



RP-2005-0020
EB-2006-0041

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 Cooperative Hydro Embrun Inc. for an order or orders pursuant to section 78 of the *Ontario Energy Board Act, 1998* for 2006 distribution rates and related matters;

AND IN THE MATTER OF an application by Cooperative Hydro Embrun Inc. for an order or orders pursuant to section 78 of the *Ontario Energy Board Act, 1998* pertaining to the Final Recovery of Regulatory Assets - Phase 2.

BEFORE: Paul Vlahos
Presiding Member

Cynthia Chaplin
Member

DECISION WITH REASONS

BACKGROUND

In October 2005, Cooperative Hydro Embrun Inc. (“Hydro Embrun” or the “Applicant”) submitted an application for final recovery of its regulatory asset balances, pursuant to Chapter 10 of the Board’s December 9, 2004 *Review and Recovery of Regulatory Assets - Phase 2 Decision with Reasons* and the July 12, 2005 regulatory asset filing guidelines. Hydro Embrun filed its application under the comprehensive review option, and the application was filed as part of the main 2006 distribution rates application. The regulatory assets claim totalled \$586,788, of which \$221,951 plus carrying charges represented the total transition cost claim.

The single intervenor of record was the School Energy Coalition (“SEC”).

Following the filing of responses to interrogatories on March 24, 2006, the Board issued Procedural Order #2 on March 28, 2006. Procedural Order #2 converted Hydro Embrun’s oral hearing to a written hearing, and provided for written submissions by Board Staff and Intervenors and for a reply submission by the Applicant.

On April 13, 2006, the Applicant submitted an updated regulatory assets worksheet revising its transition cost claim by including eligible costs incurred for market opening preparations that were inadvertently omitted in the original application. Board Staff filed a written submission on April 17, 2006. SEC did not file a submission.

Board Staff submitted that its review of the application, including responses to interrogatories, provided Board Staff with assurance that all entries in the non-transition cost accounts (with one exception noted below) were prepared in accordance with the approved procedures authorized by the Board.

Board Staff noted that Hydro Embrun included \$6,224 in account 1525 (Miscellaneous Deferred Debits) relating to phase 2 rebate costs incurred in 2003. Board Staff submitted that Bill 210 provided for the recording of costs incurred for the issuance of the \$75 rebate cheques and that these cheques were required to have been sent out by December 31, 2002. Neither the legislation nor the Board’s regulatory asset filing guidelines provide for the recovery of other Bill 210 costs such as the phase 2 rebates beyond December 31, 2002.

In its reply submission, Hydro Embrun agreed to remove the phase 2 rebate costs from its regulatory assets claim.

With respect to the Transition Cost account 1570, Board Staff noted that Hydro Embrun submitted a transition cost claim of \$221,951 including \$100,774 of ongoing and out of period costs. This amount related to monthly billing costs for 2002, 2003 and 2004 and annual license and support fees and other costs booked in 2003. Board Staff also noted that the Board’s normal practice has been to disallow any costs relating to ongoing costs which are associated with normal operations in the open market as well as costs incurred after December 31, 2002.

With the exception of the above noted costs, Board Staff did not make any adverse submissions with respect to Hydro Embrun's transition cost claim.

In its reply submission, Hydro Embrun agreed that the \$100,774 represents ongoing and out of period costs. However, Hydro Embrun requested that the Board make an exception in its case and approve the recovery of these costs. Specifically, Hydro Embrun argued that it chose a CIS solution which would mitigate customer impact. Hydro Embrun chose an alternate service provider (ASP) solution because it was cheaper than purchasing its own CIS system. Therefore, rather than incurring and capitalizing greater initial costs by 2002, Hydro Embrun chose a lower initial cost and greater ongoing costs spread over several years.

Before market opening, Hydro Embrun owned its own billing system with a cost of processing a customer invoice of \$0.82 and no annual fees for license and support. The new system has an ongoing billing cost of \$3.63 per bill and an annual fee of \$8,266 for software support. Hydro Embrun argued that all costs incurred to meet market opening requirements including the incremental monthly billing costs and license fees should be considered as one solution recoverable as a transition cost.

Hydro Embrun also argued that it should not be penalized or judged detrimentally based on the fact that Hydro 2000 Inc., a distributor of similar size who also chose an ASP solution, did not make the same request for recovery of ongoing costs.

Finally, Hydro Embrun stated that more than 42% of its customers are also shareholders. It is the only cooperative electricity distributor in the province of Ontario. Hydro Embrun also stated that any excess profits created by higher rates would be returned to its members.

The Board has reviewed the application, responses to interrogatories, Board Staff's submission, and the Applicant's reply submission. The Board is satisfied that the record is complete.

BOARD FINDINGS

The Board accepts the application for transition costs as amended by the Applicant's April 13, 2006 filing, with the exception of the \$100, 774 of ongoing and out of period costs recorded in account 1570 (Transition Costs). As noted by Board Staff in its submission, the Board's normal practice has been to disallow these types of costs. This practice is rooted in the January 15, 2003

transition cost filing guidelines which stated, “Transition costs are not intended to include new, ongoing costs which are associated with normal operations in the open market.” The Board finds that an exception in Hydro Embrun’s case is not warranted.

Although the Board appreciates the Applicant’s choice of the ASP solution as the least initial cost option with respect to its CIS, this fact does not change the character of the costs as being ongoing billing costs rather than transition costs. Indeed the Board expects that distributors will manage their operations to achieve the lowest reasonable costs in their circumstances, so Embrun’s choice of the ASP solution was appropriate. However, this does not provide justification for a significant deviation from the regulatory asset recovery guidelines. The Board has been consistent in the application of the transition cost filing guidelines and finds that there is no compelling reason why this should not continue. Allowing these costs to be recovered by Hydro Embrun would represent a fundamental shift from the Board’s definition of transition costs and would be inherently unfair to the remaining distributors. Similar distributors like Hydro 2000 Inc., who also chose an ASP solution, have not requested the recovery of these costs. The Applicant provided no compelling reason why it should be treated differently.

With respect to its status as a cooperative, the Board is of the opinion that this fact is not relevant to this proceeding. The Board does not treat certain distributors differently based on the makeup of the ownership of the distributor or the dual role of the ratepayer. The Board differentiates between owners of distribution companies and customers of those companies. The fact that 42% of the ratepayers of Hydro Embrun are also shareholders itself implies that 58% of the ratepayers are not shareholders. The Board is charged with protecting the interests of all consumers and with the mandate of setting just and reasonable rates. The Board views the ratepayer as a separate and distinct entity regardless of its dual role as owner.

The Board therefore reduces Hydro Embrun’s transition cost claim from \$221,951 to \$121,177 plus carrying charges. The Board will make the necessary adjustments to the regulatory assets worksheet to reflect the approved claim.

Nevertheless, in making this finding, the Board notes that to any extent that Hydro Embrun’s ongoing billing costs for 2004 are understated due to their being categorized as transition costs, this finding does not prejudice their appropriate recovery in 2006 rates based on the 2004 historical test year.

The Board accepts the remainder of the regulatory assets claim as revised for the removal of the phase 2 rebates from account 1525. The Board will make the necessary adjustments to the worksheet to remove these costs.

The Board finds that the cost of service consequences resulting from this Decision are acceptable. The Board notes that the consequences of its findings in this Decision will be incorporated into the rate order for Hydro Embrun that will result from the decision on Hydro Embrun's main 2006 distribution rates application.

The Board awards SEC 100 percent of its reasonably incurred costs with respect to this comprehensive regulatory assets proceeding. However, given that SEC was not active in this proceeding, the Board does not anticipate that SEC will file a cost claim for a significant amount. The implementation of this decision on cost awards will be incorporated into the overall process for awarding intervenor costs for the 2006 electricity distribution rates review.

DATED AT Toronto, June 15, 2006

Original signed by

Paul Vlahos
Presiding Member

Original signed by

Cynthia Chaplin
Member