



EB-2008-0138

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 Toronto Hydro-Electric
System Limited for an order approving or fixing just and reasonable
rates and other charges for the distribution of electricity to be
effective May 1, 2008, May 1, 2009 and May 1, 2010

BEFORE: Gordon Kaiser
Presiding Member and Vice Chair

Paul Sommerville
Member

Cathy Spoel
Member

DECISION AND ORDER

Toronto Hydro-Electric System Limited ("the Applicant") filed a Notice of Motion with the Ontario Energy Board on June 9, 2008 for an Order reviewing or varying the Board's May 15, 2008 Decision (Board file No. EB-2007-0680) as follows:

1. Regulatory Treatment of Smart Meters

With respect to section 3.3 of the Decision, and more particularly with respect to regulatory treatment of smart meters, rescinding the finding at pages 23-24 that the 2007 balances recorded in smart meter operating expenses account 1556 shall be expensed in the 2008 rate year; and

instead directing that such balances be disposed through clearance of the 2007 smart meter deferral account in the manner previously approved by the Board with respect to the 2006 smart meter deferral account;

2. Proceeds from Sale of Assets

With respect to Section 3.4 of the Decision (Sale of Assets), rescinding the finding at page 27 that “100% of the net after-tax gains from the sale of 228 Wilson Avenue, 175 Goddard Street, and 28 Underwriters Road, the properties that are planned to be sold in 2008, should go to the ratepayer. The Company’s revenue requirement for the 2008 test year shall be adjusted downward by \$10.3 Million to reflect this finding”, and instead:

- a. finding that the figure of \$10.3 million approximately represented the forecast net before-tax gain on sale of the above-specified properties (referred to in this Notice as the “Subject Properties”), and that the amount of \$8.951 million is the corresponding after-tax amount, notwithstanding that the Applicant does not agree that the Board has the jurisdiction to offset the revenue requirement by 100% or any portion of the gains on these sales;
- b. staying the operation of that portion of the Decision pertaining to the downward adjustment of the Applicant’s revenue requirement for the 2008 test year by \$10.3 million, or any corrected amount arising out of this motion, in respect of the sale of the Subject Properties, pending the outcome of an appeal to the Divisional Court by the Applicant on the question of the Board’s jurisdiction to direct that 100% or any portion of the net after-tax gains from the sale of these properties shall go to the Applicant’s ratepayers; and

- c. directing that gains on sale of the above-specified properties shall be recorded in a variance account for possible later disposition depending upon the outcome of the Applicant's appeal to the Divisional Court.

3. Revenue-to-Cost Ratios

With respect to Section 6.1 of the Decision, clarifying the direction, at page 64 of the Decision, that the higher revenue to be realized from the Applicant's Unmetered Scattered Load ("USL") and Streetlighting rate classes as a result of the cost allocation-related adjustments ordered by the OEB be allocated proportionally to the Intermediate and Large Use rate classes, and directing by way of clarification that the higher revenue be allocated proportionally to the GS 50-1,000 kW and Intermediate rate classes, in accordance with the Board's underlying reasoning;

4. Draft Rate Order

With respect to section 8.2 of the Decision (Draft Rate Order):

- (a) clarifying an apparent contradiction between the OEB's direction at page 71 that the Applicant prepare a draft rate order "incorporating an effective date of May 1, 2008 for the new rates", and the Board's acknowledgement that the new rates will have a different implementation date, so as to provide that the approved revenue requirement is to be collected in full on a forecast basis through the combination of rates in effect throughout 2008;
- (b) confirming that the 2008 rates should be calculated to recover the approved 2008 revenue requirement less an estimate of the revenue received under 2007 rates during the period commencing

May 1, 2008 and ending the day before the 2008 rates become effective;

- (c) confirming that the estimate of revenues received by the Applicant for the period May 1, 2008 to the effective date of the new Rate Order shall exclude revenue from rate riders that were to have expired April 30, 2008 but which were extended; and
- (d) providing that the actual amount of revenue recovered after April 30, 2008 through the 2007 CDM rate riders and the 2007 Smart Meter Deferral Account rate rider, effective in 2007 but arising from 2006 activities, as well as the Recovery of Approved Regulatory Assets rate rider, be disposed of separately in a manner and at a time to be determined by the Board; and

Board Direction

The Applicant will file its written submission with respect to issue 1 by Friday July 4, 2008. Submissions from all other parties are to be filed by Friday, July 11, 2008. Any reply submission by the Applicant shall be filed by Wednesday, July 16, 2008.

With respect to issue 2 regarding the proceeds from the sale of assets, this issue has been rendered moot as the Divisional Court has already ordered that the portion of the decision relating to the sale of assets be stayed. The Board Orders that the Applicant employ Deferral Account 1508, Other Regulatory Assets, Sub-account Proceeds from Sale of Assets to record the disputed \$10.3 million to ensure that it can be credited to ratepayers in the event that Toronto Hydro is ultimately unsuccessful with its appeal. Carrying charges will apply to the principle balance in the account based on the Board's prescribed interest rates.

With respect to issue 4 regarding the draft Rate Order and issue 3 regarding Revenue-to-Cost Ratios, the panel believes these matters are best dealt with by the panel that rendered the May 15, 2008 Decision.

IT IS THEREFORE ORDERED THAT:

1. The Applicant shall record the \$10.3 million proceeds from the sale of assets in Deferral Account 1508.
2. The Applicant shall file its written submission with respect to issue 1 by Friday July 4, 2008.
3. Submissions from all other parties are to be filed by Friday, July 11, 2008.
4. Any reply submission by the Applicant shall be filed by Wednesday, July 16, 2008.

DATED at Toronto, June 27, 2008

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary