

IN THE MATTER of the *Ontario Energy Board Act* 1998, Schedule B to the *Energy Competition Act*, 1998, S.O. 1998, c.15;

AND IN THE MATTER OF an Application by Brantford Power Inc. for an Order or Orders approving just and reasonable rates and other service charges for the distribution of electricity, effective May 1, 2008.

SUBMISSIONS OF THE SCHOOL ENERGY COALITION

Introduction

1. These are the submissions of the School Energy Coalition ("SEC") in the application by Brantford Power Inc. ("BPI" or the "Applicant") for an Order approving just and reasonable rates for the distribution of electricity effective May 1, 2008.

OM&A

Compensation

2. SEC shares Board Staff's concerns regarding the apparent inconsistency in the compensation tables shown in response to SEC IR#17(b). For example, the total of "Salaries", "Benefits", "Overtime", and "Incentives" tables for 2009 are \$5,841,385 (as shown at pg. 5 of Board Staff's submission.) The total of the Table in the interrogatory response entitled "Total Aggregated Compensation Costs", however, is \$5,493,334 for 2009.

3. Another problem is that the "Total Aggregated Compensation Costs" shows \$211,887.84 for Executives for 2009 but total compensation costs for executives according to the disaggregated tables is zero.

Impact of New Capitalization Policy

4. In comparing 2006 Board Approved OM&A to 2006 actual, consideration should be made for the fact that BPI changed its overhead capitalization policy in 2006. As a result, OM&A costs declined and capital expenditures increased by a comparable amount. [Ex. 2/2/3, pg. 1] In response to SEC interrogatory #3(b), BPI stated that the value of the overhead costs previously fully expensed, and now capitalized, is \$1,041,575. While SEC takes no position with respect to the change in capitalization policy per se, it should be noted that, on an "apples to apples" basis, the 2008 OM&A forecast, as compared to the 2006 Board Approved level, is \$1 million greater than it appears to be in the current filing.

OM&A Accounts

5. In SEC interrogatory #15, SEC sought explanation for all OM&A accounts increasing by more than 5% in a single year. Although BPI provided an answer, almost all of the drivers of the explanation provided were:

"change in business unit work plans and priorities from year to year resulting in increase in labour and material costs from 2007 actual to 2007 Bridge Year"; or

"City of Brantford service billings. Please see question 17 (a) for details."

6. In response to SEC interrogatory #17(a), BPI provides an explanation for the increase in Purchased Services purchased primarily from the City of Brantford. These increase from \$2.120 million in 2006 to \$2.898 million in 2008, a 37% increase over two years.

7. BPI provides two main reasons for the increase:

- (a) Increases in expenditure in the 2006 to 2008 period due to what BPI terms "budget underspending" in the years 2000 to 2006. The reason for the under-spending during those years was that BPI entered the deregulated market in 2000 with a \$1 million loss [see also responses to SEC IR #15]. These costs include additional staff hired "to move to a more sustainable staffing and expenditure level" in the Engineering and Regulatory/Administrative functions, in the amount of \$198,659. In addition to that amount, BPI has budgeted an additional \$100,000 for 2008 for "additional staffing in support of finance and regulatory activities including preparation for implementation of IFRS and ongoing regulatory activities" [see SEC IR#17(a)]

In addition to the increased staffing mentioned above, BPI has budgeted an additional \$132,000 "for repairs and maintenance to the distribution system deferred from previous years as a result of cost containment activities." [SEC IR#17(a)]

- (b) Compensation increases resulting from a combination of overall inflationary increases (\$205,700), increases resulting from salary grid progression (\$48,759), and job reclassifications that resulted in salary increases (total of \$48,600);

8. Firstly, SEC does not believe it is appropriate for BPI to recover, in 2008, costs for work that was intentionally deferred from previous years due to const containment efforts. While those efforts may have been required given BPI's financial situation at the time, SEC does not believe ratepayers in 2008 should have to pay for work that should have been done in past years. Accordingly, SEC believes the \$132,000 budgeted for these items should be removed from the OM&A budget.

9. Secondly, SEC is concerned that BPI is essentially treating increases in salary incurred by its service provider, the City of Brantford, as if they were increases in its own internal compensation costs. They are not. They are increases incurred by the service provider and unless they are passed on to BPI through the services agreement, they should not be reflected in rates. It is not clear from the Services Agreement with the City of Brantford [provided as Attachment A to SEC interrogatory responses] how these costs are passed on to BPI.

10. Finally, as stated by the Board in EB-2007-0680 [Toronto Hydro Electric System Ltd], in which the applicant sought an increase in OM&A that amounted to 28% over two years:

Except in compelling circumstances, Utility spending should be managed so as to be reasonably level, with highs and lows lying within a fairly narrow range of change. To the extent possible, ratepayers should not be exposed to volatile changes in their delivery rates. Over the years the Board has adopted numerous measures designed to avoid this phenomenon, which can place special strains on institutional consumers with fixed budgets, or residential consumers on fixed incomes. [EB-2007-0680, Decision with Reasons, pg. 37]

11. As stated above, given that the increase in BPI's OM&A from 2006 to 2008 is actually even larger than it appears (as a result of changes to overhead capitalization), the Board should consider the appropriateness of large increases in expenditures in such a short period of time.

Affiliate Services Agreement- Payment to City of Brantford

12. SEC has an additional comment regarding the services BPI purchases from the City of Brantford. Paragraph 4(a) of the Service Level Agreement [see Attachment A to SEC Interrogatories] states as follows:

In addition to full recovery of all direct and indirect costs of providing services, the Wires Company [BPI] shall pay

to the City a further 10% of such costs, and the combination of the costs so recovered plus the additional 10% shall be the remuneration payable to the City pursuant to this agreement. The parties agree that such remuneration represents the fair market value for those services as of the date of this agreement. [emphasis added]

13. It appears from the wording of the agreement that the 10% is "remuneration" to the City for the Agreement.

14. In response to Board Staff interrogatory #1.11, however, BPI described the purpose of the mark-up as being an approximation for "market conditions." There is no reference to "market conditions" in the actual Service Level Agreement and it is not clear what the explanation provided in the interrogatory response is based on.

15. Even if the mark up *is* meant to reflect market conditions, there is no evidence as to how the market prices, or "market conditions", are defined, and no evidence of what the fair market value for the services would be. Section 2.3.3.2 of the Affiliate Relationships Code for Electricity Transmitters and Distributors ("ARC", as amended May 16, 2008) states that a "fair and open competitive bidding process shall be used to establish the market price before a utility enters into or renews an Affiliate Contract under which the utility is acquiring a service, product, resource or use of asset from an affiliate." It does not appear that BPI has done so, and therefore the cost to BPI cannot be based on an approximation of "market conditions".

16. If the cost to BPI is a cost-based price, then the ARC (s.2.3.4.1) states that the cost charged to the utility can be "no more than the affiliate's fully allocated cost to provide that service." Since the agreement states that the amount that BPI pays for the services, excluding the 10% mark-up, includes all direct and indirect costs, BPI is not allowed, in SEC's submission, to mark up that cost in its application for cost recovery from ratepayers.

17. Finally with respect to the Affiliate Services Agreement, SEC submits that in the future if BPI is seeking recovery of costs that are largely based on costs allocated from its affiliate that it be required to include detailed cost information from its affiliate to support those costs. That is further to s. 2.3.4.3 of ARC, which states that, "where a utility pays a cost-based price for a service, resource, product or use of asset, the utility shall obtain from the affiliate, from time to time as required to keep the information current, a detailed breakdown of the affiliate's fully-allocated cost of providing the service, resource, product or use of asset." There is no evidence of the City of Brantford's cost of providing the services to BPI in the record in this proceeding.

Regulatory Costs

18. According to BPI's response to interrogatory #1.13 from Board Staff, BPI's regulatory costs for 2008 contain \$105,000 in one-time costs related to the 2008 cost of

service proceeding. In SEC's submission, these costs should be amortized over three years as has been the practice with other 2008 cost of service applicants.

Rate Base and Capital Expenditures

19. SEC concurs with Board Staff that it is not appropriate to clear account 1555 given that BPI is an unnamed distributor and has not undertaken smart meter installations to date.

20. SEC also submits that it is imprudent to replace existing meters whose seals have expired with traditional meters. These meters may have to be replaced again with smart meters in the near future.

21. SEC submits that capital expenditures related to replaced expired meters be removed from ratebase. BPI has stated, in response to SEC interrogatory #20, that it believes it is "prudent to maintain the current capital spending should Measurement Canada not grant BPI temporary permission" to maintain in place expired meters. In SEC's submission, in the unlikely event that BPI is not granted temporary permission, BPI should seek to replace those meters with smart meters, and the associated cost should be added to the appropriate smart meter deferral account. In any event, it is not appropriate, in SEC's submission, to include in 2008 rate base an allowance for capital expenditures that are very likely not prudent given the smart meter initiative.

Load Forecast

22. SEC has no specific submissions on load forecast, but shares Board Staff's concern regarding the apparent inconsistency between growth in customer numbers and forecast load growth.

PILS

23. SEC shares Board Staff's concerns with respect to the interest deduction and submits that it is inappropriate for BPI to effectively use the (lower) deemed interest expense in its PILS calculation. In EB-2007-0696 [Halton Hills], SEC submitted that that treatment was inappropriate for the following reasons:

In SEC's submission, the reason the actual interest is greater than deemed is because the company is, in effect, over-leveraging itself. The utility already enjoys a benefit by doing so, since it earns a rate of return on the deemed equity component of its capital structure and not its actual equity. To also allow the company to enjoy the tax advantage of doing so would, in SEC's submission, provide too great an incentive to utilities to have actual debt

components in excess of that determined by the Board to be an appropriate capital structure.

24. In response, the Applicant, Halton Hills Hydro Inc., proposed to correct its interest expense calculation in accordance with SEC's submissions. The Board said that that was appropriate. [EB-2007-0696, Decision with Reasons, pg. 9]

Deferral Accounts

25. BPI is seeking to modify and expand the description of account 1952 to allow it to record "changes in PILS resulting from the introduction of new non-discretionary changes in generally accepted accounting principles or in changes in the provisions of the OEB's accounting procedures Handbook. [Ex. 5/1/1, pg. 9]

26. These changes are not changes to PILS per se, but rather consequential changes to the quantum of PILS payable resulting from other changes to the utility's financial record-keeping. These kinds of changes will be generic to all LDC and should be dealt with if and when they arise.

Cost Allocation

27. Despite the fact that the GS>50kW rate class, with a revenue to cost ratio of 139.58%, is significantly over-contributing to the Applicant's revenue requirement, and Streetlighting, with a revenue to cost ratio of 36.93% is significantly under-contributing, BPI proposes to make no changes to its cost allocation at this time. [Exhibit 8/1/2, pg. 2]

28. According to SEC's calculations, the GS>50kW is over-contributing to BPI's revenue requirement in 2008 by approximately \$1.7 million.¹

29. In SEC's submission, this is a significant cross-subsidy among rate classes (the \$1.7 million over-collected from GS>50kW represents over 28% of the total revenue to be collected from the class) and cannot be said to result in just and reasonable rates for the GS>50kW rate class.

30. In response to interrogatory #18 from SEC, BPI stated that moving Streetlighting class to 100% allocation and applying the extra revenue to GS>50kW rate class would reduce the GS>50kW revenue to cost ratio to 136.9%. While that will appear to be a large percentage increase to the Streetlighting class, it represents additional revenue from that class of approximately \$135,000.

¹ Based on revenue proposed to be collected from the GS>50kW rate class of \$6,025,107 [Exhibit 9, Tab 1, Schedule 1, pg. 2] and a revenue to cost ratio for this class of 139.58% [Exhibit 8, Tab 1, Schedule 2 pg. 2], SEC calculated the cost to serve the GS>50kW rate class at \$4,316,597, or \$1,708,509 less than the revenue to be collected from the class.

31. While SEC believes that the Streetlighting rate class should be moved to 100% cost allocation and the extra revenue applied to GS>50kW, that measure is unfortunately not enough to reduce the cost ratio for GS>50kW to a reasonable level. SEC submits that the GS>50kW rate class be moved to 120% in 2008 and 100% by 2009.

Rate Design

32. SEC also concurs with Board Staff's concerns about the increase in the volumetric charge for the GS>50kW rate class. BPI stated in its evidence that it added an incremental increase to the GS>50kW rate class to account for the fact that the Transformer Allowance will be paid to customers within the GS>50kW rate class who own their own transformers [Exhibit 9/1/1, pg. 6]. In response to SEC IR #19(b), BPI said that in the cost allocation model "the estimated transformer allowance was assumed to be collected from those customer classes that contain customers that receive the transformer allowance." It appears, therefore, that the cost allocation model already takes into account the cost of the transformer allowance and it is not clear why an incremental adjustment to the GS>50kW volumetric charge is required.

All of which is respectfully submitted this 4th day of June, 2008.

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