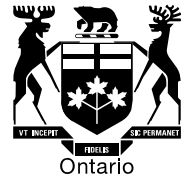


**Ontario Energy
Board**
P.O. Box 2319
27th. Floor
2300 Yonge Street
Toronto ON M4P 1E4
Telephone: 416-481-1967
Facsimile: 416-440-7656
Toll free: 1-888-632-6273

**Commission de l'énergie
de l'Ontario**
C.P. 2319
27e étage
2300, rue Yonge
Toronto ON M4P 1E4
Téléphone: 416-481-1967
Télécopieur: 416-440-7656
Numéro sans frais: 1-888-632-6273



BY EMAIL

June 12, 2014

Ontario Energy Board
P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto ON M4P 1E4
Kirsten.Walli@ontarioenergyboard.ca

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

**Re: EnWin Utilities Ltd. ("EnWin")
Appeal Under Section 7 of the Ontario Energy Board Act
Board Staff Submission
Board File No. EB-2014-0156**

In accordance with Procedural Order No.1, please find attached the Board staff Submission in the above proceeding. The applicant has been copied on this filing.

Yours truly,

Original Signed By

Stephen Vetsis
Analyst, Electricity Rates and Prices

Encl.



ONTARIO ENERGY BOARD

STAFF SUBMISSION

APPEAL UNDER SECTION 7 OF THE *ONTARIO
ENERGY BOARD ACT, 1998*

EnWin Utilities Ltd.

EB-2014-0156

June 12, 2014

**Board Staff Submission
EnWin Utilities Ltd.
Appeal Under Section 7 of the *Ontario Energy Board Act*, 1998
EB-2014-0156**

Introduction

On March 13, 2014, in Board proceeding EB-2013-0125, the Board issued a Decision and Rate Order (the "Order") approving the rates and other charges that EnWin Utilities Ltd. ("EnWin") charges for electricity distribution, to be effective May 1, 2014 (the "Application"). The Order was made by an employee of the Board with delegated authority, pursuant to section 6(1) of the *Ontario Energy Board Act*, 1998 (the "Act").

On March 28, 2014, EnWin filed Notice of Appeal of the Order, pursuant to section 7 of the Act. On appeal, EnWin seeks an order of the Board to set aside the part of the Order in which the Board did not provide for the disposition of EnWin's Group 1 deferral and variance account balances, and to approve the disposition of those balances in accordance with the Application.

On May 28, 2014, the Board issued Notice of Written Hearing and Procedural Order No. 1 in which the Board determined, among other things, that it will hear EnWin's appeal in writing.

This is Board staff's submission on the appeal, filed in accordance with the Board's Notice of Written Hearing and Procedural Order No. 1.

The Appeal

At paragraphs 3 and 4 of the Notice of Appeal, EnWin summarized the grounds of its appeal as follows:

In the [Order], the Board erred in its application of the Report of the Board on Electricity Distributors' Deferral and Variance Account Review Initiative dated July 31, 2009 ("EDDVAR" or the "EDDVAR Report") by (a) basing its decision on the cash flow impacts on EnWin when cash flow was never at

issue in the proceeding, as no evidence was led or submissions made in that regard, (b) disregarding concerns with respect to inter-generational inequities, and (c) disregarding concerns with respect to the impacts of accumulating large balances in EnWin's Group 1 deferral and variance accounts.

The Board further erred in its [Order] by not taking into account the public interest, including in particular the public interest objectives of the Board under the *Ontario Energy Board Act*, the public interest objectives of the Board under the Renewed Regulatory Framework for Electricity ("RRFE"), the purpose underlying EnWin's request for disposition of its Group 1 accounts and the benefit to ratepayers that would be lost by refusing EnWin's request to clear these accounts.

EDDVAR and its Proper Application

As set out in the *Report of the Board on Electricity Distributors' Deferral and Variance Account Review Initiative* ("EDDVAR Report"), dated July 31, 2009, the Board is required under section 78 of the Act to periodically review an electricity distributor's variance and deferral accounts. Specifically, the Act requires that the Board makes an order determining whether and how amounts recorded in the accounts should be reflected in rates. At pages 10-11, the EDDVAR Report states the Board's policy and rationale for its annual disposition and review process during the IRM plan term:

Since the Board has decided that the Accounts that would be reviewed in an IRM application will be limited to Accounts that do not require a prudence review (i.e. the revised Group 1 Accounts), the notion of combining Board staff's original Group 1 and Group 2 Account balances and having a single disposition threshold is no longer applicable.

During the IRM plan term, the Board has decided that a preset disposition threshold of \$0.001/ KWh is appropriate. In the Board's view, this level would lead to a more systematic approach to the disposition of the revised Group 1 Account balances. This systematic approach should mitigate inter-generational inequities and the accumulation of large Account balances. Further, this disposition threshold level should enhance the distributor's ability to manage its cash flow. When this threshold is exceeded, a distributor will file a proposal for the disposition of all revised Group 1

Account balances (including carrying charges). The onus will be on the distributor to justify why any Account balance should not be cleared.

The Board also agrees that when the impact on the total bill exceeds 10% for any given rate class, including the impact of both the disposition of Account balances and any other rate change, a distributor must also file a rate mitigation plan.

In its appeal, EnWin states that the Board erred in the Order in that it only acknowledged one of the three objectives identified in the EDDVAR Report, the ability to manage its cash flows. Board staff notes, however, that the EDDVAR Report does not require that the three objectives must be addressed for disposition of Group 1 Account balances to occur. It is Board staff's view that the EDDVAR Report establishes that, implied in the very level of the preset disposition threshold itself, is a balanced consideration of both a distributor's ability to manage its cash flows and the mitigation of inter-generational inequities and the accumulation of large account balances.

EnWin also states that there is nothing in the EDDVAR Report that precludes the application of the threshold test on a disaggregated basis where it is in the public interest to do so. Board staff notes that similar arguments have been raised before the Board in prior proceedings and that the Board, through its decisions, has determined that the threshold test is not to be applied to Group 1 deferral and variance accounts ("DVA") on a disaggregated basis.

For example, in Algoma Power Inc.'s 2012 IRM rate application (EB-2011-0152), Algoma Power had calculated the threshold test for disposition of Group 1 DVA balances, excluding the Global Adjustment sub-account. In its decision on that rate application, the Board stated that "the threshold calculation, pursuant to the EDDVAR Report, in the first instance, is to include all balances regardless of Algoma's proposals on the amounts to be recovered."

Similarly, in PowerStream Inc.'s 2012 IRM rate application (EB-2011-0005), PowerStream Inc. had calculated separate thresholds for disposition of deferral and variance account balances for each of its service territories. At page 7 of its decision on that rate application, the Board stated that "the EDDVAR threshold test should be applied to the combined balances of PowerStream North and PowerStream South to be consistent with EDDVAR. The Board notes that the EDDVAR threshold has not been

exceeded on a combined basis. Accordingly, no disposition of Group 1 accounts is required at this time.”

On appeal, EnWin notes two prior proceedings before the Board where the Board rounded the results of the threshold test in approving disposition of Group 1 account balances. Board staff notes that EnWin did not make such a proposal in the Application. Board staff also notes that there have been several cases where the preset disposition has been approached but not exceeded (e.g. Centre Wellington Hydro Inc.’s 2014 IRM rate application EB-2013-0118 which showed a threshold test result of \$0.0008/kWh and Innisfil Hydro Distribution Systems Ltd.’s 2014 IRM rate application EB-2013-0144 which showed a threshold test result of \$0.0009/kWh) where the Board did not round the results of the threshold test. It is Board staff’s view that the examples highlighted by EnWin do not reflect the Board’s standard practise.

Board staff submits that no error in neither fact nor law was made with respect to the application of the EDDVAR Report in the Order and that the Order was consistent with the Board’s policy and practices on this matter.

Accounting for the Public Interest

EnWin states (at paragraph 4 of the Notice of Appeal) that in the Order, “the Board erred by not giving due consideration to the Board’s objectives of protecting the interests of consumers with respect to pricing, establishing more predictable rates and providing distributors with a more flexible approach to rate-setting that enables better management of the pace of rate increases for customers while encouraging rate proposals that have the effect of mitigating rates.”

EnWin also states (at paragraph 15) that the effect of the Order is that EnWin “is not permitted to return previously collected funds owing to ratepayers through rate riders of -\$1.12 per kWh to the benefit of a Residential (800 kWh) customer, -\$1.40 per kWh to the benefits of a Residential (1000 kWh) customer, or -\$2.80 per kWh to the benefit of a General Service < 50 kW (2000 kWh) customer, over the next three years.”

Board staff submits that these two allegations have been made by EnWin in error. Firstly, Board staff notes that the savings quoted by EnWin are not “per kWh”; rather, they are “monthly” savings. Furthermore, Board staff notes that those calculated

savings are only reflective of RPP customers. In the Order, the Board stated that “while EnWin’s proposal would have resulted in a credit to Residential and General Service < 50 kW RPP customers, it also would have resulted in a charge to retailer-enrolled Residential and General Service < 50 kW, streetlighting and all larger customers.” In rendering its decision in the Order, the Board did in fact consider the impacts on all of EnWin’s customers.

In its Order, the Board also stated that it did “not find that there is sufficient rationale provided to support EnWin’s assertion that there is every reason to expect that balances will continue to grow.” Board staff submits that there is no evidence filed or rationale given on the record of the Application (nor on the appeal) supporting the allegation that EnWin’s overall Group 1 account balances will continue to increase; nor is there any evidence or rationale in support of EnWin’s claim that the RPP and non-RPP balances will continue to increase in opposite directions.

EnWin states (at paragraph 18) that “it is important to recognize not only the importance of smoothing the impact at the time the rate decrease is implemented but also the importance of smoothing the impact of the inevitable and corresponding future rate increase when the rate rider expires.” EnWin provided estimated bill impacts for customers in 2015 if the disposition of the Group 1 balances, sought in the Application, occurred in that rate year. EnWin states (at paragraph 21) that “it appears that the Board made the Decision in the absence of that information and without due regard for the importance of those considerations in arriving at a Decision in the public interest”.

Board staff notes that EnWin made similar arguments in its reply submission on the record for the Application. Board staff notes that if the accumulation of Group 1 account balances reverses direction in future years, the rate smoothing EnWin is seeking would be accomplished with no disposition (assuming the threshold test continues not to be exceeded). As stated earlier, EnWin has not established that the trend in the accumulation of balances will continue in future years, nor have they presented evidence that future accumulations will not offset the current balances. Board staff submits that the main purpose, and benefit, of using a threshold test for disposition of deferral and variance account balances is the avoidance of any unnecessary spikes that are introduced at the onset and expiration dates of rate riders by ensuring that rate riders are only added to the tariff when absolutely necessary.

Board staff acknowledges that when the EDDVAR Report was issued, the global adjustment variance account did not exist. Since the onset of the global adjustment variance tracking, the Board, through its decisions has maintained a systematic approach in applying a threshold test; that is, that it should be one test reflecting all Group 1 account balances. It is staff's view that if a distributor were, in the future, able to demonstrate a trend wherein Group 1 account balances affecting RPP customers were growing in one direction and the non-RPP global adjustment account were growing in the opposite direction, then staff would consider supporting a deviation from the established practise. With regard to the Application, EnWin's best information reflects two years' worth of balances and, in Board staff's view, two years is not sufficient to establish such a trend.

Board staff submits that EnWin has not established an error in fact or in law and that the appeal should therefore be denied.

All of which is respectfully submitted