

Ontario Energy  
Board

Commission de l'énergie  
de l'Ontario



**RP-2005-0020**  
**EB-2005-0392**

**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 Newbury  
Power Inc. for an order or orders approving or fixing  
just and reasonable distribution rates and other  
charges, effective March 1, 2007.

**BEFORE:** Paul Vlahos  
Presiding Member

**DECISION WITH REASONS**

May 1, 2007

Newbury Power Inc. (“Newbury Power”) is a licensed distributor providing electrical service to consumers within its defined service area. Newbury Power 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 March 1, 2007. According to the Board’s schedule for filings, Newbury Power was to have filed its application no later than October 3, 2005. Newbury Power actually filed a complete application on December 22, 2006.

Newbury Power is one of over 85 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. 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 Newbury Power 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 Newbury Power 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.

Newbury Power has requested an amount of \$144,417 as revenue to be recovered through distribution rates and charges. Included in this amount is a debit of \$27,840 for the recovery of regulatory assets. Except where noted in this Decision, the Board finds

that Newbury Power has filed its Application in accordance with the Handbook and the guidelines for the recovery of regulatory assets.

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

- Low Voltage Rates;
- Tier 2 Non Routine/Unusual Adjustment, Regulatory Filing Costs;
- Tier 2 Non Routine/Unusual Adjustment, Billing Costs;
- Tier 2 Adjustment, Rate Base;
- Consequences of the Generic Decision (EB-2005-0529); and
- Billing Impacts.

### **Low Voltage Rates**

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

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 has 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 Newbury Power 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 Newbury Power'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 Newbury Power's revenue requirement.

**Tier 2 Non Routine/Unusual Adjustment, Regulatory Filing Costs**

In its Application, Newbury Power requested approval of a Tier 2 adjustment to distribution expenses in the amount of \$7,500. The requested adjustment is for regulatory filing costs related to the distributor's 2006 EDR rate application, Cost Allocation Study and 2007 Rate Application.

The Board finds that the proposed adjustment represents a selective adjustment for future events, rather than a normalizing adjustment for events in 2004, which is the base year for setting 2006 rates. This is inappropriate in a historical test year application and is not in accordance with the Handbook. For these reasons, the Board does not accept this adjustment and has removed it from the determination of the Applicant's revenue requirement.

**Tier 2 Non Routine/Unusual Adjustment, Billing Costs**

Newbury Power has proposed a Tier 2 adjustment for billing costs to reflect wholesale settlement and EBT hub costs in the amount of \$14,736. The distributor claims that the billing adjustment is based on a new arrangement where Chatham-Kent Utility Services will provide the services for Newbury Power. Based on the evidence, from the \$14,736 amount, \$7,605 is for billing, \$2,790 is for Wholesale Settlement, and \$4,341 is for Retailer EBT Hub costs. Newbury Power argues that since it has not applied for a rate increase since 2001, its rates do not currently reflect many of the new costs related to the deregulated electricity industry and thus the Tier 2 adjustment is warranted.

Newbury Power meets the Handbook criteria for Tier 2 eligibility in that it did not receive the second third of the incremental MARR.

However, the Board notes that Newbury Power's current rates are based on 1999 financials. There is no evidence to support that the distributor's billing costs are not part of the cost of service underpinning the current rates. Such billing costs are also reflected in the distributor's 2004 financials, on which 2006 rates are to be based. Given the utility's rate history, the Board accepts that there is no provision for costs in its 2004 financials associated with Wholesale Settlement and Retailer EBT Hub. The Board therefore will allow an adjustment for such costs, totalling \$7,131, but the Board

does not accept the proposed incremental amount of \$7,605 for billing costs, and has removed this amount from the model. Newbury Power will have an opportunity to substantiate its new cost of service in its future cost of service rebasing filing.

### **Tier 2 Adjustment, Rate Base**

Newbury Power has proposed a Tier 2 adjustment to rate base in the amount of \$5,000 for the purchase of personal computers. Newbury Power claims that its computers were outdated and not capable of managing the Customer Information System provided by its service provider.

The Board accepts in principle the utility's proposed Tier 2 adjustment; however, the Board notes that the utility failed to apply the half year rule to the adjustment and did not capture the offset of depreciation within the model. Accordingly, the Board has incorporated the half year rule in Newbury Power's model and has included a 5 year amortization period to account for this adjustment.

### **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 not file a specific smart meter investment plan or request approval of any associated amount in revenue requirement. Absent a specific plan or discrete revenue requirement, the Generic Decision provides that \$0.30 per residential customer per month be reflected in the Applicant's revenue requirement. The Board finds that this increase in the revenue requirement amount will be allocated equally to all metered customers and recovered through their monthly service charge. This increment 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 \$130,105, including a debit amount of \$27,840 for the recovery of Regulatory Assets.

## **Bill Impacts**

Based on Newbury Power's application and evidence filed, the utility was seeking a revenue requirement that would result in total bill increases of approximately 30% to its customer classes. Section 13.1 of the Handbook states that an applicant must file a mitigation plan if total bill increases for any customer class or group exceed 10%.

In response to Board staff interrogatories, Newbury Power indicates that it is not proposing a rate mitigation plan given that the utility has not earned a positive return for a number of years and that its customers have not seen a rate change since 2001. Newbury Power further claims that the largest impact to its rate change is as result of Hydro One Network's low voltage charge of \$22,171, which is not reflective of the utility's costs to service its customers. The utility states that the proposed bill increases are necessary in order to provide its customers with safe and reliable service.

Since 2001, a typical regulated utility applied for rate changes in 2002, 2004 and 2005. The Board notes that Newbury Power had the opportunity to apply for rate changes within these years. The utility's failure to do so was within the control of management and therefore there is no justification for the Board to not follow its policy of not approving rate increases greater than 10%.

The Board's findings in this Decision will decrease the utility's revenue requirement. However, this reduction will not be sufficient to reduce total bill increases to no more than 10%. Therefore, the Board directs Newbury Power to file a rate mitigation plan that reflects the Board's findings in this Decision, within 14 days of the date of this Decision. The effective date of the proposed mitigation plan shall commence May 1, 2007 for the reasons cited below.

**Effective Date**

For approval of 2006 rates commencing May 1, 2006, distributors had to file their application no later than October 3, 2005, some seven months earlier. Newbury Power's application was completed on December 22, 2006. Newbury Power requested an effective date of March 1, 2007, allowing for only two months before retroactive ratemaking is triggered. Further, the Board notes that it issued a letter of direction on January 10, 2007 directing Newbury Power to immediately publish a copy of its Notice of Application; the utility did not do so until February 8, 2007, which delayed the processing of the Application. The Board has stated on many occasions that it does not endorse rate retroactivity. In all the circumstances, the Board will approve an effective date of May 1, 2007. However, this date is conditional upon Newbury Power filing with the Board a rate mitigation plan as directed by the Board in this Decision.

DATED at Toronto, May 1, 2007.

*Original signed by*

---

Paul Vlahos  
Presiding Member