

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998 c.15, Sched. B, as amended;

AND IN THE MATTER OF a Motion by Toronto Hydro-Electric System Limited to Review and Vary the Decision of the Board in EB-2007-0680.

Submissions of Toronto Hydro-Electric System Limited

Introduction

1. Toronto Hydro-Electric System Limited (“THESL”) filed an application (the “Application”) dated August 2, 2007 with the Ontario Energy Board (the “Board”) under section 78 of the Ontario Energy Board Act, 1998; S.O. c.15, Schedule B), for an order or orders approving just and reasonable rates and charges for three individual and successive rate years, commencing May 1, 2008, May 1, 2009, and May 1, 2010. On May 15, 2008, following an oral hearing and a written argument phase that concluded on February 15, 2008, the Board issued its Decision. The Board approved THESL’s Application in respect of 2008 and 2009, subject to various adjustments to the proposed revenue requirement and rates as set out in the Decision.
2. On June 9, 2008, THESL filed a Motion (the “Motion”) with the Board seeking review and variance of the Decision with respect to several issues, including regulatory treatment of 2007 smart meter operating expenditures. The Board gave this Motion file number EB-2008-0138.
3. On June 27, 2008, the Board issued a Decision and Order with respect to the Motion (the “Motion Decision”). In part, the Motion Decision directed THESL to file submissions with the Board regarding Issue 1 (‘Regulatory Treatment of Smart Meters’). THESL’s submissions are set out below.

Regulatory Treatment of 2007 Smart Meter Operating Expenditures

4. THESL emphasizes that the issue at hand is a narrow one which pertains only to the regulatory treatment of 2007 smart meter operating expenses. Despite the title of Issue 1, the Motion does not concern the regulatory treatment of smart meter expenses generally. That broader issue has been determined by the Board in the Decision, in which the Board stated that THESL was to continue to record the expenses and revenues related to 2008 and 2009 smart meter activities in the smart meter deferral accounts.
5. The approach of segregating and recording in deferral accounts THESL's smart meter-related revenues and expenses was established by the Board in THESL's 2006 rate proceeding, EB-2005-0421, and was applied generally to Ontario electricity distributors. That approach remained in place for 2007.
6. However, the Board's direction at pages 23-24 in the Decision concerning the treatment of the 2007 smart meter operating expenses is that they "be expensed in the 2008 rate year". In total, actual 2007 smart meter operating expenses were \$2.011 million. Since there is no indication whatsoever that the Board intended not to permit recovery of the 2007 smart meter operating expenditures, the issue at hand concerns the appropriate manner of their recovery.
7. THESL submits that 2007 smart meter operating expenditures should not be combined with the 2008 base distribution revenue requirement; that to do so presents no advantage whatsoever to any party and does not dispose of the balance in the 2007 smart meter deferral account; and that a perfectly good, Board-approved process for the disposition of these costs already exists, which should be adopted instead of the existing direction.
8. The Board's direction in the Decision concerning the treatment of the 2007 smart meter operating expenses contradicts the existing, Board-approved methodology for the annual clearance of the smart meter deferral account(s).

9. That methodology was approved at page 18 in the Board's Decision in EB-2007-0063, the Combined Smart Meter Proceeding, and was confirmed in the corresponding Combined EB-2007-0096 0063 0582 Rate Order issued to THESL by the Board on October 23, 2007, copies of which form part of the Motion Record in EB-2008-0138. Under that methodology applied to the 2007 expenditures, a revenue requirement corresponding to the actual 2007 smart meter activity was to be calculated, after the fact, consisting of operating expenses together with the capital-related costs of depreciation, return on the annual average 2007 smart meter incremental ratebase, and PILs on that return. That revenue requirement was then to be offset by the total revenue obtained through the 2007 Smart Meter Rate Rider, effective from May 1, 2007 to April 30, 2008. The net balance, debit or credit, was then to be cleared to ratepayers through the implementation of a limited-period rate rider.
10. That general approach, together with a description of the existing ratemaking treatment of THESL's historical smart meter expenditures, was set out in the EB-2007-0680 proceeding in Transcript Vol. 6, page 65, line 15, to page 68, line 27. A copy of that extract from Volume 6 of the Transcript forms part of the Motion Record. It was also noted in testimony that a residual balance from the 2006 activities, in accordance with the Board's Decision in the Combined Smart Meter proceeding, remains for clearance in the deferral account. At page 68, line 7, THESL's witness clearly stated that THESL intends to bring to the Board a separate application to clear the 2007 Smart Meter Deferral Account and residual 2006 Smart Meter Deferral Account balances.
11. It is necessary to clear the 2007 Smart Meter Deferral Account through a separate proceeding because the 2007 rate year smart meter rate rider revenues could not be known until after April 30 2008. Given that those revenues are now known, THESL has begun preparation of the necessary application and intends to file it as soon as possible after the conclusion of this proceeding.
12. Under the direction set out in the Decision, the Board departs from its own practice and deals only with a portion of the 2007 smart meter-related revenue requirement, while

leaving the remainder unresolved. That approach leaves outstanding the need to dispose of the 2007 capital-related smart meter costs, the 2007 rate rider revenues, and the 2006 residual balances arising from the Board's decision in the Combined Smart Meter Proceeding.

13. Separating the 2007 smart meter operating expenses from the determination of the 2007 smart meter deferral account balance would distort that balance, and would work against the goal of clearly segregating the costs and revenues associated with the smart meter activities undertaken by utilities. If the direction is upheld, costs related to 2007 smart meter activity will be artificially and inappropriately embedded in 2008 base distribution rates, and would not be matched against the corresponding rate adder revenues.
14. At page 24 of the Decision, the Board stated with respect to 2008 and 2009 expenditures "The current regime where these expenditures are funded through a smart meter adder shall continue, as shall the variance accounts mechanisms currently in place to enable true-ups." The direction to remove 2007 smart meter operating expenditures from the clearance of that deferral account is inconsistent with the policy that the Board articulates in the quote above. Having established both the variance accounts and the rate adder, the direction in the Decision effectively abandons the mechanism by which these are reconciled.
15. Therefore the Board should vary its Decision to permit disposition of the 2007 Smart Meter Operating Expense through clearance of the 2007 Smart Meter Deferral Account, in the context of a separate proceeding.