



ONTARIO ENERGY BOARD

BOARD STAFF SUBMISSION

Erie Thames Powerlines
Corporation

EB-2013-0225

December 2, 2013

Background

Erie Thames Powerlines Corporation Inc. (“Erie Thames”) applied to the Ontario Energy Board (the “Board”) for permission to dispose of the balance in Account 1562, Deferred Payments in Lieu of Taxes (“PILs”) (“Account 1562”) over a one-year period commencing January 1, 2014. A complete application was filed on August 23, 2013 under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15 (Schedule B). There are separate Account 1562 balances for each of the former, pre-amalgamated entities that now comprise Erie Thames, being Erie Thames Powerlines Corporation (“ETPL”), Clinton Power Corporation (“CPC”) and West Perth Power Inc. (“WPPI”).¹

On November 13, 2013 Erie Thames filed an update to its application to reflect subsequent changes in light of its responses to Board staff interrogatories. Amongst other things, the updated application identifies an aggregate credit balance of \$365,146 while the initial application showed an aggregate credit balance of \$142,824. In Procedural Order No. 2 the Board made provision for written submissions by Board staff and written reply by Erie Thames. Board staff’s submission is due on or before December 2, 2013 to be followed with any Erie Thames reply submission by December 9, 2013.

Discussion and Submission

Table 1 presents the amounts, including interest, which Erie Thames is proposing to refund to customers. The aggregated amount totals a credit of \$365,146.

Table 1

Account 1562	ETPL	CPC	WPPI
Principal as of April 30, 2014	(\$249,948)	(\$13,600)	(\$4,457)
Interest as of April 30, 2014	(\$90,019)	(\$5,247)	(\$1,874)
Amount to be Disposed	(\$339,968)	(\$18,847)	(\$6,331)

¹ To minimize confusion the former pre-amalgamated Erie Thames Powerlines Corporation will be referred to as “ETPL” in this submission.

Board staff has reviewed the underpinning models, and calculations filed by Erie Thames, and is satisfied that the amounts are in keeping with the approved treatment set out in the Decision in the Combined Proceeding EB-2008-0381. Board staff notes that on occasion in the updated application Erie Thames refers to the “interest as of” period being December 31, 2013. Board staff asks that Erie Thames in its reply submission confirm that such references are a clerical error and that interest has been calculated as of April 30, 2014. On this basis Board staff submits that these are the amounts that the Board should consider for disposition.

Erie Thames utilizes the class allocations that were employed in the respective 2005 EDR RAM (PILs Tab) to allocate the amount to be disposed by customer class. Board staff has summarized the results in Table 2. Board staff notes that this differs from the Decision in the Combined Proceeding, Issue#19, whereby the customer class allocation should be based on distribution revenue from the most recent rebasing application.

Table 2

Rate Class	ETPL		WPPI		CPC	
	%	\$	%	\$	%	\$
Residential	55.09%	(\$187,288)	49.90%	(\$3,159)	57.67%	(\$10,870)
GS<50	17.70%	(\$60,174)	15.20%	(\$962)	20.24%	(\$3,815)
GS>50	15.60%	(\$53,035)	34.40%	(\$2,178)	21.77%	(\$4,103)
GS>1000	6.00%	(\$20,398)	na	na	na	na
Large Use	4.70%	(\$15,978)	na	na	na	na
Unmetered	0.31%	(\$1,054)	0.01%	(\$0)	0.00%	-
Streetlight	0.50%	(\$1,700)	0.46%	(\$29)	0.27%	(\$51)
Sentinel Light	0.10%	(\$340)	0.01%	(\$1)	0.04%	(\$8)
		(\$339,968)		(\$6,329)		(\$18,847)

Numbers rounded to the dollar

Erie Thames indicated that using the 2005 EDR RAM is consistent with cost causality and will reduce intergenerational inequity. Board staff has calculated the allocation by class using allocation percentages from Erie Thames' most recent COS application, being EB-2012-0121. The results are shown in the table below.

Rate Class	Erie Thames *	ETPL	WPPI	CPC
	%	\$	\$	\$
Residential	62.0%	(\$210,882)	(\$3,926)	(\$11,691)
GS<50	12.6%	(\$42,734)	(\$796)	(\$2,369)
GS>50	9.5%	(\$32,263)	(\$601)	(\$1,789)
GS>1000	5.8%	(\$19,684)	(\$366)	(\$1,091)
Large Use	3.4%	(\$11,491)	(\$214)	(\$637)
Unmetered	0.8%	(\$2,652)	(\$49)	(\$147)
Streetlight	3.8%	(\$12,885)	(\$240)	(\$714)
Sentinel Light	0.3%	(\$1,122)	(\$21)	(\$62)
Embedded	1.8%	(\$6,221)	(\$116)	(\$345)
	100.0%	(\$339,934)	(\$6,329)	(\$18,845)

*Note: Erie Thames revenue requirement class allocation %s from 2012 COS proceeding (EB-2012-0121)

Board staff notes that the rates for ETPL, CPC and WPPI were harmonized in EB-2012-0121. In light of this fact, Board staff concurs with Erie Thames' approach. Using the EB-2012-0121 allocations would result in refund amounts for classes that did not exist for WPPI and CPC, i.e GS>50 and Large Use and embedded.

With regard to the type and term of the rate riders for each of CPC, WPPI and ETPL Erie Thames has proposed the following.

The rate rider for ETPL would have a term of two years commencing May 1, 2014. The rate rider is calculated and would be applied on the basis of a variable charge, being kWh or kW. The volumes used to calculate the rider are from Erie Thames' last COS proceeding, EB-2012-0121.

Erie Thames proposes a one-time, customer count determined refund payment for CPC and WPPI. Erie Thames considers this appropriate given the small dollar value of the amounts to be disposed.

Board staff has summarized the resulting rate riders for ETPL, WPPI and CPC in Table 3.

Table 3

Rate Class	ETPL			WPPI		CPC	
	Charge Determinant		Rate Rider	* Charge Determinant	one-time payment	* Charge Determinant	one-time payment
Residential	119,707,075	kWh	(\$0.0008)	1797	(\$1.76)	1414	(\$7.69)
GS<50	37,037,700	kWh	(\$0.0008)	243	(\$3.96)	221	(\$17.26)
GS>50	39,648	kW	(\$0.6688)	20	(\$108.89)	17	(\$241.33)
GS>1000	123,604	kW	(\$0.0825)	na	-	na	-
Large Use	160,146	kW	(\$0.0499)	na	-	na	-
Unmetered	545,982	kWh	(\$0.0010)	5	(\$0.07597)	11	-
Streetlight	10,730	kW	(\$0.0792)	618	(\$0.04723)	709	(\$0.0718)
Sentinel Light	603	kW	(\$0.2819)	7	(\$0.08140)	38	(\$0.2182)
* Customers or Connections							

Board staff concurs with Erie Thames that while the usual practice has been to use a variable charge determinant based rate rider for the disposition of PILs 1562 account balances, given the small balances for WPPI and CPC it is appropriate to implement a one time, per customer or connections based payment for WPPI and CPC.

Board staff notes that proposed term of the ETPL rate rider is 2 years. The usual term for the disposition of PILs 1562 balance has been 12 months. Erie Thames has not provided any explanation or justification why a term in excess of one year is justified. Board staff invites Erie Thames to discuss materiality, rate impacts, and its proposals in its 2014 IRM application regarding deferral account disposition in reply.

The Board in past decisions has approved terms in excess of one year where the applicant has provided satisfactory reasons.²

With respect to the effective date of the ETPL rate rider, Board staff concurs with the May 1, 2014 date proposed by Erie Thames. This date is also the effective date for the rates proposed by Erie Thames in its 2014 IRM application which is currently before the Board. Coincident timing will reduce the number of rate changes experienced by the Erie Thames' customers. In this regard Board staff submits that the rates arising from the Board findings in this proceeding be included in the Tariff of Rates and Charges which will be ordered in the 2014 IRM proceeding.

² Haldimand, EB-2012-0027, 19 months; Brant County, EB-2011-0425, 19 months; Lakefront, EB-2011-0250, 4 years.

Potential over-recovery by CPC

Board staff interrogatory No. 8 raised the matter of potential over-collection by CPC in the event that the rates CPC used to bill its customers after February 28, 2003 continued to include an incremental amount approved by the Board for delayed implementation of rates. According to the 2002 CPC decision³, the Board approved an adjustment to CPC's rates in the amount of \$17,983 to recover the lost revenue from the period of April 1, 2001 to December 31, 2001. The Board found that the recovery of this amount was to be over a 4 month period, November 1, 2002 to February 28, 2003.⁴ Per the 2002 decision, the purpose of the adjustment was to allow CPC to recover foregone revenue approved by the Board in the Decision with Reasons and Order dated December 12, 2001.⁵

Erie Thames submitted that the potential over-recovery cannot be confirmed and should not be part of the PILs application process. Erie Thames provided a number of reasons in support its position on the matter. These are bulleted below and each is followed by Board staff's comments.

- Erie Thames had no connection or control over CPC during this timeframe; the entities were not in fact merged until early 2010 a full eight years following the implementation of this issue. ETPL was not aware of this issue or any potential for rate retroactivity when it determined to merge with Clinton Power Corp. and as a result does not feel its current shareholder should be held responsible for an error in rates, which cannot be confirmed, in a time when rates were frozen, during a process that is not intended to address this issue.

In Board staff's view, the shareholder for the regulated company is not relevant to the Board's consideration of whether there has been an over recovery.

- CPC had filed numerous subsequent rate proceedings where this issue could have been brought to the Board's attention and dealt with in a time when information and historical systems were available.

Board staff notes that this issue, although not directly a PILs matter, has only come to light as part of the review of the appropriate balances to be recorded in Account 1562.

³ RP-2002-0087/EB-2002-0096, November 4, 2002.

⁴ Board staff notes that this adjustment in question was not referred to as a "rate rider" in the 2002 Decision.

⁵ RP-2000-0258/ EB-2000-0558/ EB-2001-0202

- The third party billing agent CPC used to manage its rates and bills to its customers in 2002 is no longer in the billing services business and so Erie Thames has no access to a historical database where the timing of this rate sliver being billed or not billed can be confirmed or denied and any over-collection cannot be validated.

Board staff points to the 2002 decision and rate order which approved the recovery of \$17,983 for the four-month period up to February 28, 2003. The rate schedule was calculated by the 2002 Board-approved rate adjustment model (RAM).

In order for the rates to recover \$17,983 in four months the annualized amount was included in rates. This annualized amount included in sheet 11, cell G35 of the 2002 RAM was \$53,949.⁶ The amount was characterized as Z factor in this sheet.

There is no 2003 Board decision and Order since applications were prohibited without a letter from the Minister. In the absence of information to the contrary, it is reasonable to assume that the rates remained unchanged until the next order of the Board in 2004. Board staff has calculated the over-collection to be \$58,445⁷ plus interest carrying charges.

- LDCs during that same timeframe in which rates were frozen, were not permitted to retroactively recover incremental operating costs and capital additions due to the rate freeze that was employed by the government. If the Board wishes to retroactively change the rates that were frozen in place for the z-factor then LDCs should also be allowed to recover these incremental costs that were in fact denied at the same time.

The amount of \$17,983 was to be recovered from November 1, 2002 to February 28, 2003. As a result of Bill 210, the rates were not adjusted on March 1, 2003 as planned, because existing rate orders were to remain in effect. Therefore an additional amount continued to be collected by CPC from March 1, 2003 through April 1, 2004 when the rates were next changed by the Board.

- The PILs proceeding is in place solely to determine the impact of tax rate changes as they compare to the tax rates used to calculate the PILs recovery in those rate years. The fact that rates were frozen and these z-factor amounts were, or were

⁶ CPC_Appendix 4_Final 2002 RAM_20130620,

⁷ \$53,949/12= 4,495.75 per month for the 13-month period March 1, 2003 to the next rate adjustment date of April 1, 2004 per RP-2004-0037/ EB-2004-0023.

not, embedded in rates during the same timeframe is incidental to the mandate of the PILs proceeding.

Board staff notes that similar matters have been subject to the Board's consideration in other PILs 1562 proceedings. For example, in the Brant County proceeding EB-2011-0425, the Board's Regulatory Audit department was asked to audit the revenue from the 2001 foregone revenue rate rider given inconsistency in evidence.⁸ Brant County had a separate rate rider included in its 2002 Decision and Order, Appendix B, which applied to the period March 1, 2002 through February 28, 2003.⁹ Regulatory Audit found that Brant County had ceased charging its customers the Appendix B rate riders on February 28, 2003.¹⁰ The difference between Brant County's situation and that of CPC is that for Brant County, the foregone distribution revenue was recovered through a rate rider with a clear sunset date. In the case of CPC the foregone distribution revenue was recovered through an adjustment to base rates.

Board staff submits that the Board's finding on this matter rests with the interpretation of how the recoverable amount was presented on the 2002 tariff. The Board's approach varied in how it implemented the recovery of various amounts, such as PILs, Z factors and market opening transition costs that were not at that time included in base rates. In some cases, such as the Brant County case noted above, separate rates were identified on the tariff with a clear sunset date. In other cases, the class-specific amounts were added to existing base rates, with the intent that they would be removed, or revised (as appropriate), at the next rate application.

As noted above, in CPC's case the forgone revenue approved by the Board was implemented by "adding" the appropriate amounts to the existing base rates. If the Board is of the view that all base rates, including any "added" rate slivers, were frozen as a result of Bill 210, then staff submits that no true up should take place with respect to the subject amount. Board staff notes that the rates approved for CPC in the December 2001 decision were approved on a final basis with no sunset date. This is perhaps a more compelling argument than those put forth by Erie Thames.

If on the other hand the Board is of the view that the implementation of the approved \$17 983 adjustment is akin to establishing a "rate rider" by today's nomenclature, then

⁸ Board Staff Compendium, pages 191-201.

⁹ RP-2002-0091/ EB-2002-0100

¹⁰ See attached Board letter dated April 11, 2013 to Brant County re: administration of its 2001 foregone revenue.

staff submits that there should in fact be a true up, with the over collection being refunded back to ratepayers.

-All of which is respectfully submitted-