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## **DECISION AND ORDER**

**EB-2019-0032**

### **ENWIN UTILITIES LTD.**

**Application for electricity distribution rates and other charges  
beginning January 1, 2020**

**BEFORE: Cathy Spoel**  
Presiding Member

**Robert Dodds**  
Member and Vice-Chair

**Emad Elsayed**  
Member

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**November 14, 2019**

## 1 INTRODUCTION AND SUMMARY

This is a Decision and Order of the Ontario Energy Board (OEB) on an application filed by EnWin Utilities Ltd. (EnWin Utilities) under section 78 of the *Ontario Energy Board Act, 1998* to change its electricity distribution rates effective January 1, 2020.

EnWin Utilities provides electricity distribution services to approximately 88,000 customers in the City of Windsor.

EnWin Utilities asked the OEB to approve its rates for five years using the Price-Cap Incentive rate-setting (Price-Cap IR) option available under the *Renewed Regulatory Framework for Electricity Distributors: a Performance Based Approach*,<sup>1</sup> as most recently set out in the *Handbook for Utility Rate Applications*.<sup>2</sup> Under the Price-Cap IR option, rates are determined on a cost of service basis for 2020, and adjusted mechanistically for the next four years through a price cap adjustment based on inflation and the OEB's assessment of EnWin Utilities' efficiency.

EnWin Utilities and the intervenors agreed to a settlement on all but one of the issues on the OEB-approved issues list. The unsettled issue related to EnWin Utilities' proposal to eliminate the Intermediate rate class and transfer the three customers currently in that class into the General Service (GS) 50 to 4,999 kW class. The OEB approved the settlement on October 17, 2019 and invited written submissions on the unsettled issue.

For the reasons that follow, the OEB approves EnWin Utilities' request to eliminate the Intermediate rate class (GS 3,000 to 4,999 kW) and move the three customers in that class to the GS 50 to 4,999 kW class. The OEB finds that the outcome of EnWin Utilities' proposal is consistent with ratemaking principles and represents a reasonable balance for all its customers.

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<sup>1</sup> *Report of the Board: A Renewed Regulatory Framework for Electricity Distributors: a Performance Based Approach*, October 18, 2012.

<sup>2</sup> *Handbook for Utility Rate Applications*, October 13, 2016.

## 2 THE PROCESS

EnWin Utilities filed its application on April 26, 2019 for 2020 rates. The OEB issued a Notice of Application on May 23, 2019, inviting parties to apply for intervenor status. School Energy Coalition (SEC), Vulnerable Energy Consumers Coalition (VECC), Association of Major Power Consumers in Ontario (AMPCO) and Consumers Council of Canada (CCC) applied for and were granted intervenor status and cost eligibility.

The OEB issued Procedural Order (PO) No. 1 on June 21, 2019 with a timetable for a written discovery process, the filing of a proposed issues list and a settlement conference. On August 20, 2019, the OEB issued its Decision on Issues List and PO No. 2 in which it approved a final issues list. A settlement conference was held on August 22 and 23, 2019.

On September 24, 2019, EnWin Utilities filed a partial settlement proposal. All issues except for EnWin Utilities' proposal to eliminate the Intermediate rate class were settled. The OEB approved the partial settlement proposal on October 17, 2019 and made provision for written submissions on the unsettled issue.

On October 4, 2019, EnWin Utilities filed its Argument-in-Chief on the unsettled issue. The only intervenor to file a submission was AMPCO, on October 16, 2019. OEB staff also made a submission, on October 16, 2019. EnWin Utilities filed a reply submission on October 25, 2019.

### 3 DECISION ON THE UNSETTLED ISSUE

#### Background

EnWin Utilities proposes to eliminate the Intermediate rate class and transfer the existing three Intermediate customers into the GS 50 to 4,999 kW rate class. EnWin Utilities stated that this would provide a common large GS rate class design for all customers and would simplify EnWin Utilities' tariff sheets.

In its Argument-in-Chief, EnWin Utilities stated that its current tariff structure is unique in that the GS 50 to 4,999 kW rate class and the Intermediate rate class (GS 3,000 to 4,999 kW) overlap. The definition of the Intermediate rate class in the OEB approved tariff refers to customers who have an average monthly demand between 3,000 and 4,999 kW and who were classified as Time of Use prior to market opening. EnWin Utilities noted that the practical effect of the condition was to grandfather the Intermediate customers that were part of that class prior to market opening but to exclude any new customers with a demand between 3,000 and 4,999 kW from the class. All new customers that might otherwise qualify have been added to the GS 50 to 4,999 kW class.

EnWin Utilities noted that this issue was raised in its last cost of service proceeding, but was deferred pending the outcome of the OEB's rate design consultations that were ongoing at that time.<sup>3</sup> EnWin Utilities argued that the existing Intermediate class customers would see an overall bill decrease under the proposed rate structure compared to their current estimated 2019 total bills.

AMPCO submitted that the OEB should not approve EnWin Utilities' proposal. AMPCO argued that the distribution portion of the bill would increase significantly – between 47% and 81% – for the three Intermediate customers. For the customer who would see the 81% increase, that would mean paying roughly \$144,000 more in annual distribution charges than it would if it were to remain in the Intermediate Class. AMPCO also objected to the change being made because the existing Intermediate customers were not directly contacted prior to the filing of the rate application by EnWin Utilities.

AMPCO suggested that rather than eliminating the Intermediate class, its definition could be revised to allow new customers to be added to it.

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<sup>3</sup> Rate Design for Recovery of Electricity Distribution Costs, EB-2007-0031.

OEB staff submitted that, from a general rate-making perspective, it agrees with EnWin Utilities that the elimination of the Intermediate class makes sense as a matter of rate design. However, OEB staff had concerns about the lack of engagement by EnWin Utilities with the three Intermediate customers. OEB staff also observed that the OEB should have an explanation from EnWin Utilities as to the reasons for the creation of this class, and could approve it if satisfied with the explanation, including why those reasons do not continue to apply.

OEB staff provided the status quo bill impact analysis that was not provided by EnWin Utilities and calculated the bill impact differences between the status quo and proposed bill impacts for two periods (January to April and May to December) in the 2020 test year. OEB staff's calculation shows total monthly bill impacts of \$1,066 (0.71%) to \$5,718 (1.91%) for the three Intermediate customers, with customer #2 appearing to have the highest overall rate impact (\$4,758) in terms of percentage (4.61%).<sup>4</sup>

EnWin Utilities stated that it had reviewed OEB staff's bill impact calculations and agreed that they appear to accurately capture the estimated impacts on the three Intermediate customers based on EnWin Utilities' proposal and the illustrative scenario provided, subject to one minor error which is not material.<sup>5</sup> EnWin Utilities also confirmed that one Intermediate customer would be reclassified to GS 50 to 4,999 kW class anyway as its demand is currently below 3,000 kW, leaving two customers in the Intermediate class.

EnWin Utilities also disagreed with AMPCO's calculation of the estimated bill impact for the Intermediate customer that is a member of AMPCO, which would be about \$5,718/month rather than AMPCO's estimate of more than \$12,227.58/month.<sup>6</sup>

With respect to customer engagement, EnWin Utilities stated that it provided the three Intermediate customers with the estimated bill impacts of EnWin Utilities' proposal for rates effective January 1, 2020 compared to the customers' total bills under existing

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<sup>4</sup> OEB Staff Submission, October 16, 2019, page 7.

<sup>5</sup> EnWin Utilities stated, on page 4 of its reply submission, that "in Table 3, which depicts the estimated impact over the May 1 to December 31, 2020 time period, the 2018 LRAMVA DVA rate rider appears to have been removed from the "Volumetric Rate Riders" column (Column C) in deriving the "Total Monthly Bill Impact After Tax" (Column G), but the related amount appears to have not been removed from the "Total Bill \$ (Proposed 2020 Settlement)" column (Column H), which shows the original, unadjusted figures from ENWIN's proposal shown in the Bill Impact Summary. As a result, the Bill Impact Differential calculated in Column I would be slightly incorrect, as it is comparing a figure without the 2018 LRAMVA DVA rate rider to a figure which includes it."

<sup>6</sup> EnWin Utilities' Reply Submission, October 25, 2019, page 4.

rates. EnWin Utilities noted that “the AMPCO Submissions represent the concerns and feedback from one (1) of the three (3) directly affected customers. ENWIN confirms no feedback has been received from the other two affected customers”.<sup>7</sup> EnWin Utilities submitted that “the evidence it has filed on its customer engagement activities clearly met the Board’s broader Chapter 2 Filing Requirements and Renewed Regulatory Framework requirements as it relates to customer engagement in respect of the Application.”<sup>8</sup> EnWin Utilities explained that it had engaged Innovative Research Group Inc. to assist with customer engagement in the development of the application. EnWin Utilities submitted that “If the OEB believes in its final decision and order in this case that consultations on rate design when utilities propose to eliminate overlapping rate classes should occur prior to filing a rate application, ENWIN submits that it would be helpful for the OEB to amend its Chapter 2 Filing Requirements to make this requirement explicit.”<sup>9</sup>

In response to OEB staff’s observation that it was not clear when or why the Intermediate class was created and why it overlapped with the GS 50 – 4,999 kW class, EnWin Utilities stated that it had reviewed its historical records but is unable to explain why the overlapping classes were created.

EnWin Utilities added that “the historical rationale does not detract from the assessment of whether a change is needed today” and the current application has provided the opportunity to address this issue.<sup>10</sup>

EnWin Utilities further noted that in cost allocation and rate design a balance must be struck to achieve a just and reasonable outcome amongst all customers. EnWin Utilities noted that the current rate design for the Intermediate class indicates the need for change: the customers in the Intermediate class have a lower fixed and variable distribution charge than the Large Use class and the Intermediate class customers receive more favourable total distribution bill impacts compared to the customers in the GS 50 to 4,999 kW class. EnWin Utilities does not agree with AMPCO’s suggested solution of removing the condition of “were classified as Time of Use prior to market opening” in the definition of the Intermediate class and narrowing the definition for the GS 50 to 4,999 kW class, for the following reasons:

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<sup>7</sup> EnWin Utilities’ Reply Submission, October 25, 2019, page 3.

<sup>8</sup> EnWin Utilities’ Reply Submission, October 25, 2019, page 8.

<sup>9</sup> EnWin Utilities’ Reply Submission, October 25, 2019, page 9.

<sup>10</sup> EnWin Utilities’ Reply Submission, October 25, 2019, page 12.

- The concept of creating a new stand-alone Intermediate class is not EnWin Utilities' proposal and no evidence has been filed on the record for this solution.
- No customers have been informed of this new approach, particularly the customers in the GS 50 to 4,999 kW class that would need to move to the Intermediate class.
- EnWin Utilities does not believe that AMPCO's proposal aligns with public policy objectives or general rate-making principles. EnWin Utilities further stated that AMPCO's proposal would result in the perpetuation of differing treatments between otherwise similar customers with similar cost drivers.

## Findings

For the reasons that follow, the OEB approves EnWin Utilities' request to eliminate the Intermediate rate class (GS 3,000 to 4,999 kW) and move the three customers in that class to the GS 50 to 4,999 kW class. The OEB finds that the outcome of EnWin Utilities' proposal is consistent with ratemaking principles and represents a reasonable balance for all its customers.

- EnWin Utilities' proposal avoids unnecessary overlap between the two classes which is unique to EnWin Utilities. This overlap results in customers with similar demand being placed in one or the other class based only on whether they were classified as Time of Use prior to market opening.
- EnWin Utilities' proposal results in consistent treatment of all customers with demand between 50 and 4,999 kW which is the case for most other distributors.
- EnWin Utilities' proposal results in a modest test year total bill impact on the three Intermediate class customers compared to the status quo.

The OEB agrees with the parties in this proceeding that the three Intermediate class customers should have been engaged by EnWin Utilities at an earlier stage of this application, and encourages EnWin Utilities to make a more concerted effort in this area in future applications.

## 4 IMPLEMENTATION

EnWin Utilities is directed to file a draft rate order to reflect the findings of this Decision and Order and the partial settlement proposal. The OEB expects EnWin Utilities to file detailed supporting material including, but not limited to, an updated version of the OEB's revenue requirement work form showing the impact of the Decision and Order and the partial settlement proposal on its proposed revenue requirement, the allocation of the approved revenue requirement to the classes, and the determination of the final rates, including bill impacts. The OEB expects EnWin Utilities to update the cost of capital parameters with 2020 values.<sup>11</sup>

The OEB will review the draft rate order and issue a final rate order.

SEC, VECC, AMPCO and CCC are eligible for cost awards in this proceeding. The OEB has made provision in this Decision and Order for these intervenors to file their cost claims. The OEB will issue its cost awards decision after the following steps are completed.

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<sup>11</sup> The OEB's letter re: 2020 Cost of Capital Parameters, issued on October 31, 2019.



## 5 ORDER

### THE ONTARIO ENERGY BOARD ORDERS THAT:

1. EnWin Utilities shall file with the OEB and forward to intervenors a draft rate order with a proposed Tariff of Rates and Charges attached that reflects the OEB's findings in this Decision and Order and the partial settlement proposal, no later than November 21, 2019. EnWin Utilities shall also include customer rate impacts and detailed information in support of the calculation of final rates in the draft rate order.
2. Intervenors and OEB staff may file any comments on the draft rate order with the OEB, and forward to EnWin Utilities, no later than November 28, 2019.
3. EnWin Utilities may file with the OEB and forward to intervenors, responses to any comments on its draft rate order no later than December 4, 2019.
4. Intervenors shall submit their cost claims no later than December 6, 2019.
5. EnWin Utilities shall file with the OEB and forward to intervenors any objections to the claimed costs December 12, 2019.
6. Intervenors shall file with the OEB and forward to EnWin Utilities any responses to any objections for cost claims no later than December 19, 2019.
7. EnWin Utilities shall pay the OEB's costs of and incidental to this proceeding upon receipt of the OEB's invoice.

All materials filed with the OEB must quote the file number, **EB-2019-0032**, be made in a searchable/unrestricted PDF format and sent electronically through the OEB's web portal at <https://pes.ontarioenergyboard.ca/eservice>. Two paper copies must also be filed at the OEB's address provided below. Filings must clearly state the sender's name, postal address and telephone number, fax number and email address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <https://www.oeb.ca/industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have computer access are required to file seven paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date. With

respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Tina Li at [Tina.Li@oeb.ca](mailto:Tina.Li@oeb.ca) and OEB Counsel, Ian Richler at [Ian.Richler@oeb.ca](mailto:Ian.Richler@oeb.ca).

**DATED** at Toronto November 14, 2019

**ONTARIO ENERGY BOARD**

*Original Signed By*

Christine E. Long  
Registrar and Board Secretary