



EB-2013-0170

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 Sioux Lookout Hydro Inc. for an order approving just and reasonable rates and other charges for electricity distribution to be effective May 1, 2014.

BEFORE: Marika Hare
Presiding Member

Allison Duff
Member

DECISION and ORDER

March 13, 2014

Sioux Lookout Hydro Inc. (“Sioux Lookout”) filed an application with the Ontario Energy Board (the “Board”) on October 21, 2013 under section 78 of the Act, seeking approval for changes to the rates that Sioux Lookout charges for electricity distribution, effective May 1, 2014 (the “Application”).

The Application met the Board’s requirements as detailed in the *Report of the Board: Renewed Regulatory Framework for Electricity Distributors: A Performance-Based Approach* (the “RRFE Report”) dated October 18, 2012 and the *Filing Requirements for Electricity Distribution Rate Applications* (the “Filing Requirements”) dated July 17, 2013. Sioux Lookout selected the Price Cap Incentive Rate-Setting (“Price Cap IR”) option to adjust its 2014 rates. The Price Cap IR/Annual IR Index methodology provides for a mechanistic and formulaic adjustment to distribution rates and charges in the period between cost of service applications. Sioux Lookout last appeared before the Board with a full cost of service application for the 2013 rate year in the EB-2012-0165 proceeding. In this proceeding, Sioux Lookout also seeks approval for adjustments to revenue-to-cost ratios.

The Board conducted a written hearing and Board staff participated in the proceeding. No letters of comment were received.

While the Board has considered the entire record in this proceeding, it has made reference only to such evidence as is necessary to provide context to its findings. The following issues are addressed in this Decision and Order:

- Price Cap Index Adjustment;
- Rural or Remote Electricity Rate Protection Charge;
- Revenue-to-Cost Ratio Adjustments;
- Retail Transmission Service Rates; and
- Review and Disposition of Group 1 Deferral and Variance Account Balances.

Price Cap Index Adjustment

The Board issued the *Report on Rate Setting Parameters and Benchmarking under the Renewed Regulatory Framework for Ontario's Electricity Distributors* (the "Price Cap IR Report") which provides the 2014 rate adjustment parameters for distribution companies selecting either the Price Cap IR or Annual IR Index option.

Distribution rates under the Price Cap IR option are adjusted by an inflation factor, less a productivity factor and a stretch factor. The inflation factor for 2014 rates is 1.7%. Based on the total cost benchmarking model developed by Pacific Economics Group Research, LLC, the Board determined that the appropriate value for the productivity factor is zero percent. The Board also determined that the stretch factor can range from 0.0% to 0.6% for distributors selecting the Price Cap IR option, assigned based on a distributor's cost evaluation ranking. In the Price Cap IR Report, the Board assigned Sioux Lookout a stretch factor of 0.3%.

As a result, the net price cap index adjustment for Sioux Lookout is 1.4 % (i.e. 1.7% - (0% + 0.3 %)). The price cap index adjustment applies to distribution rates (fixed and variable charges) uniformly across all customer classes. The price cap index adjustment does not apply to the components of delivery rates set out in the list below.

- Rate Riders;
- Rate Adders;
- Low Voltage Service Charges;
- Retail Transmission Service Rates;

- Wholesale Market Service Rate;
- Rural or Remote Electricity Rate Protection Charge;
- Standard Supply Service – Administrative Charge;
- Transformation and Primary Metering Allowances;
- Loss Factors;
- Specific Service Charges;
- MicroFit Charge; and
- Retail Service Charges.

Rural or Remote Electricity Rate Protection Charge

The Board issued a Decision and Rate Order (EB-2013-0396) establishing the Rural or Remote Electricity Rate Protection (“RRRP”) benefit and charge for 2014. The Board determined that the RRRP charge to be paid by all rate regulated distributors and collected by the Independent Electricity System Operator (“IESO”) shall be increased to \$0.0013 per kWh effective May 1, 2014, from the current \$0.0012 per kWh. The draft Tariff of Rates and Charges flowing from this Decision and Order reflects the new RRRP charge.

Revenue-to-Cost Ratio Adjustments

Revenue-to-cost ratios measure the relationship between the revenues expected from a class of customers and the level of costs allocated to that class. The Board has established target ratio ranges for electricity distributors in its report *Application of Cost Allocation for Electricity Distributors*, dated November 28, 2007 and in its updated report *Review of Electricity Distribution Cost Allocation Policy*, dated March 31, 2011.

In its 2013 cost of service application (EB-2012-0165), the Board approved Sioux Lookout’s proposed revenue-to-cost ratios¹. Changes in 2014 include a move to an 83.08% revenue-to-cost ratio for the Street Lighting rate class and a reduction in the revenue-to-cost ratio for the General Service 50 to 4,999 kW rate class from 119.23% to 115.80%.

The table below outlines the proposed revenue-to-cost ratios.

¹ Decision & Order dated August 22, 2013, page 16

Current and Proposed Revenue-to-Cost Ratio

Rate Class	Current 2013 Ratio	Proposed 2014 Ratio
Residential	96.35	96.35
General Service Less Than 50 kW	109.85	109.85
General Service 50 to 4,999 kW	119.23	115.80
Street Lighting	76.54	83.08
Unmetered Scattered Load	81.30	81.30

The Board agrees that the proposed revenue-to-cost ratios are consistent with the EB-2012-0165 decision and approves the revenue-to-cost ratios as filed.

Retail Transmission Service Rates

Electricity distributors are charged for transmission costs at the wholesale level and then pass on these charges to their distribution customers through the Retail Transmission Service Rates (“RTSRs”). Variance accounts are used to capture differences in the rate that a distributor pays for wholesale transmission service compared to the retail rate that the distributor is authorized to charge when billing its customers (i.e. variance Accounts 1584 and 1586).

The Board issued revision 3.0 of the *Guideline G-2008-0001 - Electricity Distribution Retail Transmission Service Rates* (the “RTSR Guideline”) which outlines the information that the Board requires electricity distributors to file to adjust their RTSRs for 2014. The RTSR Guideline requires electricity distributors to adjust their RTSRs based on a comparison of historical transmission costs adjusted for the new Uniform Transmission Rates (“UTR”) levels and the revenues generated under existing RTSRs. Similarly, embedded distributors, such as Sioux Lookout, must adjust their RTSRs to reflect any changes to the applicable Sub-Transmission RTSRs of their host distributor, which in this case is Hydro One Networks Inc.

The Board approved new rates for Hydro One's Sub-Transmission class, including the applicable RTSRs, effective January 1, 2014 (EB-2013-0141), as shown in the following table.

2014 Sub-Transmission RTSRs

Network Service Rate	\$3.23 per kW
<u>Connection Service Rates</u>	
Line Connection Service Rate	\$0.65 per kW
Transformation Connection Service Rate	\$1.62 per kW

The Board finds that these 2014 Sub-Transmission class RTSRs are to be incorporated into the filing module.

Review and Disposition of Group 1 Deferral and Variance Account Balances

The *Report of the Board on Electricity Distributors' Deferral and Variance Account Review Initiative* provides that, during the IRM plan term, the distributor's Group 1 account balances will be reviewed and disposed if the preset disposition threshold of \$0.001 per kWh (debit or credit) is exceeded. The onus is on the distributor to justify why any account balance in excess of the threshold should not be disposed. As the total Group 1 balance of \$55,628 resulted in a debit claim of \$0.0008 per kWh, it did not exceed the preset disposition threshold. Sioux Lookout did not seek disposition of the Group 1 balances in its Application.

However, Sioux Lookout indicated that there was an input error in its 2012 IRM evidence (EB-2011- 0102) that affected its total Group 1 calculation in this Application. Sioux Lookout submitted that the credit balance in Account 1595 sub-account 2010 of (\$141,174) was mislabeled in the evidence as a 2009 balance. It stated that the 2010 credit balance should not have been included in the Group 1 total balance requested and approved for disposition. The "true" 2009 balance was zero because there were no DVA rate riders approved by the Board in its 2009 Decision EB-2008-0210.

Group 1 Deferral and Variance Account Balances – 2012 IRM

Account Name	Account Number	Principal Balance A	Interest Balance B	Total Claim C = A + B
LV Variance Account	1550	\$44,149	-\$83	\$44,066
RSVA - Wholesale Market Service Charge	1580	-\$109,753	-\$2,086	-\$111,839
RSVA - Retail Transmission Network Charge	1584	-\$13,347	-\$272	-\$13,619
RSVA - Retail Transmission Connection Charge	1586	-\$50,583	-\$1,121	-\$51,704
RSVA - Power (excluding Global Adjustment)	1588	-\$179,717	\$432	-\$179,285
RSVA – Power – Sub-Account – Global Adjustment	1588	-\$60,781	-\$2,425	-\$63,206
Recovery of Regulatory Asset Balances	1590	\$1	\$13	\$14
Disposition and Recovery of Regulatory Balances (2008)	1595	\$347,330	\$38,599	\$385,929
Disposition and Recovery of Regulatory Balances (2009)	1595	-\$205,130	\$63,956	-\$141,174
Total Group 1 Excluding Global Adjustment		-\$167,050	\$99,438	-\$67,612
Total Group 1		-\$227,831	\$97,013	-\$130,818

The following year, in Sioux Lookout's 2013 Cost of Service proceeding (EB-2012-0165), the credit balance in Account 1595 - 2010 of (\$154,214) was included in the evidence, as it should have been included. As a result, the 2010 credit balance was mistakenly returned to customers a second time, as indicated in the following table.

Group 1 Deferral and Variance Account Balances – 2013 Cost of Service

Account Name	Account Number	Principal Balance A	Interest Balance B	Total Claim C = A + B
LV Variance Account	1550	\$15,524	\$1,773	\$17,297
RSVA - Wholesale Market Service Charge	1580	-\$82,620	-\$2,226	-\$84,846
RSVA - Retail Transmission Network Charge	1584	\$1,331	\$430	\$1,761
RSVA - Retail Transmission Connection Charge	1586	-\$15,737	-\$292	-\$16,029
RSVA - Power (excluding Global Adjustment)	1588	\$40,127	\$2,112	\$42,239
RSVA – Power – Sub-Account – Global Adjustment	1588	-\$69,209	-\$36	-\$69,245
Recovery of Regulatory Asset Balances	1590	0	0	0
Disposition and Recovery of Regulatory Balances (2008)	1595	-\$44,366	-\$3,336	-\$47,702
Disposition and Recovery of Regulatory Balances (2009)	1595	0	0	0
Disposition and Recovery of Regulatory Balances (2010)	1595	-\$213,808	\$59,594	-\$154,214
Total Group 1 Excluding Global Adjustment		-\$299,549	\$58,055	-\$241,494
Total Group 1		-\$368,758	\$58,019	-\$310,739

In this 2014 IRM Application, Sioux Lookout indicated that corrections to these past errors were included in the Group 1 total balance. A correcting debit balance of \$149,135 for Account 1595-2010 was included in the Group 1 total as indicated in the following table.

Group 1 Deferral and Variance Account Balances – 2014 IRM

Account Name	Account Number	Principal Balance A	Interest Balance B	Total Claim C = A + B
LV Variance Account	1550	\$45,813	\$1,675	\$47,488
RSVA - Wholesale Market Service Charge	1580	-\$7,014	\$306	-\$6,708
RSVA - Retail Transmission Network Charge	1584	\$1,585	\$296	\$1,881
RSVA - Retail Transmission Connection Charge	1586	\$5,858	\$91	\$5,949
RSVA - Power	1588	\$17,998	\$993	\$18,991
RSVA - Global Adjustment	1589	-\$16,487	\$2779	-\$13,708
Recovery of Regulatory Asset Balances	1590	0	0	0
Disposition and Recovery of Regulatory Balances (2008)	1595	\$243	\$2,148	\$2,391
Disposition and Recovery of Regulatory Balances (2009)	1595	0	0	0
Disposition and Recovery of Regulatory Balances (2010)	1595	\$206,450	-\$57,315	\$149,135
Disposition and Recovery of Regulatory Balances (2011)	1595	-\$138,243	-\$11,547	-\$149,790
Total Group 1 Excluding Global Adjustment – Account 1589		\$132,690	-\$63,353	\$69,337
Total Group 1		\$116,203	-\$60,574	\$55,629

Board staff submitted that Sioux Lookout was seeking to be compensated for past errors through this IRM application. Board staff submitted that Account 1595 – 2010 was disposed of on a final basis in the Board's 2013 decision in EB-2012-0165. The proposed inclusion of \$149,135 in the Group 1 total balance raises the issue of retroactive ratemaking.

Board staff indicated that in past Board decisions, recovery of past costs or charges were not permitted if the account had been disposed of on a final basis. Board staff also noted that past Board decisions have found that a utility has control of its books and records and has the responsibility to ensure mistakes do not occur. Given that the principles of certainty and finality are a necessary component of effective rate regulation², Board staff submitted it would be inappropriate for Sioux Lookout to recover the debit balances of \$149,135 in Account 1595 – 2010 from its customers in the future.

² EB-2013-0022, Decision and Order, Veridian Motion to Review, April 25, 2013, p. 10

Board staff noted that a review of Sioux Lookout's audited financial statements indicates that a denial of the recovery sought would fail to raise any concern of financial viability for Sioux Lookout. Board staff's review indicates that Sioux Lookout's net income increased from \$93,107 in 2009 to \$308,169 in 2011.

Sioux Lookout disagreed with Board staff and submitted that sole responsibility for the error should not be placed on the company. The issue arose as a result of insufficient clarity in the Board's model and continuity schedules.

Sioux Lookout disagreed that its request would constitute retroactive rate making as the continuity model allows Account 1595 to capture residual amounts. Sioux Lookout feels the amount in question does represent a residual balance. Sioux Lookout maintained that there would be a significant financial impact should the amount of \$149,135 be expensed. Sioux Lookout noted that its net income for 2012 was \$241K, and the 2013 regulated return was deemed to be \$219K as per EB-2012-0165. Sioux Lookout reported that a reduction in its net income by the amount in question would place Sioux Lookout's regulatory return on equity outside of the deadband of +/- 3% that has been adopted as a threshold financial performance indicator at which a regulatory review may be initiated.

Board Findings

The Board will not allow the collection of amounts that were previously declared final, as this would constitute retroactive rate-making. When a deferral or variance account balance is approved for disposition on a final basis, only the disposition may result in a residual balance if there is an over/under collection, or refund of the approved balance.

The courts have made it very clear that retroactive rate-making, the adjustment to rates after a final rate order has been issued, is not allowed. Rather, the principles of certainty and finality are a necessary component of effective rate regulation. To allow Sioux Lookout to correct an error after a final rate order was issued would be contrary to the legal principles upon which the Board performs its legislated mandate.

The Board finds that the denial of the request to recover the 2010 DVA amount is unlikely to have a material impact on the utility's cash flow. The financial viability of Sioux Lookout does not appear to be at risk in a sustained way as a result of its own errors in this case. The Board also notes that under-earning with respect to regulatory return on equity may not necessarily indicate any risk exposure to Sioux Lookout's financial viability. Finally, while the Board has set a deadband for regulatory earnings outside of the regulated rate of return, the

instrument is a tool that triggers a regulatory review – not a guaranteed earnings floor for the utility.

The Board directs Sioux Lookout to exclude the Account 1595 - 2010 balance of \$149,135 from its Group 1 table. As a result of this exclusion, the total Group 1 balance, including interest projected to April 30, 2014, will be a credit to customers of \$93,507. This amount results in a total credit claim of \$0.0013 which exceeds the preset disposition threshold. The Board directs Sioux Lookout to calculate the associated rate riders for inclusion in the draft rate order as outlined below.

IMPLEMENTATION

The Board has made findings in this Decision and Order which change the 2014 distribution rates from those proposed by Sioux Lookout.

The Board expects Sioux Lookout to file a draft Rate Order, including a proposed Tariff of Rates and Charges and all relevant calculations showing the impact of this Decision and Order on Sioux Lookout's determination of the final rates. Supporting documentation shall include, but not be limited to, filing a completed version of the 2014 IRM Rate Generator model and calculation of the rate riders, Tax Sharing model, Revenue to Cost ratio model and RTSR model.

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

THE BOARD ORDERS THAT:

1. Sioux Lookout shall file with the Board, a draft Rate Order that includes revised models in Microsoft Excel format and a proposed Tariff of Rates and Charges reflecting the Board's findings in this Decision by 7 days from date of issuance of Decision and Order.
2. Board staff shall file any comments on the draft Rate Order including the revised models and proposed rates with the Board and forward to Sioux Lookout within 7 days of the date of filing of the draft Rate Order.
3. Sioux Lookout shall file with the Board responses to any comments on its draft Rate Order including the revised models and proposed rates within 4 days of the date of receipt of comments.

All filings to the Board must quote file number **EB-2013-0170**, be made through the Board's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/> and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must 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 email their document to BoardSec@ontarioenergyboard.ca. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 2 paper copies.

DATED at Toronto, March 13, 2014

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary