Ontario Energy Board

Commission de l'Énergie de l'Ontario

Ontario

RP-2005-0013
EB-2005-0050

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 **Milton Hydro Distribution Inc.** for an order or orders approving or fixing just and reasonable rates.

BEFORE: Gordon Kaiser
Vice Chair and Presiding Member

Paul Vlahos
Member

Pamela Nowina
Member

DECISION AND ORDER

Background and Application

In November 2003 the Ontario government announced that it would permit local distribution companies to apply to the Board for the next installment of their allowable return on equity beginning March 1, 2005. The Government also indicated that the Board's approval would be conditional on a financial commitment to reinvest in conservation and demand management initiatives, an amount equal to one year's incremental returns.

Also in November 2003, the Government announced, in conjunction with the introduction of Bill 4, the *Ontario Energy Board Amendment Act, (Electricity Pricing), 2003*, that electricity distributors could start recovering Regulatory Assets in their rates, beginning March 1, 2004, over a four year period.

In February and March, 2004, the Board approved the applications of distributors to recover 25% of their December 31, 2002 Regulatory Asset balances (or additional amounts for rate stability) in their distribution rates on an interim basis effective March 1, 2004 and implemented on April 1, 2004.

On December 20, 2004 the Board issued filing guidelines to all electricity distribution utilities for the April 1, 2005 distribution rate adjustments. The guidelines allowed the applicants to recover three types of costs. These costs concern (i) the rate recovery of the third tranche of the allowable return on equity (Market Adjusted Revenue Requirement or "MARR"), (ii) the 2005 proxy allowance for payments in lieu of taxes ("PILs") and (iii) a second installment of the recovery of Regulatory Assets.

A generic Notice of the proceeding was published on January 25, 2005 in major newspapers in the province, which provided a 14 day period for submissions from interested parties. On February 4, 2005, the Board issued Procedural Order No. 1, providing for an extension for submissions until February 16, 2005 and also providing for reply submissions from applicants and other parties.

The Applicant filed an application for adjustments to their rates for the following amounts:

MARR: $ 761,299
2005 PILs Proxy: $ 1,086,123
Regulatory Assets Second Tranche: $ 85,963

The Applicant also applied for recovery of amounts and items outside of the guidelines. Specifically, the Applicant requested:

- recovery of revenue associated with a loss of load (severe downgrading of operations of a General Service > 1000 kW customer) in the amount of $226,496
- recovery of revenue associated with a bankruptcy in the amount of $181,609
- a decrease in its Total Loss Factor

The amounts regarding the first two items were included in the regulatory asset balances in account 1572 on Sheet 6 of the RAM model. The requests for the second and third items were accompanied by a Minister's letter granting permission to the Applicant to submit an application to the Board.

Submissions

The Board received one submission which addressed the 2005 rate setting process in general. This submission was made by School Energy Coalition (SEC). SEC objected to the guideline which caused the recovery of the 2005 PILs proxy to be reflected only on the variable charge. SEC was also concerned that monthly service charges and overall distribution charges varied significantly between utilities across the province. SEC also raised concerns regarding the consistency of, and access to, information on the applications as filed by the utilities.

Reply submissions to SEC's general submissions were received from the Coalition of Large Distributors, the Electricity Distributors Association, Hydro One Networks, and the LDC Coalition (a group of 7 distributors). These parties generally argued against the recommendations put forward by SEC, by and large

indicating that the Board's existing processes for 2006 and 2007 have been planned to address these issues going forward and that these issues should not be added to the 2005 rates adjustment process.

SEC made specific submissions for this application regarding the Applicant's out-of-scope items. Specifically, SEC stated that the adjustment relating to the bankruptcy of a major customer and the adjustment to the Applicant's Total Loss Factor (which were proposed with the consent of the Minister) are reasonable. However, SEC stated that the adjustment relating to a revenue reduction from a change in a large customer's operations is not appropriate. SEC believed that it was not appropriate to make a one-sided adjustment to revenues on the assumption that only revenue reductions have occurred. Also, SEC argued that Milton is in a region which is experiencing large changes in residential, commercial and industrial load and therefore it is not realistic to single out the loss of load from one customer for adjustment, without taking the other revenue impacts into account.

In reply, the Applicant objected to SEC's interpretation of the large changes in load in the Applicant's region. The Applicant referred to the Distribution System Code which requires distributors to invest in new infrastructure up to what the revenue from rates from these new loads will support. The Applicant stated that revenue from rates has not been sufficient fo fund all the new infrastructure, requiring capital contributions currently averaging between 40% to 50% of capital costs.

The Applicant stated that it does not see a principle difference between the recovery associated with the bankruptcy of a major customer and the loss of load of a major customer. The Applicant expressed confusion as to SEC's definition of reasonableness citing the possibility that the Minister's letter, allowing the

Applicant to apply for the bankruptcy case, was the main factor in SEC's decision not to challenge this portion of the application.

The Applicant also stated that SEC failed to acknowledge three voluntary actions in the rate application that have a downward pressure on customer bills:

- the amounts proposed to be recovered for the bankruptcy and loss of load only represent a fraction of the amount for the bankruptcy alone (for which SEC has stated that recovery is reasonable)
- Applicant has not applied for recovery of Hydro One's charges because of a historical over-recovery as a result of retail transmission rates
- Applicant has also applied for a reduction in Total Loss Factor representing a greater than 15% reduction in distribution losses over that initially established based on 1999 data.

The full record of the proceeding is available for review at the Board's offices.

Board Findings

The Board first addresses the general submission of SEC. While SEC raises important issues regarding electricity distribution rates, the Board has put in place a process which will address most of the issues raised by SEC on a comprehensive basis with coordinated cost of service, cost allocation and cost of capital studies for all distributors in 2006, 2007 and 2008. The Board does agree that unless there are compelling reasons to diverge from the Board's original filing guidelines for the 2005 distribution rate adjustment process, distributors should follow the guidelines in their applications.

The Board appreciates the arguments put forth by SEC and the Applicant. However, at this time, the Board will approve only the portion of the application that conforms to the guidelines as the generic notice published informed customers and the public of only the changes contemplated in the guidelines. The Applicant may wish to apply for other specific changes to rates in a separate application as this process did not contemplate such adjustments. A separate notice and a separate proceeding would be required to address the Applicant's other proposals.

In disallowing the amounts in account 1572, the RAM model generated an over recovery of non-RSVA regulatory assets. The Board deems it appropriate to limit the recovery of non-RSVAs to 80% of the total adjusted amount reported by the Applicant. This is a deferral of $75,801. As a result, the Board has made adjustments to the amounts applied for resulting in the following approved amounts:

MARR: $ 761,299
2005 PILs Proxy: $ 1,086,123
Regulatory Assets Second Tranche: -$ 226,018

Subject to these adjustments, the Board finds that the application conforms with earlier decisions of the Board (including approval for the Applicant's Conservation and Demand Management plan), directives and guidelines.

The Board will issue a separate decision on cost awards.

THE BOARD ORDERS THAT:

1) The rate schedule attached as Appendix “A” is approved effective March 1, 2005, to be implemented on April 1, 2005. All other rates currently in effect that are not shown on the attached schedule remain in force. If the Applicant’s billing system is not capable of prorating to accommodate the April 1, 2005 implementation date, the new rates shall be implemented with the first billing cycle for electricity consumed or estimated to have been consumed after April 1, 2005.

2) The Applicant shall notify its customers of the rate changes, no later than with the first bill reflecting the new rates and include the brochure provided by the Board.

DATED at Toronto, March 29, 2005
ONTARIO ENERGY BOARD

Original Signed By

Peter H. O’Dell
Assistant Board Secretary

Appendix “A”

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March 29, 2005

ONTARIO ENERGY BOARD