



EB-2006-0344

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 Newmarket
Hydro Ltd. and Tay Hydro Electric Distribution Company
Inc. under section 86 of the *Ontario Energy Board Act, 1998*
seeking an order for leave to amalgamate.

BEFORE: Cynthia Chaplin
Presiding Member

Cathy Spoel
Member

Ken Quesnelle
Member

DECISION AND ORDER

On December 21, 2006, the Ontario Energy Board (the “Board”) received an application for leave to amalgamate from Newmarket Hydro Ltd. (“Newmarket Hydro”) and Tay Hydro Electric Distribution Company Inc. (“Tay Hydro”) (collectively the “Applicants”). The Board has assigned File No. EB-2006-0344 to the application.

Newmarket Hydro owns, operates and manages assets associated with the distribution of electricity within the geographic territory described in its electricity distribution licence (ED-2002-0553).

Tay Hydro owns, operates and manages assets associated with the distribution of electricity within the geographic territory described in its electricity distribution licence (ED-2002-0519).

Currently, Newmarket Hydro is indirectly owned by the Town of Newmarket, and Tay Hydro is indirectly owned by the Township of Tay.

Upon approval and completion of the proposed transaction, the Town of Newmarket would indirectly hold 92.7 percent, and the Township of Tay would indirectly hold 7.3 percent, of the shares in the amalgamated utility. The application states that within 150 days of the proposed transaction, there will be a post-transaction adjustment using the most recent audited financial statements and net capital assets; and shares will be exchanged if an adjustment is warranted.

A Notice of Application and Written Hearing was published as directed by the Board. No interventions were filed in response to the notice. Requests for observer status were received from Thunder Bay Hydro Electricity Distribution Inc. and Enwin Utilities Ltd. Both requests were granted. The Board also received a letter of concern from Don and Joanne Cameron.

The Board has proceeded by way of a written hearing.

The full record of this proceeding is available for review at the Board's offices. While the Board has considered the full record, the Board has summarized and referred only to those portions of the record that it considers helpful to provide context to its findings.

Board Findings

Section 86 of the *Ontario Energy Board Act, 1998* (the "Act") provides that no transmitter or distributor, without first obtaining an order from the Board granting leave, shall amalgamate with any other corporation.

In determining this application, the Board is guided by the principles set out in the Board's decision in the combined MAADs proceeding (Board File Numbers RP-2005-0018/EB-2005-0234/EB-2005-0254/EB-2005-0257). The factors to be considered in approving an application for an amalgamation under section 86 of the Act are the factors outlined in section 1 of the Act.

Section 1 of the Act sets out the objectives of the Board in relation to electricity. The objectives are:

1. to protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service; and
2. to promote economic efficiency and cost effectiveness in the generation, transmission, distribution, sale and demand management of electricity and to facilitate the maintenance of a financially viable electricity industry.

In the decision on the combined MAADs proceeding, the Board also stated that the test to be applied to amalgamations would be the “no harm” test (i.e. whether the proposed transaction will have an adverse effect relative to the status quo in relation to the Board’s statutory objectives).

The Applicants submitted that:

- no harm is expected with regard to the adequacy, reliability, and quality of electric power distribution;
- existing rates, service centers and staffing levels will be maintained;
- no changes to capital expenditure plans are anticipated as a result of the amalgamation; therefore, no adverse changes to operational safety and system integrity are anticipated;
- response times to day-to-day emergencies are expected to be maintained; and
- leveraging existing Newmarket Hydro outage management systems and after-hours service contracts will boost reliability and service levels in the Tay Hydro service area.

The Applicants have made a number of submissions with respect to economic efficiency. In particular, the Applicants estimate incremental annual savings from current operations of \$106,500, in the following categories:

Consultant Fees	\$23,000
Board of Director Costs	\$17,000
Computer Support	\$15,000
Audit Fees	\$13,000

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Meter Reading	\$12,000
Settlement Costs	\$7,000
Extra Interest Revenue	\$6,000
Postage	\$4,500
Prudential	\$2,500
Safety Audits, Regulatory Fees	\$6,500
Total	\$106,500

The Applicants also estimate that they will incur a one-time transition cost of \$4,000 for staff training, and that they will incur annual incremental costs of \$30,000, related to the loss of a \$25,000 capital tax exemption and the added requirement for a \$5,000 internet connection between the two locations.

In the letter of concern that was filed with the Board, the view was expressed that the proposed amalgamation would result in added costs to Newmarket Hydro customers and would be against their best interests. The Board is satisfied that the evidence filed as part of the application indicates that there will be some new costs but that overall the costs will be lower as a result of this amalgamation.

The Board accepts the Applicants' evidence and concludes that the proposed transaction will not have an adverse effect in terms of the factors identified in the Board's objectives under section 1 of the Act.

Regarding net metering thresholds, the Board will, absent exceptional circumstances, add together the kW threshold amounts allocated to the individual utilities and assign the sum to the new or remaining utility.

The current net metering thresholds of Newmarket Hydro and Tay Hydro are 1,353 kW and 94 kW respectively. The Applicants have submitted that there is no reason the Board should use a different method to determine the net metering threshold for the amalgamated distribution company.

THE BOARD ORDERS THAT:

1. Newmarket Hydro Ltd. and Tay Hydro Electric Distribution Company Inc. are granted leave to amalgamate.
2. Notice of completion of the transaction shall be promptly given to the Board.
3. The Board's leave to amalgamate shall expire 18 months from the date of this Decision and Order. If the transaction has not been completed by that date, a new application for leave to amalgamate will be required in order for the transaction to proceed.
4. The net metering threshold for the amalgamated distribution company will be 1,447 kW.

ISSUED at Toronto, March 8, 2007.

ONTARIO ENERGY BOARD

Original signed by

Peter H. O'Dell
Assistant Board Secretary