



ONTARIO ENERGY BOARD

STAFF SUBMISSION

ELECTRICITY DISTRIBUTION RATES
PETERBOROUGH DISTRIBUTION INC.

EB-2007-0886

June 13, 2008

Background

On October 30, 2007, Peterborough Distribution Inc. (PDI) filed its 2008 Electricity Distribution Rate (EDR) application, for rates that would come into effect on May 1, 2008 based on the Board's Incentive Regulation Mechanism (IRM) methodology. The application was prepared using the 2007 rates approved by the Board. The Notice of Application was issued by the Board on November 16, 2007.

On March 7, 2008, PDI applied to the Board for the following relief:

1. that the Board adjust PDI's 2007 rates upwards effective January 1, 2008; and
2. that the Board use the adjusted 2007 rates rather than the existing 2007 rates in determining PDI's 2008 rates.

According to PDI's March 7, 2008 letter, PDI discovered that its 2007 revenue was below budget by approximately 4%, representing approximately \$400,000.00. This shortfall resulted from the fact that the customer numbers used in PDI's 2006 EDR model were incorrect. More specifically, the number of unmetered sentinel lights was "double-counted in numerous instances", with 156 of the 626 sentinel light connections being counted not only in the Sentinel Light class but also included in the GS < 50 kW (76), GS > 50 kW (77) and Residential (3) classes. Attached to the March 7, 2008 were amendments to PDI's October 30, 2007 application. The March 7, 2008 letter did not include a request that PDI's 2007 rates be made interim.

Notice on the amended application was issued April 2, 2008.

Discussion and Submission

With respect to PDI's request that the Board adjust PDI's 2007 rates effective January 1, 2008, Board staff makes the following submissions.

There are two recent decisions of the Board that Board staff submits are relevant to the Board's consideration of PDI's request that its 2007 rates be adjusted effective January 1, 2008. The first decision relates to an application by Great Lakes Power Limited (GLPL) for the 2007 rate year.¹ That application was filed on August 31, 2007 and contained a request that GLPL's rates be made interim effective September 1, 2007. On December 20, 2007, the Board issued its

¹ Board File No. EB-2007-0744.

Decision and Order on Interim Rates (the “December Decision”) in which the Board determined that GLPL’s rates should be declared interim as of January 1, 2008. GLPL filed a motion to review the December Decision.²

At issue in the review proceeding was whether the Board could make GLPL’s rates interim as of the day requested, or whether the Board was limited to making GLPL’s rates interim effective only on or after the date of the December Decision (i.e., the date on which the Board made GLPL’s rates interim). The review panel issued its decision on the motion to review on March 20, 2008 (the “Review Decision”). In the Review Decision, the review panel agreed with GLPL that the Board can make rates interim at any time after the date of filing of the 2007 rate application, regardless of when the decision to make rates interim is made. More specifically, the Review Decision contains the following finding:

The review panel agrees with the applicant, with one proviso. The request for interim rates must be made at the time of application. In this case, the application itself, which was filed on August 31, 2007, contained the applicant’s request that rates be made interim from September 1, 2007. In the reviewing panel’s view, this provides notice of the applicant’s request, and the reviewing panel can decide to make rates interim from that date forward, and the reviewing panel does so.

The Board has therefore previously determined that rates can be made interim effective on or after the date of application, even if the decision that actually makes rates interim is issued later. If the Board were to apply the same reasoning to PDI’s circumstances, PDI’s 2007 rates could be made interim effective on or after the date of application.

The second recent decision of relevance to PDI’s application is the January 8, 2008 Decision and Order of the Board in relation to an application by PUC Distribution Inc. (PUCDI) to adjust its 2007 distribution rates to correct what PUCDI considered to be an anomaly in its 2007 rates process.³ In its application, filed on August 15, 2007, PUCDI requested that its rates be made interim effective September 1, 2007, with a deferral account or other mechanism which would, in effect, make rates retroactive to May 1, 2007. On September 21, 2007, the Board issued an Interim Rate Order declaring PUCDI’s rates interim effective September 1, 2007. On January 8, 2008, the Board issued its final Decision and Order in which it determined that the effective date for PUCDI’s adjusted rates should be September 21, 2007, stating as follows:

The Board is of the view that rate increases in this case should not be effective for any period prior to the time when ratepayers were actually informed of the potential rate increase or the effective date on which the

² Board File No. EB-2008-0016.

³ Board File No. EB-2007-0723.

rates were declared interim or the date of the order pursuant to which the rates were declared interim, whichever comes later. The effective date of the interim rates was September 1, 2007. The Notice was published on September 15, 2007. The date of the Interim Order declaring rates interim was September 21, 2007. Therefore the Board finds that the effective date for the adjusted rates is September 21, 2007.

Board staff notes as a distinguishing feature of PDI's application, relative to the applications that were the subject of the decisions described above, the fact that PDI has not requested that its 2007 rates be made interim. Board staff also notes that while PDI's original application for 2008 rates was filed on October 30, 2007, the application to adjust PDI's 2007 rates and the associated amendments to PDI's application for 2008 rates were filed on March 7, 2008, a little more than two months after the effective adjustment date of January 1, 2008 requested by PDI.

The adjustments to its 2007 rates requested by PDI would have the effect of increasing rates for the period January 1, 2008 to April 30, 2008. Board staff notes that the Board's general practice is not to apply rates retrospectively where there is a rate increase, so as not to harm ratepayers. For that reason, the Board has in the past tended to retrospectively apply rates only for rates decrease, although increases have been applied retrospectively as well.

The application to adjust PDI's 2007 rates is, according to PDI, the result of its own error in some of the billing determinants (customer numbers) used to calculate its 2006 distribution rates. Board staff notes that this raises the question of whether the risk and financial consequences of such errors more properly lie with PDI's shareholder rather than being visited on PDI's ratepayers.

In summary, the questions that should be addressed by the Board and to which the applicant is asked to respond are:

- Should there be a retroactive adjustment to rates caused by an error of the applicant?
- If so, what should be the date of the retroactive adjustment? In addition to the applicant's requested date, the adjustment could be timed to the filing date or notification date of the original application, or the filing date or notification date of the amended application.

All of which is respectfully submitted.