



EB-2014-0073

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 Festival
Hydro Inc. for an order approving just and reasonable
rates and other charges for electricity distribution to be
effective January 1, 2015.

BEFORE: Christine Long
Presiding Member

Ellen Fry
Member

**DECISION AND ORDER ON DRAFT RATE ORDER
May 28, 2015**

Festival Hydro Inc. (Festival) filed an application with the Ontario Energy Board (the OEB) on May 30, 2014 under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B), seeking approval for changes to the rates that Festival charges for electricity distribution, to be effective January 1, 2015.

The OEB issued its Decision and Order (the Decision) on the application on April 30, 2015, corrected on May 5, 2015. The OEB approved an effective date of May 1, 2015 for the new rates and ordered Festival to file a draft rate order comprising a proposed Tariff of Rates and Charges and detailed supporting material.

Festival filed a proposed tariff of rates and charges, an updated revenue requirement work form and other supporting documentation on May 7, 2015.

Energy Probe Research Foundation (Energy Probe), the Vulnerable Energy Consumers Coalition (VECC) and OEB staff filed comments on the material filed. In its reply comments, Festival provided some clarification and updates to issues related to revenue-to-cost allocation for the Large Use customer class, working capital allowance, and the alignment of its rate year with its fiscal year starting January 1. The OEB accepts the clarification and updates provided by Festival in its reply comments.

Festival disagreed with Energy Probe, VECC and OEB staff on the issues listed below. This Decision will only address these contested issues.

1. Bypass agreement
 - a. Treatment of the removal of costs from rate base
 - b. Rate rider calculation to recover the estimated cost over 31 months
2. Disposition of deferral and variance account (DVA) rate riders over 7 months
3. Rate year alignment to January 1

1. Bypass Agreement

- a. Treatment of the removal of costs from rate base

In its Decision, the OEB ordered Festival to remove from rate base \$1.2M related to a bypass agreement and to recover this cost as an expense in 2015:

In its draft rate order, Festival removed the gross book value and accumulated depreciation associated with the bypass agreement from the closing balance of the 2015 rate base but not the opening balance.

Energy Probe, VECC and OEB staff submitted that Festival's approach did not reflect the Decision with respect to the removal of the intangible asset from rate base. The intervenors and OEB staff submitted that removal of this amount from the closing balance only would cause half of the asset to remain in the 2015 rate base. As a result, half of the value of the bypass agreement (\$586,539) would earn a return, which would be calculated on the value of rate base at mid-point in 2015.

OEB staff and the intervenors submitted that, in order to reflect the finding of the OEB accurately, no element of the intangible asset should be included in rate base. OEB staff and the intervenors further noted that the full value of the cost of the bypass agreement will be recovered through a rate rider and that the inclusion of any part of the declassified asset would therefore constitute an over-recovery.

For rate setting purposes, OEB staff and the intervenors submitted that Festival should remove a net book value of \$1,200,414 (gross book value \$1,230,026 less accumulated depreciation of \$29,612) from the 2015 opening balance that is used in the calculation of rate base and re-calculate its revenue requirement and resulting distribution rates.

In its reply comments, Festival submitted that it understood that the OEB directed Festival to declassify the intangible asset and expense the value of the bypass agreement after the Decision date of April 30, 2015. Festival submitted that if the OEB wanted Festival to revise its opening rate base balance it would have instructed Festival to retroactively change the accounting treatment effective December 31, 2014 and expense the cost in 2014. Festival confirmed that the net book value of the bypass expenditure will be subject to a recovery through a rate rider.

Festival also submitted that the impact of the inclusion of the bypass agreement in the opening balance of rate base is well under its materiality threshold.

OEB Findings

The OEB finds that net book value of \$1,200,415 related to the bypass agreement shall be removed from Festival's 2015 opening rate base. In its Decision, the OEB made the following findings:

*The OEB agrees with the intervenors and OEB staff that payment under the bypass agreement should be **treated as an expense rather than an intangible asset.***

*The OEB finds, given the specific fact situation in this case, that the payment under the bypass agreement is to be removed from the intangible assets and expensed in 2015. **The amount is to be recovered through a rate rider outside of the revenue requirement over three years, so that the annual amount of disposition is similar to the annual amount of savings in transmission charges**¹.*

The Decision clearly contemplated that the cost related to the bypass agreement should be treated entirely as an expense, not as an intangible asset. Festival's proposal to include half the value of the bypass agreement in its 2015 rate base is inconsistent with the Decision.

¹ EB-2014-0073, Decision and Order, p. 7

The OEB observes that Festival's proposed treatment would allow a return on half the value of the declassified asset during the IRM period, as well as associated depreciation. The OEB maintains that Festival's approach and timing of the removal of costs related to the bypass agreement would constitute a partial recovery of the declassified asset through revenue requirement, which was not intended in the Decision. In its Decision, the OEB clearly stated that the cost of the bypass agreement is to be recovered outside of the revenue requirement, through a rate rider.

Consequently, the OEB finds that the net book value of \$1,200,415 shall be fully removed from the 2015 rate base. The OEB orders Festival to recalculate its 2015 rate base to exclude the full net book value of the bypass agreement. The OEB also orders that Festival provide a revised revenue requirement considering the impacts of the removal on the deemed long and short-term interest, the return on equity and Payment In Lieu Taxes (PILs).

b. Rate Rider Calculation

A second aspect of the bypass agreement that requires resolution is the value of the rate rider that will recover the cost of the compensation Festival owes to Hydro One Networks Inc. (HONI).

The total cost of bypass compensation remains to be settled between Festival and HONI. In its draft rate order, Festival Hydro noted that at the time of filing, it had not received a final invoice from HONI. Festival noted that the latest estimate provided by HONI amounts to bypass compensation of \$1,463,321. Festival also noted that HONI has agreed to consider an offset to the costs due to conservation and demand management programs and distributed generation during the period of July 2013 to June 2014. As a result, Festival provided a bypass rate rider calculation based on the amount of \$1,433,710.

Given the uncertainty about the final amount, Festival requested the ability to adjust the bypass rate rider as part of its 2016 incentive regulation mechanism (IRM) application once the final HONI invoice amount is known.

The intervenors supported Festival's proposal.

OEB staff did not support the use of Festival's proposed amount, and submitted instead that the rate rider should be based on the amount of \$1,230,026, which was the amount put forward in evidence in this proceeding. OEB staff took no issue with an adjustment to the final amounts as part of Festival's 2016 IRM application. OEB staff submitted that

the rate rider should be approved on an interim basis given the uncertainty of the final amount to be recovered.

Festival also proposed to recover this amount over a 31 month period to align the sunset date of this rate rider with its rate year (December 31, 2017). Intervenors and OEB staff supported a 31 month disposition period.

OEB Findings

The OEB approves a disposition period of 31 months. There appears to be agreement between Festival, the intervenors and OEB staff on the proposed approach. The OEB is satisfied that the proposed change would not have a material impact on ratepayers.

The OEB finds that the amount of \$1,230,026 that has been tested in this proceeding should be used to calculate the bypass rate rider given the uncertainty of the final, invoiced amount. The OEB takes no issue with an adjustment as part of Festival's 2016 IRM application subject to the supporting materials to justify the adjustment. Until that time, the bypass rate rider will be approved on an interim basis.

2. Disposition of DVA rate riders over 7 months and the rate rider for recovery of bypass expenditures over 31 months

In its draft rate order Festival proposed to shorten the disposition period for its 2015 deferral and variance account rate riders from a 12 month to a 7 month period, commencing May 1, 2015. Festival noted that a shortened disposition period would coincide with 2015 distribution rates, resulting in a consistent bill for customers. Intervenors and OEB staff supported Festival's proposal but noted that the disposition period should commence on June 1, 2015 instead of May 1, 2015.

In its reply, Festival noted that the May 1, 2015 date was a typographical error and confirmed its request to dispose of the balances over 7 month, starting June 1, 2015.

OEB Findings

The OEB approves a 7 month disposition period, commencing June 1, 2015. There was no dispute among the parties in respect of this proposal.

3. Rate year alignment to January 1

Festival confirmed its request for a rate year alignment to January 1 in its draft rate order. Festival noted that although the effective date of the Decision and Order for 2015 rates is May 1, 2015, it is Festival's understanding that its rate year is now aligned with the fiscal year and that its next IRM application will be filed for rates effective January 1, 2016.

The intervenors concurred with Festival's understanding. OEB staff noted that while the settlement agreement did not explicitly address this issue it was not identified as an unsettled issue.

OEB Findings

The OEB approves Festival's request to align its rate year to January 1.

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

THE BOARD ORDERS THAT:

1. Festival Hydro Inc. shall file with the Board, and shall also forward to the intervenors, a revised draft rate order attaching a proposed tariff of rates and charges and other filings reflecting the Board's findings in this Decision and Order on Draft Rate Order **by June 1, 2015.**
2. Intervenors and OEB staff shall file any comments on the revised draft rate order with the OEB, and forward to Festival Hydro by **June 3, 2015.**
3. Festival Hydro shall file with the OEB and forward to the intervenors responses to any comments on its revised draft rate order **by June 5, 2015.**

DATED at Toronto, May 28, 2015

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary