



EB-2007-0881

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 Chatham-Kent Hydro Inc. for an order or orders approving or fixing just and reasonable distribution rates and other charges, to be effective May 1, 2008.

BEFORE: Paul Vlahos
Presiding Member

Paul Sommerville
Member

DECISION

Introduction

Chatham-Kent Hydro Inc. (“Chatham-Kent”) is a licensed distributor of electricity providing service to consumers within its licensed service area. Chatham-Kent filed an 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 charges, to be effective May 1, 2008.

Chatham-Kent is one of over 80 electricity distributors in Ontario that are regulated by the Board. In 2006, the Board announced the establishment of a multi-year electricity distribution rate-setting plan for the years 2007-2010. As part of the plan, Chatham-Kent is one of the electricity distributors to have its rates adjusted for 2008 on the basis of the 2nd Generation Incentive Rate Mechanism (“IRM”) process.

To streamline the process for the approval of distribution rates and charges for distributors, the Board issued its *Report of the Board on Cost of Capital and 2nd Generation Incentive Regulation for Ontario's Electricity Distributors* (the "Report") on December 20, 2006. Among other things, the Report contained the relevant guidelines for 2008 rate adjustments (the "Guidelines") for distributors applying for rate adjustments pursuant to the IRM process.

Notice of Chatham-Kent's rate application was given through newspaper publication in Chatham-Kent's service area advising of the availability of the rate application and advising how interested parties may intervene in the proceeding or comment on the application. Union Gas Limited ("Union") applied and was granted intervenor status in this proceeding.

The Board issued Procedural Order No.1 on December 10, 2007, in which the Board announced that it would proceed by way of a written hearing. Procedural Order No. 1 also established a schedule for the filing of and response to interrogatories, and the filing of and response to submissions. Board staff submitted interrogatories and a submission on the application.

In response to interrogatories from Board staff, Chatham-Kent filed a letter with the Board on January 29, 2008, requesting that two electronic files be treated as confidential filings in accordance with the Board's *Practice Direction on Confidential Filings*. The Board issued Procedural Order No.2 on January 30, 2008, which provided direction regarding the procedural matters related to the confidentiality request.

While the Board has considered the entire record in this rate application, it has made reference only to such evidence as is necessary to provide context to its findings.

Price Cap Index Adjustment

Chatham-Kent's rate application was filed on the basis of the Guidelines. In fixing new rates and charges for Chatham-Kent, the Board has applied the policies described in the Report.

As outlined in the Report, distribution rates under the 2nd Generation IRM are to be adjusted by a price escalator less a productivity factor (X-factor) of 1.0%. Based on the final 2007 data published by Statistics Canada, the Board has established the price

escalator to be 2.1%. The resulting price cap index adjustment is therefore 1.1%. The rate model was adjusted to reflect the newly calculated price cap adjustment. This price cap index adjustment applies to distribution rates (fixed and variable charges) uniformly across all customer classes. An adjustment for the transition to a common deemed capital structure of 60% debt and 40% equity was also effected. In addition, a change in the federal income tax rate effective January 1, 2008 was also incorporated into the rate model and reflected in distribution rates.

The Board also considered the reduction in Ontario capital tax and the increase in capital cost allowance (CCA) applicable to certain buildings and computers acquired after March 2007. The Board has decided that adjustments related to these items are not required, either because the changes are not of general application, or because they do not appear to be material.

The price cap index adjustment does not apply to the following components of the rates:

- the specific service charges;
- the smart meter rate adder (an amount in the fixed components of the rates associated with smart meter cost recovery); and
- any continuing rate riders.

Accordingly, the Board is providing Chatham-Kent with a rate model (spreadsheet) that reflects the price cap adjustments described above. Chatham-Kent is required to review the rate model (spreadsheet) and to confirm its completeness and accuracy with the Board at the time it files its Draft Rate Order. Chatham-Kent shall file with the Board a Draft Rate Order attaching the proposed Tariff of Rates and Charges which will reflect the Board's price cap adjustments as verified by Chatham-Kent. Chatham-Kent shall also provide the rate model (spreadsheet) that underpins the Tariff of Rates and Charges. Any changes to the Board's rate model (spreadsheet) shall be clearly identified and explained.

Rate Riders

When the Board approved new rates for distributors for 2006, it also approved the recovery of regulatory asset balances on a final basis. The Board approved rate riders to facilitate the recovery of the approved balances over the two remaining years of the four-year recovery period mandated by the Minister of Energy (i.e. May 1, 2004 to April

30, 2008). The rate rider(s) associated with the recovery of regulatory assets will cease on May 1, 2008 and shall be removed from the Tariff of Rates and Charges, unless a previous Board decision authorized the continuation of such riders beyond April 30, 2008. No such authorization has been previously provided by the Board for Chatham-Kent. The final balance in account 1590 cannot be confirmed until after the current recovery period has expired, i.e. after April 30, 2008. Once the residual balance in deferral account 1590 is finalized, the residual balance will be disposed in a future proceeding.

Rate Harmonization

In its Decision in Chatham-Kent's 2006 EDR proceeding (RP-2005-0020/EB-2005-0350), the Board accepted Chatham-Kent's rate harmonization proposal on the grounds that it will remove distinctions between customers based on historic service areas and will not create undue customer rate impacts. The Board also approved the second of the three-year rate harmonization plan submitted in Chatham-Kent's 2007 IRM proceeding (EB-2007-0517, EB-2007-0109).

As part of its 2008 IRM application, Chatham-Kent submitted the third and last phase of its rate harmonization plan. The Board finds Chatham-Kent's proposal to be in accordance with the rate harmonization plan approved in its 2006 EDR rate case, except for the treatment of the General Service 50 to 4,999 kW Time of Use ("GS TOU") rate class, which it now seeks to defer.

Chatham-Kent calculated that if the Blenheim and Chatham-Kent GS TOU rate classes were harmonized, a total bill impact greater than 10% could ensue for the Blenheim GS TOU rate class. Chatham-Kent noted that the only customer in the Blenheim GS TOU rate class has announced that it will close its plant and that no new customer would be assigned to this rate class. The Board finds that, under these circumstances, it is appropriate to keep the GS TOU rate classes separate as it will help minimize rate fluctuation over time. More specifically, the Board is of the view that harmonizing the two GS TOU rate classes now would result in a decrease for the Chatham-Kent GS TOU rate class only to revert back to rates based solely on the Chatham-Kent GS TOU customers at the time of rebasing (assuming there will be no customers in the Blenheim GS TOU left at that time). Consequently, the Board has approved the last phase of the rate harmonization plan as submitted.

The Board however asks Chatham-Kent to provide an update, as part of its next rate application, on the status of the Blenheim GS TOU rate class. If the only customer in this rate class is still active at that time, the Board directs Chatham-Kent to submit a proposal to harmonize its two GS TOU rate classes. If, on the other hand, the only customer in the Blenheim GS TOU rate has indeed left by that time, then no such proposal will be required from Chatham-Kent.

Z-Factor Adjustment

Chatham-Kent requested \$200,000 for the recovery of “a few significant bad debt accounts.” As noted by Board staff in its submission, the Report stated that, “the Board will limit reliance on Z-factors to well-defined and well-justified cases only – specifically, Z-factors will be limited to changes in tax rules and to natural disasters.” The Board confirms that bad debt does not qualify for a Z-factor treatment.

Chatham-Kent argued that the risk premium built-in the allowed return on equity does not include the default risk associated with the transmission, connection and commodity costs that distributors pay on behalf of their customers. In its Decision and Order in the RP-2005-0020/EB-2005-0391 proceeding, the Board stated that, “Even though there is no explicit risk premium associated with the commodity element, the overall premium is sufficient to provide adequate compensation to [the utility’s] shareholders.” The Board draws the same conclusion in this proceeding and denies Chatham-Kent’s bad debt recovery request.

Smart Meter Rate Adder

Background

Chatham-Kent is one of the licensed distributors authorized by Ontario Regulation 427/06 to conduct discretionary smart metering activities. In its Decision with Reasons in the EB-2007-0063 proceeding, the Board reviewed and approved residential smart metering costs up to April 30, 2007. In order to true-up the approved revenue requirement (approved OM&A costs and the revenue requirement associated with the approved capital investment) against amounts collected through the smart meter rate adders, a smart meter rate rider of \$1.35 per metered customer per month was approved effective from November 1, 2007, to April 30, 2008 (EB-2007-0063 and EB-2007-0517).

Also approved effective November 1, 2007, was a rate adder of \$1.09 per metered customer per month to fund the 2007 revenue requirement associated with residential installations planned for the May 1, 2007 to December 31, 2007 period (EB-2007-0063 and EB-2007-0517).

Permanent rate adder of \$1.33

Chatham-Kent requested in this application the approval of a new rate adder of \$1.33 per metered customer per month. This rate adder would recover the 2008 revenue requirement associated with the Board approved costs for residential smart meter installations completed up to April 30, 2007 (EB-2007-0063 Decision with Reasons).

In its submission, Board staff indicated its understanding that monies collected through the \$1.33 per metered customer per month rate adder would not be recorded in a variance account. Since there are no variance accounts to capture the difference between actual and forecast amount recovered in rates for any other assets in rate base, the Board finds that monies collected through this smart meter rate adder should not be recorded in a variance account.

At the time of rebasing, the depreciated capital investment approved in the EB-2007-0063 proceeding will be incorporated in Chatham-Kent's rate base and the revenue requirement associated with these investments will be recovered through Chatham-Kent's distribution rates. The \$1.33 per metered customer per month rate adder serves to provide, on an interim basis, a return on and of approved smart metering investments (i.e. cost of financing and depreciation) until they are incorporated into distribution rates. The Board therefore approves the \$1.33 per metered customer per month rate adder for residential smart meter installation up to April 30, 2007. The Board directs Chatham-Kent to include the approved rate adder in the monthly delivery charge for metered customers.

Continuation of the \$1.09 Rate Adder

Chatham-Kent originally applied for a \$0.43 per metered customer per month rate adder to recover the 2007 revenue requirement associated with the residential smart meters installed between May 1, 2007, and December 31, 2007. Chatham-Kent also originally requested a \$0.16 per metered customer per month rate adder to recover the 2007 revenue requirement related to the non-residential smart meter installations completed

up to September 30, 2007. In response to an interrogatory from Board staff, Chatham-Kent indicated that it is not requesting that a prudence review be conducted in this proceeding regarding these installations. Rather, Chatham-Kent is applying to fund the costs of these installations through a rate adder.

In its submission, Board staff noted that the amounts incorporated in the \$0.43 per metered customer per month rate adder have already been recovered through the \$1.09 per metered customer per month rate adder over the November 1, 2007, to April 30, 2008, period. In its response to Board staff's submission, Chatham-Kent concurred with Board staff and withdrew its request for the \$0.43 per metered customer per month rate adder.

Chatham-Kent reflected, in its original application, the termination of the \$1.09 per metered customer per month rate adder effective May 1, 2008. Board staff suggested that the \$1.09 per metered customer per month rate adder be extended until April 30, 2009, in order to fund the 2008 revenue requirement of the 10,948 residential smart meter installations completed between May 1, 2007, and December 31, 2007. Board staff noted in its submission that while the \$1.09 per metered customer per month rate adder relates to the installation of 10,948 residential smart meters, the \$1.33 per metered customer per month permanent rate adder relates to 17,052 residential installations. The 2008 revenue requirement for these smart meter installations (financing and depreciation costs) should therefore be in the same order of magnitude. Board staff also noted that monies collected through the extended \$1.09 per metered customer per month rate adder could help to fund new non-residential smart meter installations planned in 2008.

In its response to Board staff's submission, Chatham-Kent agreed that the \$1.09 per metered customer per month rate adder seems appropriate to fund the 2008 revenue requirement associated with the residential smart meters installed between May 1, 2007, and December 31, 2007. Moreover, Chatham-Kent viewed the continuation of the \$1.09 per metered customer per month rate adder as sufficient to fund the costs that the \$0.16 per metered customer per month rate adder for non-residential smart meter installations was meant to collect. Chatham-Kent consequently withdrew its request for both the \$0.43 per metered customer per month and \$0.16 per metered customer per month rate adders and requested that the \$1.09 per metered customer per month rate adder be continued instead.

The Board concurs that the extension of the \$1.09 per metered customer per month rate adder is appropriate for the continued implementation of Chatham-Kent's smart metering program and that it will contribute to rate stability. The Board therefore approves the continuation of this rate adder in order to fund the revenue requirement of the smart metering installations made and to be made since May 1, 2007. This funding relates strictly to smart metering investments that are within the minimum functionalities set out in Ontario Regulation 425/06.

The Board wishes to emphasize that it is not approving, as part of this proceeding, any smart metering amounts in addition to the amounts approved in the combined proceeding (EB-2007-0063). The continuation of the \$1.09 rate adder is not set to guarantee costs recovery, nor is it set at a level that is deemed to be prudent. By providing advance funding, the continuation of the \$1.09 per metered customer per month rate adder will phase the rate increase that could otherwise arise if the cost of the associated smart meters were brought into rate base all at once at the time of rebasing. Since a prudence review examining both substance and quantum will be conducted in due course, the Board notes that the difference between the amounts recovered through this rate adder and the related revenue requirement need to be captured in a variance account.

Confidential Filing

Chatham-Kent has requested to file confidentially the details supporting the calculation of the rate adders originally requested (i.e. the \$0.16, \$0.43 and \$1.33 per metered customer per month rate adders). Chatham-Kent cited that their smart meter provider has business concerns with the public release of the detailed information contained in those files (the "Confidential Information").

Union did not object to Chatham-Kent's request for filing under confidentiality. The Board accepts Chatham-Kent's request for confidential filings. However, the Board wishes to remind the applicant that, as set out in the *Practice Direction on Confidential Filings* (the "Practice Direction"), the Board's view is that its proceedings should be open, transparent, and accessible. The approach that underlies the Practice Direction is that the placing of materials on the public record is the rule, and confidentiality is the exception. The Board reminds parties of the Board's right to require a distributor to provide smart metering information in accordance with section 2 (4) of Ontario Regulation 427/06 and of its discretion to determine whether documents should be

placed on the public record or not in accordance with section 5.1.10 of the Practice Direction.

While the Board will not compel public disclosure of the Confidential Information in this case, going forward utilities advancing similar claims for confidentiality will have a substantial burden of persuasion to satisfy the Board that granting confidentiality for the protection of particular interests affected outweighs the desirability of adhering to the principle that hearings and the evidence advanced in support of rate proposals be open to the public. It is also expected that parties will make every effort to limit the scope of their requests for confidentiality to an extent commensurate with the commercial sensitivity of the information at issue or with any legislative obligations of confidentiality or non-disclosure, and, in those cases where some degree of confidentiality is afforded, to prepare meaningful redacted documents or summaries so as to maximize the information that is available on the public record.

Retail Transmission Service Rates

On October 17, 2007, the Board issued its EB-2007-0759 Rate Order, setting new Uniform Transmission Rates for Ontario transmitters, effective November 1, 2007. The Board approved a decrease of 18% to the wholesale transmission network rate, a decrease of 28% to the wholesale transmission line connection rate, and an increase of 7% to the wholesale transformation connection rate. The combined change in the wholesale transmission line connection and transformation connection rates is a connection rate reduction of 5%.

On October 29, 2007, the Board issued a letter to all electricity distributors directing them to propose an adjustment to their retail transmission service (RTS) rates to reflect the new Uniform Transmission Rates for Ontario transmitters effective November 1, 2007. The objective of resetting the rates was to minimize the prospective balance in variance accounts 1584 and 1586 and also to mitigate intergenerational inequities.

Chatham-Kent proposed to reduce its RTS — Network Service Rate by 13.0% and RTS — Line and Transformation Connection Service Rate by 27.0% across all rate classes. These adjustments are based on a comparison of RTS revenue under existing rates and adjusted wholesale transmission costs. The Board finds that this approach is reasonable and therefore approves these adjustments. Chatham-Kent is required to include this change in its rate model (spreadsheet) to be filed with the Board.

Implementation

Chatham-Kent's new distribution rates are effective May 1, 2008. The Board directs that:

1. Chatham-Kent shall file with the Board, and shall provide Union a copy of, a Draft Rate Order attaching the proposed Tariff of Rates and Charges and the supporting rate model (spreadsheet) within seven (7) calendar days of the date of this Decision. The proposed Tariff of Rates and Charges shall be filed in a Word format. The adjusted rate model shall be filed in an Excel format.
2. Union shall file any comments on the Draft Rate Order with the Board and provide a copy to Chatham-Kent within fourteen (14) calendar days of the date of this Decision.
3. Chatham-Kent shall file responses and any revisions to the Draft Rate Order within seventeen (17) calendar days of the date of this Decision.
4. If Union wishes to seek access to Chatham-Kent's Confidential Information, Union's counsel shall execute a Declaration and Undertaking in the form attached as Appendix D to the Board's *Practice Direction on Confidential Filings*, file the executed Declaration and Undertaking with the Board Secretary and, having done so, shall provide a copy of the executed Declaration and Undertaking to Chatham-Kent.
5. Subject to Chatham-Kent's rights under the *Practice Direction on Confidential Filings*, Chatham-Kent shall, upon receipt of the copy of the executed Declaration and Undertaking, provide the Confidential Information to Union's counsel in a format which protects the Confidential Information during the act of transmittal.
6. All communications should be directed to the attention of the Board Secretary.

DATED at Toronto, March 17, 2008

Original signed by

Paul Vlahos
Presiding Member

Original signed by

Paul Sommerville
Member