM4 Application is 3.76%.

In this Reply Submission API has updated its rate design model incorporating the RRRP Adjustment Factor as calculated by Board staff. A print copy of this updated model is provided in Appendix "A" and an electronic version accompanies this Reply Submission.

PART II: NOTICE OF MOTION (STRETCH FACTOR ASSIGNMENT)

API will make a motion to the Board on a date and at a time to be determined by the Board.

PROPOSED METHOD OF HEARING: API proposes that the Motion be heard orally.

THE MOTION IS FOR:

- i. a procedural order allowing Board staff to pose further interrogatories on API's supplemental stretch factor assignment evidence dated October 28, 2013:
- ii. a procedural order allowing both Board staff and API to file written submissions on API's supplemental stretch factor assignment evidence after the evidentiary portion of this proceeding is completed; and
- iii. a procedural order making API's current distribution rates interim in the event that API's 2014 distribution rates are not implemented by January 1, 2014.

GROUNDINGS FOR THE MOTION:

1. API filed its 2014 IRM4 Application on August 16, 2013. Subsequently, on September 6, 2013 the Board issued the *"Draft Report of the Board on Empirical Research to Support Incentive Rate-setting for Ontario's Electricity Distributors"* (EB-2010-0379) (the "Report").
2. According to the Report, the Board believes that requests for reassignment of stretch factors based on extenuating circumstances should be addressed on a case-by-case basis. Specifically, at page 29 the Report provides:

"During this consultation, some distributors wrote to the Board claiming extenuating circumstances that they believe should make them eligible for specific treatment in relation to stretch factor assignments. The Board believes that these requests should be addressed on a case-by-case basis. Consistent with practice to date, distributors that apply to the Board for exclusions and/or exceptions and satisfy the Board that their reasons are compelling may be assigned the middle stretch factor (i.e., 0.30%)."

3. Based on this excerpt from the Report, on October 28, 2013 API filed its Supplemental Evidence to its 2014 IRM4 Application in conjunction with its responses to Board staff's interrogatories.

4. Board staff wrote in its submission that a supplemental filing of new evidence should, in the normal course, be followed by a further discovery process, and that there are some matters in API's case that "likely require further explanation and testing". Specifically, Board staff wrote:

*Board staff observes that a supplemental filing of new evidence should, in the normal course, be followed by a further discovery process. **There are some matters that likely require further explanation and testing, such as** why the RRRP funding is not sufficient to address the low density, low revenue profile of API, and the fact that API has not quantified the impact of being placed in the lowest ranked/highest stretch factor grouping.*

*Board staff submits that API has not provided a compelling case in support of its request. **That is not to say that the request is not reasonable or appropriate.** But, based on the information submitted, and with no opportunity for further testing, Board staff is of the view that the information is not sufficient for the Board to make an assessment as to whether further assistance to API (beyond the RRRP funding), in the form of an exception to the stretch factor assignment policy, should be granted.[emphasis added]*

5. API filed the Supplemental Evidence during the evidentiary portion of this proceeding. Therefore, it cannot be argued that API's Supplemental Evidence should be rejected on procedural grounds.
6. With new evidence being appropriately placed on the record, API submits that Board staff must be given the opportunity to conduct a discovery of that new evidence through further interrogatories. To deny this opportunity to Board staff would be procedurally unfair.
7. Accordingly, API moves for the Board to issue a procedural order allowing Board staff to pose further interrogatories on API's supplemental evidence.
8. Further, given that Board staff acknowledged in the above quote that API's stretch factor request could be "reasonable or appropriate" upon further discovery, API submits that it would be premature to argue the merits of its position on stretch factor assignment until the evidentiary record has been tested to the satisfaction of Board staff. It is quite possible that, upon receiving API's interrogatory responses, Board staff may support API's position. Therefore, API has requested a procedural order allowing for final submissions to be made after the evidentiary portion of this proceeding is complete.
9. Board staff suggested that API could respond in its reply submission to the questions raised in the Board staff submission. API submits that this suggestion should be rejected because:

- a. to do so would be procedurally incorrect, since we would effectively be combining the evidentiary and argument phases of this proceeding; and
 - b. although Board staff gave examples of its questions on the Supplemental Evidence, it did not provide a comprehensive set of questions. This is illustrated by Board staff writing "such as" before the questions it posed (please refer to the emphasised portion of the quote from the Board staff submission set out above). Until API understands all of Board staff's concerns about API's proposed stretch factor assignment, API is unable to respond to Board staff's claim that API "has not provided a compelling case to support its request".
10. API understands that further interrogatories could result in a delay of rate implementation beyond January 1, 2014. However, that delay could easily be addressed by making API's current rates interim - a mechanism that the Board regularly uses in the event of delayed rate implementation. Therefore, API is seeking an order that its current rates be made interim in the event that its 2014 rates are not implemented by January 1, 2014.
11. API respectfully reserves the right to make reply submissions with respect to its stretch factor reassignment request in the event that API's motion is denied

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- i. the record of EB-2013-0110;
- ii. the *Draft Report of the Board on Empirical Research to Support Incentive Rate-setting for Ontario's Electricity Distributors* dated September 6, 2013; and
- iii. such further evidence as counsel for API may submit and the Board may allow.

All of which is respectfully submitted.

November 15, 2013



Algoma Power Inc.

By its Counsel: Andrew Taylor