



EB-2006-0109

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

AND IN THE MATTER OF an application by Enersource Hydro Mississauga Inc. for an Order or Orders approving and fixing just and reasonable distribution rates and other charges effective May 1, 2006;

AND IN THE MATTER OF a Notice of Motion by Enersource Hydro Mississauga Inc. seeking an Order Varying the Decision and Order of the Board in RP-2005-0020/EB-2005-0360.

BEFORE: Gordon Kaiser
Presiding Member and Vice Chair

Paul Vlahos
Member

Cynthia Chaplin
Member

DECISION ON MOTION

October 3, 2006

Background

On June 12, 2006, Enersource Hydro Mississauga Inc. (“Enersource”) filed a Notice of Motion (“Motion”) with the Ontario Energy Board (“Board”) in relation to the Board’s Decision and Order dated April 12, 2006 (the “original decision”) in the application by Enersource for 2006 electricity distribution rates (“the original application”), under file number RP-2005-0020/EB-2005-0360.

In the original decision, the Board had disallowed Enersource’s proposal for a Tier 1 non-routine unusual adjustment for unfilled vacancies in the amount of \$1,131,601 on the basis that it was not persuaded by the evidence that Enersource would not operate efficiently in a typical year under current staffing levels. However, the Board also stated that it was open to Enersource to come forward with more information supporting the need for increased staffing levels.

The Motion sought an order of the Board which would permit: (1) the recovery of the previously denied Tier 1 adjustment, (2) the recovery of the incremental Payments in Lieu of taxes expense related to this adjustment, and (3) adjustments to rate riders to dispose of the balances recorded in certain Retail Settlement Variance Accounts as of December 31, 2004.

On July 24, 2006, the Board issued Procedural Order No. 1 which established the process for a written hearing. The School Energy Coalition (SEC) was the only party other than the Applicant to make written submissions in this Motion proceeding. SEC opposed Enersource’s request.

Decision on the Motion

The main ground of SEC’s opposition to the relief sought is that Enersource’s proposed adjustment does not meet the criteria for either a Tier 1 or a Tier 2 adjustment, and therefore it should be disallowed. The Board notes the April 12, 2006 original decision had stated that Enersource had provided no specific details on the requested Tier 1 non-routine unusual adjustment, but that it was open to the Applicant to come forward with more information supporting the need for increased staffing levels in a future filing. The Board is of the view that the additional information

provided by the Applicant in this filing has produced a reasonable record documenting the circumstances which resulted in the need for the adjustment.

The Board has also been guided by its decision in the Oshawa PUC Networks Inc. (Oshawa) proceeding (RP-2005-0020/EB-2005-0402) involving somewhat similar circumstances. Oshawa had requested approval to increase its staffing levels which had been reduced in recent years for the purpose of lowering its fixed costs as well as due to retirements, attrition and re-organization. The Board recognized in that decision Oshawa's need to increase staffing levels to perform the work directly supporting safe distribution system operations and, therefore, allowed an increase in staffing levels.

The Board has given little weight to the issues raised by Enersource or SEC regarding weather normalization, comparative rates between Enersource and other electricity distributors, and financial or service quality considerations. None of these matters separately or collectively were found to be of consequence to what the Board needed to decide in this case.

For these reasons, the Board accepts Enersource's request that the Tier 1 non-routine unusual adjustment be allowed, along with the recovery of the incremental Payments in Lieu of taxes expense.

To implement the relief it sought, Enersource requested that the Board approve adjustments to rate riders to dispose of the balances recorded in certain Retail Settlement Variance Accounts as of December 31, 2004. Although this request is not an appeal to any aspect of the original decision, the Board grants that request as it will operate to mitigate the rate impacts on Enersource's customers associated with the approval of the Tier 1 adjustment.

The Board grants the Motion and the original decision is therefore varied accordingly. Enersource is directed to submit a draft Rate Order within 15 days of implementing this decision.

SEC requested that it be awarded 100% of its reasonably incurred costs. Enersource did not respond to SEC's request. The Board awards SEC 100% of its reasonable incurred costs associated with this Motion. SEC shall file a statement of costs the Board and Enersource no later than October 13, 2006. Should Enersource have any comments concerning any of the cost claims, these shall be forwarded to the Board

and SEC by October 20, 2006. Any response to Enersource's comments shall be filed with the Board and Enersource by October 27, 2006. Enersource shall pay the costs awarded upon receipt of the Board's cost order.

DATED at Toronto, October 3, 2006

ONTARIO ENERGY BOARD

Gordon Kaiser
Presiding Member & Vice Chair

Original signed by

Paul Vlahos
Member

Original signed by

Cynthia Chaplin
Member

Original signed by