



RP-2005-0020
EB-2005-0363

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 Essex
Powerlines Corporation for an order or orders approving
or fixing just and reasonable distribution rates and other
charges, effective May 1, 2006.

BEFORE: Paul Vlahos
Presiding Member

Bob Betts
Member

DECISION AND ORDER

Essex Powerlines Corporation (“Essex” or the “Applicant”) is a licensed distributor providing electrical service to consumers within its defined service area. Essex filed an Application (the “Application”) with the Ontario Energy Board (the “Board”) for an order or orders approving or fixing just and reasonable rates for the distribution of electricity and other matters, to be effective May 1, 2006.

Essex is one of over 90 electricity distributors in Ontario that are regulated by the Board. To streamline the process for the approval of distribution rates and charges for these distributors, the Board developed and issued the 2006 Electricity Distribution Rate Handbook (the “Handbook”) and complementary spreadsheet-based models. These materials were developed after extensive public consultation with distributors, customer groups, public and environmental interest groups, and other interested parties. The Handbook contains requirements and guidelines for filing an application. The models

determine the amounts to be included for the payments in lieu of taxes (“PILs”) and calculate rates based on historical financial and other information entered by the distributor.

Also included in this process was a methodology and model for the final recovery of regulatory assets flowing from the Board’s decision dated December 9, 2004 on the Review and Recovery of Regulatory Assets – Phase 2 for Toronto Hydro, London Hydro, Enersource Hydro Mississauga and Hydro One Networks Inc. (“Hydro One”). In Chapter 10 of the decision, the Board outlined a Phase 2 process for the remaining distributors. By letter of July 12, 2005, the Board provided guidance and a spreadsheet-based model to the distributors for the inclusion of this recovery as part of their 2006 distribution rate applications.

As a distributor that is embedded in Hydro One Network’s low voltage system, the Applicant has included the recovery of certain Regulatory Assets that have been allocated by Hydro One Networks. The amount claimed by the Applicant was provided by Hydro One Networks as a reasonable approximation of the actual amount that Hydro One Networks will assess the Applicant. To the degree that the amount differs from the actual amount approved for Hydro One Networks in another proceeding (RP-2005-0020/EB-2005-0378), this difference will be reconciled at the end of the Regulatory Asset recovery period, as set out in the Phase II regulatory assets decision issued on December 9, 2004 (RP-2004-0064/RP-2004-0069/RP-2004-0100/RP-2004-0117/RP-2004-0118).

In its preliminary review of the 2006 rate applications received from the distributors, the Board identified several issues that appeared to be common to many or all of the distributors. As a result, the Board held a hearing (EB-2005-0529) to consider these issues (the “Generic Issues Proceeding”) and released its decision (the “Generic Decision”) on March 21, 2006. The rulings flowing from that Generic Decision apply to this Application, except to the extent noted in this Decision. The Board notes that pursuant to ss. 21 (6.1) of the *Ontario Energy Board Act, 1998*, and to the extent that it is pertinent to this Application, the evidentiary record of the Generic Issues Proceeding is part of the evidentiary record upon which the Board is basing this Decision.

In December 2001, the Board authorized the establishment of deferral accounts by the distributors related to the payments that the distributors make to the Ministry of Finance in lieu of taxes. The Board is required, under its enabling legislation, to make an order

with respect to non-commodity deferral accounts once every twelve months. The Board has considered the information available with respect to these accounts and orders that the amounts recorded in the accounts will not be reflected in rates as part of the Rate Order that will result from this Decision. The Board will continue to monitor the accounts with a view to clearing them when appropriate.

Public notice of the rate Application made by Essex was given through newspaper publication in its service area. The evidence filed was made available to the public. Interested parties intervened in the proceeding. The evidence in the Application was tested through written interrogatories from Board staff and intervenors, and intervenors and Essex had the opportunity to file written argument. While the Board has considered the entire record in this proceeding, it has made reference in this Decision only to such evidence and argument as is necessary to provide context to its findings.

Essex has requested an amount of \$11,842,373 as revenue to be recovered through distribution rates and charges. Included in this amount is a debit of \$538,643 for the recovery of regulatory assets. Except where noted in this Decision, the Board finds that Essex has filed its Application in accordance with the Handbook and the guidelines for the recovery of regulatory assets.

Notwithstanding Essex's general compliance with the Handbook and associated models, in considering this Application the Board reviewed the following matters in detail:

- Low Voltage Rates;
- Affiliate Costs;
- Cost of Capital;
- Tier 1 Revenue Adjustment;
- Customer Classes;
- Regulatory Assets; and
- Consequences of the Generic Decision (EB-2005-0529).

Low Voltage Rates

Essex included in its Application recovery of ongoing Low Voltage ("LV") charges that Hydro One Networks will be levying on Essex for Low Voltage wheeling distribution services provided to Essex.

The Board notes that this estimate reflects Hydro One Networks' current approved LV rate of \$0.56/kW. The Board further notes that Hydro One Networks applied for an LV rate of \$0.63/kW in its 2006 rate application RP-2005-0020/EB-2005-0378, and the Board has approved this rate.

The Board is of the view that the LV adjustment that Essex has included in its Application is insufficient to recover its expected LV charges in 2006, as this amount does not reflect the updated Hydro One Networks rate. Although the Generic Decision provides that embedded distributors are to track differences between LV costs charged by the host distributor(s) and corresponding revenues recovered from ratepayers, the Board seeks to minimize systemic sources of variance. The Board is of the view that Essex's rates should reflect the LV rates authorized by the Board for the host distributor. Accordingly, the Board has revised the amount for LV charge recovery in Essex's revenue requirement.

Affiliate Costs

Essex does not have any employees and receives and pays for services from several affiliates. The Board notes that the Applicant provided minimal information in its Application and in response to interrogatories relating to its affiliate structure. The Board is also mindful of the concerns expressed by the Vulnerable Energy Consumers Coalition ("VECC") relating to Essex' affiliate structure and the level of mark-up on services provided to Essex by its affiliates.

In this and similar situations, the Board is concerned that the Applicant has not met its burden of proof in demonstrating the reasonableness of its costs. This is not a finding that the costs are necessarily unreasonable, but rather a finding that the Applicant has not provided sufficient information to make that determination in all instances. In this case, the Board will approve the costs claimed by Essex, with the exceptions noted in this Decision. However, the Board reminds the Applicant that the burden of demonstrating reasonableness of costs rests with an Applicant, including costs associated with transactions with affiliates. In its next rate case, the Applicant must provide detailed financial information on its operations, and details of costs incurred by its affiliates in providing services to the Applicant.

The Applicant can refer to the Board's decision on rates for Enbridge Gas Distribution Inc. dated December 13, 2002 (RP-2001-0032) for an indication of the information that

the Applicant should provide in its next application for rate approval. In that decision, the Board found that while it is not inherently opposed to unregulated affiliates profiting from their relationship with the regulated affiliate, it is essential that the Applicant must be able to establish that outsourcing arrangements also provide tangible benefits to itself and its ratepayers. The Board also stated that the Applicant must demonstrate not only that the arrangements will not harm ratepayers, but also that there will be a significant and tangible benefit to ratepayers.

Cost of Capital

Essex stated that it includes as common equity in its Application an amount of \$15,772,796, which appears on its audited financial statements as a long term promissory note to the parent company and shareholder.

As this amount is classified as debt on the Applicant's audited financial statements, the Board does not accept its reclassification as equity by Essex for the purposes of determining its revenue requirement. Accordingly, the Board has adjusted the model filed by Essex to incorporate this amount as debt. The Board notes that with this reclassification, Essex' debt ratio is well above the 50% deemed level for a utility of Essex' size. The Board considers this level of debt to be excessive and urges Essex to move towards the 50% deemed level.

Following the guidelines in the Handbook would normally mean that this reclassified debt would have an interest rate of 0%, the rate assigned to the long term promissory note. This would result in a weighted average cost of capital for Essex dropping from approximately 7.7% to 2.9%. The impact on Essex would be a reduction of \$1.5 million in revenue requirement. Had the company considered this impact, such a promissory note arrangement would likely have been changed to attract a reasonable debt return. As such, the Board is guided by that part of the Handbook that outlines the deemed debt rate and finds that this promissory note should have a 6.25% rate applied to it.

Tier 1 Revenue Adjustment

Essex removed \$20,798 from revenue through a Tier 1 adjustment to reflect the lost revenue from 2004 due to the Board's decision on pole attachment fees for cable TV companies.

The Board notes that Essex has included in its input amounts for specific service charges on Schedule 5-2 of the model a calculation based on a specific charge for access to power poles of \$22.35 per pole per year. This is the amount prescribed by the Board's decision and, accordingly, the revenue offset incorporated into the model is not overstated. Accordingly, the Board has determined that this adjustment to revenue is unnecessary and has removed it from the Applicant's model.

Customer Classes

Essex proposed to segregate its General Service greater than 50 kW interval metered customers into their own rate class. Essex stated that this was being done strictly for data collection purposes and that there would be no impact on customers, or change to rates, resulting from this segregation.

The Board notes that all General Service greater than 50 kW customers are being charged the same rates on the Applicant's presently approved rate schedule, but would be paying different rates based on the rate schedule proposed in the Application. Accordingly, the Board cannot agree with Essex' statement that there would be no impact on customers of its proposal.

The Board also notes that Essex has included in Schedule 2-4, as its presently approved rate schedule, a Schedule of Changed Distribution Rates and Charges, which has separate classifications for General Service greater than 50 KW (Non Time of Use) and General Service greater than 50 KW (Time of Use) Interval customers. As part of its Decision and Order dated March 22, 2005, the Board had attached a Schedule of Changed Distribution Rates and Charges which included these separate classifications. However, on March 31, 2005, the Board issued a revision to this Decision and Order containing a revised rate schedule which included only the non time of use class. Accordingly, the Schedule of Changed Distribution Rates and Charges submitted by the Applicant was not the most recent one and does not reflect the Board's approval of only one customer classification for these customers.

For these reasons, the Board does not accept Essex' proposal. In addition, the Board views this proposal as more appropriately considered as part of a cost allocation and rate design exercise, which is not the purpose of this proceeding. Accordingly, the Board has modified Essex' Application to maintain the existing single General Service greater than 50 KW class.

Regulatory Assets

Essex made a request for recovery of \$221,737 for extraordinary event losses related to a 2001 ice storm which would be allocated for recovery on the basis of number of customers in each class. VECC expressed its concern with Essex' plan to use customer numbers as the allocator and suggested that the allocation basis should be distribution revenue by customer class. The Board views Essex' proposal for recovery as an appropriate instance of an extraordinary event loss, and accepts it, but is in agreement with VECC that the appropriate allocator is distribution revenue by customer class. The Board has adjusted Essex' model to reflect this finding.

Consequences of the Generic Decision on this Application

The Generic Decision contains findings relevant to funding for smart meters for electricity distributors. The Applicant did file a specific smart meter plan in the revenue requirement. In this situation, the Generic Decision provides that an amount determined as \$3.50 per meter per month installed during the rate year be reflected in the Applicant's revenue requirement, instead of the smart meter-related costs proposed by the Applicant. Consequently, the amounts that the Applicant has proposed in its 2006 rate Application have been removed and replaced with the amount determined in accordance with the Generic Decision. Furthermore, the Board finds in this Decision that this smart meter revenue will be allocated to all metered customers and recovered through the monthly service charge. The revised amount is reflected in the approved monthly service charges contained in the Tariff of Rates and Charges appended to this Decision. Pursuant to the Generic Decision, a variance account will be established, the details of which will be communicated in due course.

Resulting Revenue Requirement

As a result of the Board's determinations on these issues, the Board has adjusted the revenue requirement to be recovered through distribution rates and charges to \$10,780,006, including a debit amount of \$538,643 for the recovery of Regulatory Assets.

In its letter of December 20, 2004 to electricity distributors, the Board indicated that it would consider the disposition of the 2005 OEB dues recorded in Account 1508 in this proceeding. However, given that the final 2005 OEB dues are not available because of

the difference in fiscal years for the Board and the distributors, and given that the model used to develop the Application does not incorporate this provision, the Board will review and dispose of the 2005 OEB dues at a later time.

Cost Awards

This Application is one of a number of applications before the Board dealing with 2006 rates chargeable by distributors. Intervenors may be parties to multiple applications and, if eligible, their costs associated with a specific distributor may not be separable. Therefore, for these applications, the matter of intervenor cost awards will be addressed by the Board at a later date, upon the conclusion of the current rate applications. If an intervenor that is eligible to recover its costs is able to uniquely identify its costs associated with this Application, it must file its cost claim within 10 days from the receipt of this Decision.

THE BOARD ORDERS THAT:

1. The Tariff of Rates and Charges set out in Appendix "A" of this Order is approved, effective May 1, 2006, for electricity consumed or estimated to have been consumed on and after May 1, 2006. The application of the revised distribution rates shall be prorated to May 1, 2006. If Essex Powerlines Corporation's billing system is not capable of prorating changed loss factors jointly with distribution rates, the revised loss factors shall be implemented upon the first subsequent billing for each billing cycle.
2. The Tariff of Rates and Charges set out in Appendix "A" of this Order supersedes all previous distribution rate schedules approved by the Ontario Energy Board for Essex Powerlines Corporation, and is final in all respects.

3. Essex Powerlines Corporation shall notify its customers of the rate changes no later than with the first bill reflecting the new rates.

DATED at Toronto, April 12, 2006.

ONTARIO ENERGY BOARD

A handwritten signature in black ink, appearing to read "John Zych". The signature is fluid and cursive, with the first name "John" written in a larger, more prominent script than the last name "Zych".

John Zych
Board Secretary

Appendix "A"

RP-2005-0020
EB-2005-0363

April 12, 2006

ONTARIO ENERGY BOARD

Essex Powerlines Corporation

TARIFF OF RATES AND CHARGES

Effective May 1, 2006

This schedule supersedes and replaces all previously approved schedules of Rates, Charges and Loss Factors

RP-2005-0020
EB-2005-0363

APPLICATION

- The application of these rates and charges shall be in accordance with the Licence of the Distributor and any Codes, Guidelines or Orders of the Board, and amendments thereto as approved by the Board, which may be applicable to the administration of this schedule.
- No rates and charges for the distribution of electricity and charges to meet the costs of any work or service done or furnished for the purpose of the distribution of electricity shall be made except as permitted by this schedule, unless required by the Distributor's Licence or a Code, Guideline or Order of the Board, and amendments thereto as approved by the Board, or as specified herein.
- This schedule does not contain any rates and charges relating to the electricity commodity (e.g. the Regulated Price Plan).

EFFECTIVE DATES

- DISTRIBUTION RATES - May 1, 2006 for all consumption or deemed consumption services used on or after that date.
SPECIFIC SERVICE CHARGES - May 1, 2006 for all charges incurred by customers on or after that date.
LOSS FACTOR ADJUSTMENT – May 1, 2006 unless the distributor is not capable of prorating changed loss factors jointly with distribution rates. In that case, the revised loss factors will be implemented upon the first subsequent billing for each billing cycle.

SERVICE CLASSIFICATIONS

Residential

This classification refers to an account taking electricity at 750 volts or less where the electricity is used exclusively in a separately metered living accommodation. Customers shall be residing in single-dwelling units that consist of a detached house or one unit of a semi-detached, duplex, triplex or quadruplex house, with a residential zoning. Separately metered dwellings within a town house complex or apartment building also qualify as residential customers.

General Service Less Than 50 kW

This classification refers to a non residential account taking electricity at 750 volts or less whose average monthly maximum demand is less than, or is forecast to be less than, 50 kW.

General Service 50 to 2,999 kW

This classification refers to a non residential account whose monthly average peak demand is equal to or greater than, or is forecast to be equal to or greater than, 50 kW but less than 3,000 kW.

General Service 3,000 to 4,999 kW

This classification refers to a non residential account whose monthly average peak demand is equal to or greater than, or is forecast to be equal to or greater than, 3,000 kW but less than 5,000 kW.

Unmetered Scattered Load

This classification refers to an account whose monthly average peak demand is less than, or is forecast to be less than, 50 kW and the consumption is unmetered. Such connections include cable TV power packs, bus shelters, telephone booths, traffic lights, railway crossings, etc. The customer will provide detailed manufacturer information/documentation with regard to electrical consumption of the proposed unmetered load.

Sentinel Lighting

This classification refers to an account for lighting which is owned and maintained either by the property owner (customer), a retailer who is leasing the device to a customer.

Street Lighting

This classification refers to an account for roadway lighting with a Municipality, Regional Municipality, Ministry of Transportation and private roadway lighting operation, controlled by photo cells. The consumption for these customers will be based on the calculated connected load times the required lighting times established in the approved OEB street lighting load shape template.

Essex Powerlines Corporation

TARIFF OF RATES AND CHARGES

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MONTHLY RATES AND CHARGES

Residential

| | | |
|--|--------|--------|
| Service Charge | \$ | 9.75 |
| Distribution Volumetric Rate | \$/kWh | 0.0132 |
| Regulatory Asset Recovery | \$/kWh | 0.0016 |
| Retail Transmission Rate – Network Service Rate | \$/kWh | 0.0065 |
| Retail Transmission Rate – Line and Transformation Connection Service Rate | \$/kWh | 0.0037 |
| Wholesale Market Service Rate | \$/kWh | 0.0052 |
| Rural Rate Protection Charge | \$/kWh | 0.0010 |
| Regulated Price Plan – Administration Charge | \$ | 0.25 |

General Service Less Than 50 kW

| | | |
|--|--------|--------|
| Service Charge | \$ | 11.19 |
| Distribution Volumetric Rate | \$/kWh | 0.0045 |
| Regulatory Asset Recovery | \$/kWh | 0.0007 |
| Retail Transmission Rate – Network Service Rate | \$/kWh | 0.0060 |
| Retail Transmission Rate – Line and Transformation Connection Service Rate | \$/kWh | 0.0033 |
| Wholesale Market Service Rate | \$/kWh | 0.0052 |
| Rural Rate Protection Charge | \$/kWh | 0.0010 |
| Regulated Price Plan – Administration Charge | \$ | 0.25 |

General Service 50 to 2,999 kW

| | | |
|---|--------|--------|
| Service Charge | \$ | 297.41 |
| Distribution Volumetric Rate | \$/kW | 2.4500 |
| Regulatory Asset Recovery | \$/kW | 0.1095 |
| Retail Transmission Rate – Network Service Rate | \$/kW | 2.4284 |
| Retail Transmission Rate – Line and Transformation Connection Service Rate | \$/kW | 1.3130 |
| Retail Transmission Rate – Network Service Rate – Interval Metered | \$/kW | 2.7159 |
| Retail Transmission Rate – Line and Transformation Connection Service Rate – Interval Metered | \$/kW | 1.5485 |
| Wholesale Market Service Rate | \$/kWh | 0.0052 |
| Rural Rate Protection Charge | \$/kWh | 0.0010 |
| Regulated Price Plan – Administration Charge (if applicable) | \$ | 0.25 |

General Service 3,000 kW to 4,999 kW

| | | |
|--|--------|----------|
| Service Charge | \$ | 3,526.10 |
| Distribution Volumetric Rate | \$/kW | 4.2338 |
| Regulatory Asset Recovery | \$/kW | (0.0241) |
| Retail Transmission Rate – Network Service Rate | \$/kW | 2.7159 |
| Retail Transmission Rate – Line and Transformation Connection Service Rate | \$/kW | 1.5485 |
| Wholesale Market Service Rate | \$/kWh | 0.0052 |
| Rural Rate Protection Charge | \$/kWh | 0.0010 |
| Regulated Price Plan – Administration Charge (if applicable) | \$ | 0.25 |

Essex Powerlines Corporation

TARIFF OF RATES AND CHARGES

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Un-metered Scattered Load

| | | |
|--|--------|--------|
| Service Charge (per connection) | \$ | 7.72 |
| Distribution Volumetric Rate | \$/kWh | 0.0269 |
| Regulatory Asset Recovery | \$/kWh | 0.0010 |
| Retail Transmission Rate – Network Service Rate | \$/kWh | 0.0060 |
| Retail Transmission Rate – Line and Transformation Connection Service Rate | \$/kWh | 0.0033 |
| Wholesale Market Service Rate | \$/kWh | 0.0052 |
| Rural Rate Protection Charge | \$/kWh | 0.0010 |
| Regulated Price Plan – Administration Charge (if applicable) | \$ | 0.25 |

Sentinel Lighting

| | | |
|--|--------|--------|
| Service Charge (per connection) | \$ | 0.62 |
| Distribution Volumetric Rate | \$/kW | 3.9937 |
| Regulatory Asset Recovery | \$/kW | 0.4068 |
| Retail Transmission Rate – Network Service Rate | \$/kW | 1.8407 |
| Retail Transmission Rate – Line and Transformation Connection Service Rate | \$/kW | 1.0363 |
| Wholesale Market Service Rate | \$/kWh | 0.0052 |
| Rural Rate Protection Charge | \$/kWh | 0.0010 |
| Regulated Price Plan – Administration Charge (if applicable) | \$ | 0.25 |

Street Lighting

| | | |
|--|--------|----------|
| Service Charge (per connection) | \$ | 0.33 |
| Distribution Volumetric Rate | \$/kW | 3.0066 |
| Regulatory Asset Recovery | \$/kW | (0.2758) |
| Retail Transmission Rate – Network Service Rate | \$/kW | 1.8314 |
| Retail Transmission Rate – Line and Transformation Connection Service Rate | \$/kW | 1.0150 |
| Wholesale Market Service Rate | \$/kWh | 0.0052 |
| Rural Rate Protection Charge | \$/kWh | 0.0010 |
| Regulated Price Plan – Administration Charge (if applicable) | \$ | 0.25 |

Specific Service Charges

| | | |
|---|----|--------|
| Customer Administration | | |
| Arrears Certificate | \$ | 15.00 |
| Statement of account | \$ | 15.00 |
| Duplicate invoices for previous billing | \$ | 15.00 |
| Request for other billing information | \$ | |
| 15.00 | | |
| Easement Letter | \$ | 15.00 |
| Income tax Letter | \$ | 15.00 |
| Account history | \$ | 15.00 |
| Returned Cheque (plus bank charges) | \$ | 15.00 |
| Legal letter charge | \$ | 15.00 |
| Account set up charge/change of occupancy charge (plus credit agency costs if applicable) | \$ | 30.00 |
| Special meter reads | \$ | 30.00 |
| Meter dispute charge plus Measurement Canada fees (if meter found correct) | \$ | 30.00 |
| Non-Payment of Account | | |
| Late Payment - per month | % | 1.50 |
| Late Payment - per annum | % | 19.56 |
| Collection of account charge – no disconnection | \$ | 30.00 |
| Collection of account charge - no disconnection – after regular hours | \$ | 165.00 |
| Disconnect/Reconnect Charge - At Meter During Regular Hours | \$ | 65.00 |
| Disconnect/Reconnect Charge - At Meter After Hours | \$ | 185.00 |
| Disconnect/Reconnect at pole – during regular hours | \$ | 185.00 |

Essex Powerlines Corporation

TARIFF OF RATES AND CHARGES

Effective May 1, 2006

This schedule supersedes and replaces all previously approved schedules of Rates, Charges and Loss Factors

| | |
|---|--------------|
| | RP-2005-0020 |
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| Disconnect/Reconnect at pole – after regular hours | \$ 415.00 |
| Install/Remove load control device – during regular hours | \$ 65.00 |
| Install/Remove load control device – after regular hours | \$ 185.00 |
| Service call – customer owned equipment | \$ 30.00 |
| Service call – after regular hours | \$ 165.00 |
| Temporary service install & remove – overhead – no transformer | \$ 500.00 |
| Temporary service install & remove – underground – no transformer | \$ 300.00 |
| Temporary service install & remove – overhead – with transformer | \$ 1000.00 |
| Specific Charge for Access to the Power Poles – per pole/year | \$ 22.35 |
| | |
| Allowances | |
| Transformer Allowance for Ownership - per kW of billing demand/month | \$ (0.60) |
| Primary Metering Allowance for transformer losses – applied to measured demand and energy | % (1.00) |

LOSS FACTORS

| | |
|---|--------|
| Total Loss Factor – Secondary Metered Customer < 5,000 kW | 1.0544 |
| Total Loss Factor – Secondary Metered Customer > 5,000 kW | N/A |
| Total Loss Factor – Primary Metered Customer < 5,000 kW | 1.0439 |
| Total Loss Factor – Primary Metered Customer > 5,000 kW | N/A |