Ontario Energy Board | Commission de l'énergie de l'Ontario

Ontario

EB-2007-0928

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 Erie Thames Powerlines Corporation for an order approving or fixing just and reasonable rates and other charges for the distribution of electricity to be effective May 1, 2008.

BEFORE: Paul Sommerville
Presiding Member

Ken Quesnelle
Member

DECISION AND ORDER

BACKGROUND

Erie Thames Powerlines Corporation ("Erie Thames" or the "Applicant" or the "Company") filed an application with the Ontario Energy Board on November 30, 2007 under section 78 of the *Ontario Energy Board Act, 1998*, seeking approval for changes to the rates that it charges for electricity distribution, to be effective May 1, 2008. Erie Thames is an electric distribution utility based in the Town of Aylmer, Ontario which carries on the business of distributing electricity within the communities of Aylmer, Beachville, Belmont, Burgessville, Embro, Ingersoll, Norwich, Otterville, Port Stanley, Tavistock and Thamesford. The utility has 17,000 customers.

Erie Thames 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. In an effort to assist distributors in preparing their applications, the Board issued the *Filing Requirements for Transmission and Distribution Applications* on November 14, 2006. Chapter 2 of that document outlines the filing requirements for cost of service rate applications, based on a forward test year.

On May 4, 2007, as part of the plan, the Board indicated that Erie Thames would be one of the electricity distributors to have its rates rebased in 2008. Accordingly, Erie Thames filed a cost of service application based on 2008 as the forward test year.

Erie Thames requested a distribution revenue requirement of $6,918,858 to be recovered in new rates effective May 1, 2008. In its application, Erie Thames claimed a revenue sufficiency for 2008 and calculated it to be $317,071 after tax. However, the new revenue request, introduced by way of an update to the application, would result in a rate increase estimated at 7.1% on the distribution component of the bill for a residential customer consuming 1,000 kWh per month. The reason for the increase is due, in part, to a shift in cost allocations among the rate classes.

The Board assigned the application file number EB-2007-0928 and issued a Notice of Application and Hearing dated December 21, 2007. The Board approved two interventions in the proceeding: one from Energy Probe Research Foundation ("Energy Probe") and the other from the Vulnerable Energy Consumers Coalition ("VECC"). Both were active in submitting interrogatories and arguments. Board staff also posed interrogatories and made submissions. Erie Thames' reply argument was filed on May 5, 2008.

The full record is available at the Board's offices. The Board has chosen to summarize the record to the extent necessary to provide context for its findings.

THE ISSUES

The following issues were raised in the submissions filed by Board staff, Energy Probe and VECC:

- Load Forecast
- Operating, Maintenance & Administrative Expenses
- Payments in Lieu of Taxes
- Capital Expenditures and Rate Base
- Cost of Capital
- Cost Allocation and Rate Design
- Deferral and Variance Accounts

LOAD FORECAST

Erie Thames' load forecast for weather-sensitive loads was developed by multiplying a consumption estimate and a customer number forecast. Erie Thames used the 2004 normalized average use per customer ("NAC") by customer class based on data provided by Hydro One Networks Inc. ("HONI").

Average Use

Board staff questioned the assumption that use per customer would remain unchanged from 2004 in that it takes no account of improved energy efficiency. Energy Probe raised the same point, but submitted that the Board should accept this assumption for the purpose of setting rates in 2008. Board staff also questioned the use of the kWh load methodology employed since it used only a single year (2004) of weather-normalized data. In reply, Erie Thames said that its forecast was based on weather normalization data generated by HONI and that it was the best data available.

Customer Numbers and kW Load

Erie Thames' average annual customer growth of 1.0% from 2006 to 2008 was virtually identical to the historical 2002 to 2006 growth. In reply to an Energy Probe interrogatory, Erie Thames provided its 2007 actual year end customer numbers. VECC submitted that the 2008 forecast should be upwardly adjusted to reflect the higher than forecasted 2007 customer numbers and the June 2008 start up for an Ethanol Plant based in Aylmer. Energy Probe submitted, for the same reasons as VECC, that the 2008 customer numbers and loads should be upwardly adjusted, and made specific suggestions for increases to three of the customer classes. Energy Probe also submitted that the distribution revenue should be increased for 2008 to reflect the Ethanol Plant startup. In its reply submission, Erie Thames stated that it will update its customer numbers to reflect Energy Probe's submission. Erie Thames stated that the Ethanol Plant was appropriately included in the forecast.

Board Findings

The Board is prepared to accept, for the purposes of this rebasing, Erie Thames' proposed load forecast for 2008. The Board notes Erie Thames' undertaking in its reply submission that it would update its customer numbers and would include the startup of the Ethanol Plant.

The Board's acceptance of the load forecast should not be construed as approval of the methodology employed by the Applicant in arriving at its load forecast. Erie Thames has used a methodology that relies upon a single year of weather normalized historic load to determine future load and did not dispute Boards staff's assertion that this approach can result in sub-optimal results. There was no attempt to explain why the data used was the best available or what the provision of multiple years of weather normalized data would entail. The record is not sufficient to make a finding that the methodology is the best chosen in this situation.

Similarly, the record has scant evidence of any forward-looking analysis. A forward test year application should include evidence that the Applicant has considered potential outcomes beyond that of the projection of its empirical knowledge. Evidence on the planned land development and the projected effects of local and provincial conservation and demand management initiatives, irrespective of the degree to which it alters the forecast, would demonstrate that the Applicant has considered key variables and would enhance the credibility of the forecast.

OPERATING, MAINTENANCE & ADMINISTRATIVE ("OM&A") EXPENSES

Erie Thames' Total Controllable Operating, Maintenance and Administrative expenses are summarized in the table below which is derived from Board staff's submission:

Erie Thames

Controllable Operating, Maintenance and Administrative Expenses

($)

	2006 Board Approved	2006 Actual	2007 Bridge Year	2008 Test Year
Operations	13,887	71,733	41,682	34,756
Maintenance	1,093,343	1,266,425	1,444,132	1,461,897
Billing and Collecting	867,185	963,228	1,054,982	1,073,487
Community Relations	33,218	36,709	28,879	28,879

Administrative and General Expenses	2,097,378	1,867,296	1,785,091	1,829,740
Total Controllable Expenses	**4,105,011**	**4,205,391**	**4,354,766**	**4,428,759**

The test year total controllable OM&A expenses (defined as Operations, Maintenance, Billing & Collection and Administration & General Expenses) forecast is $4.429 million, an increase of 5% from the 2006 actual spending.

OM&A General

In response to a Board staff interrogatory, Erie Thames updated its OM&A expenses for the 2007 Bridge and 2008 Test Years. The update incorporated increased costs for 2007 and 2008, which resulted in a shift from a 3% decrease in 2008 Controllable OM&A relative to 2006 contained in the original application, to the present 5% increase.

In its submission, Board staff noted that Erie Thames provided no explanation for the update. Energy Probe also noted that the OM&A forecast had been revised significantly during the course of the proceeding.
In its reply submission, Erie Thames did not provide any specific reasons for the increase but stated that the requested amount was reasonable and justified, given the rate of inflation, the fact that Erie Thames has experienced steady growth of about 1% over the past two years and other factors which were, it suggested, adequately discussed in the remainder of its submission.

The Board staff submission noted that the two significant components of the proposed increase are (1) the $195,472 (15.4%) increase in Maintenance and (2) the $110,259 (11.4%) increase in Billing and Collections costs.

In its reply submission, Erie Thames stated that it had changed its internal cost allocation method after 2006 to allocate costs based on work orders. This has resulted in a more accurate tracking of costs and expenses, but has also resulted in the shifting of certain costs from Administrative and General (“A&G”) to Maintenance and Billing and Collections. Erie Thames further stated that as a result of this re-allocation process, it has reduced A&G by a total of $321,308, with this amount being reallocated to Maintenance and Billing and Collections. However, Erie Thames submitted that the actual increases of $195,472 in Maintenance and $110,259 in Billing and Collection totals $305,731, which is less than the re-allocated amount from A&G, and which indicates that, on a per customer basis, these costs are decreasing.

VECC submitted that as a result of the changes in how Erie Thames allocates the costs incurred as between its parent company (Erie Thames Power Corporation or "ETPC") and the affiliate, it is difficult to assess spending trends at a detailed level. VECC noted that at a high level, the overall increases in OM&A appeared reasonable, but it had concerns about the escalation of some of the charges from ETPC to the utility since 2006. These concerns are discussed in the "Employee Costs" section of this Decision.

Regulatory Costs

Erie Thames stated in response to a Board staff interrogatory that total regulatory costs for 2008 recovery are $256,385 and include one-third of the costs for recovery for 2008. Board staff submitted that it understood that Erie Thames was proposing to include one-third or $85,462 of the $256,385 in its 2008 rates.

In its reply submission, Erie Thames said that it seeks to recover the entire $256,385 in its 2008 rates. The total costs of the 2008 application are stated as $210,000, which is broken down in the table below which was provided in response to an Energy Probe supplemental interrogatory:

Legal	$25,000
Consulting	$37,000
Operating Expense	$135,000
Advertising	$10,000
OEB Costs	$1,000
Intervenor Costs	$2,000
Total	**$210,000**

Erie Thames stated that one-third of this amount, or $70,000, is included in the proposed recovery of $256,385 for 2008. The remainder, $186,385, appears to be comprised of OEB assessed costs ($40,000), Legal costs ($67,000 approx.), consultant costs ($53,000 approx.) and other operating expenses ($27,000 approx.).

Employee Costs

Erie Thames is charged for executive services through its parent company, ETPC. Erie Thames stated that in 2006 it had 16 executive employees, generating total compensation costs of $640,433. For the 2008 test year, an increase of 6 executive employees from the 2006 actual level was anticipated, along with an overall increase in cost recovery to $810,988, or 26.6%, relative to the 2006 actual level. Erie Thames identified two main cost drivers of this increase: the addition of 4 independent directors to Erie Thames' Board of Directors, and the addition of 3 executives in 2007 within ETPC.

Increase in Erie Thames' Board of Directors

Citing what it considered to be the requirements set out by the Board in its *Affiliate Relationships Code for Electricity Distributors and Transmitters*, Erie Thames stated that it added 4 independent directors to its Board of Directors. This resulted in an increase of $35,512 or 51.5% from 2006 to the 2008 test year for Board of Directors costs.

Energy Probe raised the concern about ratepayers being charged for the costs of two sets of Boards of Directors. Energy Probe submitted that while ratepayers should bear the costs associated with the distribution utility's Board of Directors, it was not appropriate for them to also pay for a second set of directors for the parent company.

VECC questioned why an increase in Erie Thames' Board of Directors would result in increased costs charged by ETPC for its Board of Directors. VECC submitted that these additional costs should be removed from Erie Thames' 2008 revenue requirement.

In its reply submission, Erie Thames argued that although ETPC makes the actual payments to the Directors, such costs are on a "pass-through" basis. Erie Thames further argued that the costs incurred to comply with a regulatory requirement are reasonable and that ratepayers benefits from the improved level of governance provided by an independent Board of Directors.

Increase in ETPC Executives

In 2007, ETPC created three new executive positions: a General Counsel, a Communications Director and a Senior Vice President of Strategic Planning and Business Development. The total annual cost of these new positions is $197,563.

In an interrogatory response, Erie Thames argued that the costs associated with these 3 new positions have been offset by the reduction in outside services it paid for a corporate lawyer and finance personnel.

In its submission, Energy Probe argued that the decrease in outside services is only $102,000 and thus the costs have not been offset as there remains a net increase of $95,000 related to these positions. Energy Probe submitted that Erie Thames has not provided sufficient evidence to support the need to pay more for these positions through an affiliate than it paid for outside services.

VECC also argued that Erie Thames has not provided sufficient evidence to support the increase in charges from ETPC for executive services and noted that the new executive positions do not create an overall cost savings for the utility. In its reply submission, VECC submitted that approximately $25,000 should be excluded from Erie Thames's revenue requirement.

In reply, Erie Thames argued that the addition of these permanent executive positions ensures that institutional knowledge is maintained. Erie Thames further argued that when compared to the number of executive employees, aggregate costs are reducing quite significantly. In 2006, average costs per executive employee were $40,027. For the 2008 test year, this amount has decreased by 7.9% to an average cost of $36,863.

Board Findings

The Board considers the evidence provided in this application to be insufficient in some areas and not persuasive in others, and therefore will not establish rates that would allow for a recovery of the full revenue requirement argued for by Erie Thames. While the Board notes that OM&A costs have not demonstrated increases in the 2006 to 2007 period that are significantly out of line with inflation, the Board finds that Erie Thames has not provided any justification for certain key cost drivers. The Board disagrees with Erie Thames' treatment of certain corporate cost allocations and with some of the assertions made by Erie Thames pertaining to ratepayer benefits associated with those costs.

In March of 2007 the Board established and communicated to the electrical distribution sector that it would use financial attributes as one group of criteria among other criteria in considering the year in which individual electricity distributors would be rebased. One of the financial criteria specifically considered distributor's cost levels to identify those with high costs in relation to other distributors. Beginning in November 2006, the Board published on its website multi-year OM&A cost comparison data starting with 2002 to

2005 data. Board staff have provided two updates since then to incorporate an additional year of data for each of 2006 and 2007.

The Board notes that Erie Thames is a high cost distributor in terms of total OM&A per customer when measured against its peers. The Board does not draw any specific conclusions on the appropriateness of Erie Thames' costs based on its ranking. However, the Board is of the view that Erie Thames ought to have been driven by its ranking to provide a level of detail in the justification of its proposed costs which is commensurate with its relatively high costs per customer profile.

Erie Thames characterizes many of the costs that have been incurred and which were originally presented to substantiate its claimed revenue requirement in previous rate applications as "Board Approved". It is important to note that it is generally the case that the Board does not approve specific costs or spending. The Board sets rates that are just and reasonable based on a spending plan that underpins a revenue sufficiency or deficiency. The Board does not necessarily or typically either approve activities nor disallow activities when it sets rates. In this decision the Board has determined that certain identified costs cannot justifiably be considered in the calculation of Erie Thames' revenue requirement. This disallowance of costs is not a disallowance of the activity. It simply means that the costs associated with the activity are not to be borne by the ratepayer.

The paucity of Erie Thames' pre-filed evidence gave rise to two full rounds of interrogatory and response procedures. While these two procedures illuminated many salient issues there was still an element of discovery that carried over to the applicant's reply submission. Irrespective of the fact that parties had requested the provision of further information, information that comes to the Board for the first time in a reply submission when it can no longer be tested by the intervenors is of very limited value to the Board.

Erie Thames has provided details on the mechanics of a Master Service Agreement ("MSA") in support of the reasonableness of costs that are covered by that agreement. In particular, Erie Thames points to the feature of the agreement that lowers the unit costs per customer by 2% per annum as a mechanism that protects ratepayers from inflation and drives efficiency.

The Board is not persuaded that this feature of the MSA has gained the results that are being purported by Erie Thames. The record is clear that the MSA has the effect of having overall costs rise on a unitized basis in direct relation to increases in customers on a per customer basis. It is not clear to the Board how a negative impact of eliminating any economies of scale that are normally associated with increases in customer bases can be avoided with this feature in place. Additionally, there is no evidence on the record that the initial base costs of 1999 that established the starting point of the agreement were prudently incurred.

To reiterate the Board's observation and concern noted above, Erie Thames has not provided any evidence to substantiate the reasonableness of its relatively high O&M cost per customer. In the absence of such evidence the Board cannot accept Erie Thames' submission that the MSA is effectively driving efficiencies.

Erie Thames Director's Costs Increase

The Board notes that the director's cost increases of $35,512 result from the addition of four new independent directors to the Erie Thames Board of Directors. Erie Thames submitted that the addition of the independent directors was …"as a result of the Affiliate Relationships Code for Electricity Distributors and Transmitters (the "ARC") requirements imposed by the OEB on all distributors and their affiliates". Erie Thames argued that these costs are reasonable because they were incurred to comply with the express requirements of the regulator. ARC requires that one third of the Board of Directors of the distribution company must be independent; that is, not drawn from an affiliated entity.

The Board accepts the premise that costs incurred to comply with regulatory requirements would typically be seen to be reasonable. However in this case, the addition of four directors was not the only option available to achieve compliance with the ARC. The record indicates that the current Erie Thames Board is made up of eleven directors; the seven that existed prior to 2006, plus the four additional independent directors. The question that arises is; if a compliment of seven directors was deemed by the shareholder to be adequate to oversee the regulated operations of an LDC with roughly 14,000 customers, how is a compliment of eleven now justified? The requirement to have one third of the distribution company Board comprised of independent directors by 2006 has been known since 2001 when the ARC provision for municipal utilities was announced. The Board should have been re-configured between 2001 and 2006, through the replacement of non-independent directors with independent directors. Were this to have been done, the additional costs, sought in this application would have been avoided. In addition, a utility of this size does not require such a large Board.

Where it is the shareholder's interest that results in having the regulated entity's Board containing representatives of the various shareholding affiliated entities, the shareholders ought to bear the additional costs occasioned by that configuration. In this case there is no justification on the record for the size of the Board adopted by Erie Thames. Therefore the Board does not agree that the directors cost increases claimed have been justified and denies the inclusion of the extra $35,512 from the revenue requirement for 2008.

ETPC Director's Costs

In its responses to interrogatories from Energy Probe, Erie Thames disclosed that the corporate costs of its parent company ETPC were allocated based on revenues of the various affiliates. The projected 2008 allocation of ETPC's costs to Erie Thames is $104,438 and is included in Erie Thames' applied for revenue requirement.

Energy Probe argued that it is not appropriate for ratepayers to bear the costs of the parent company's Board of Directors in addition to the Board of Directors costs for Erie Thames. Erie Thames did not reply to this aspect of Energy Probe's argument.

The Board agrees with Energy Probe.

The costs of the parent company are shareholder costs to the account of its shareholders and are to be paid for with parent company revenues. In appropriate circumstances, the parent company can receive dividends from the distribution company funded out of its Return on Equity. To expense these costs out of the operating revenues of Erie Thames would be contrary to regulatory principle and inappropriate.

The Board therefore disallows the ETPC's Board of Directors cost of $104,438 from the applied for revenue requirement.

Increase in Executive Costs

The Board notes both Energy Probe's and VECC's concerns regarding the substantial increases in charges from its parent, ETPC. These increases are driven, to a large degree, by increases in executive services. There was an addition of three positions at the executive level in 2007 driving an approximate $200,000 increase. Erie Thames pointed out that there is an offsetting amount of savings due to the cessation of outsourcing for services now being provided by the executives. Energy Probe submitted that the reduction in outsourcing costs is $102,000, leaving a net increase of approximately $95,000. Energy Probe submitted that Erie Thames had failed to provide sufficient evidence to support the need to pay more for these positions through an affiliate than it had paid to others as outside services. In reply, Erie Thames argued that the addition of permanent executive staff provides ETPC and Erie Thames with more comprehensive in-house resources and also ensures that institutional knowledge is maintained within the ETPC family of companies.

There are two elements of the executive costs issue.

It is not clear from the record as to how the executive costs are to be allocated to Erie Thames. The evidence suggests that the amount allocated is derived through the application of two drivers. First, there appears to be a calculation of some actual time-based data. Additionally, the remainder is derived from some consideration of revenues and assets, which are being used as proxies for cost drivers. There is no evidence that provides a definitive ratio as between these two elements of the allocation arrived at.

The Board has a well established record of its expectations regarding corporate cost allocations. This subject matter was well canvassed in the Applicant's previous cost of service rate application. The Board does not consider the use of revenues or assets as appropriate proxies for cost allocation. In the Toronto Hydro 2006 rates decision EB-2005-0421 the Board made the following finding:

> 3.2.10 The Board does not accept THESL's argument that relative revenue generation is an acceptable proxy for attraction of costs. The Board shares the view of most intervenors that actual time based assessment should be utilised whenever possible. There is strong precedent for this approach in the Board's gas decisions. Allocator proxies should only be used as a last resort. Given the nature of the shared service arrangements, in that they are by nature under the same corporate umbrella, processes to track effort by time should be relatively easy to implement.
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> - Decision with Reasons EB-2005-0421, page 17

The Board considers that reasoning to be applicable in the instant case as well. The Board expects Erie Thames to modify its cost allocation methodology to capture actual cost attraction as opposed to the current method of cost allocations based on revenues or assets. The Board will not disallow costs based on the current allocation methodology but expects that the projected costs of the next cost of service rate application will be based on the modified methodology.

The second element of the executive costs issue relates to reasonableness of the costs. As is the case in many areas of this application the adequacy of the evidence does not match the materiality of the proposed cost. Because this is an affiliate transaction that represents an increase in spending brought on by a shift in the use of the services of the affiliate as opposed outsourcing, there is a need for a comprehensive cost to benefit analysis of the proposal. Erie Thames' reply that ETPC and Erie Thames will have more comprehensive in-house resources and that institutional knowledge will be maintained within the ETPC family of companies is insufficient support given the nature and magnitude of the expense. The Board's focus in setting rates lies with the regulated entity and the customers it serves. The Board is not persuaded that there is any concomitant ratepayer benefit associated with the maintenance of institutional knowledge within the ETPC family of companies. The Board agrees with Energy Probe that the Applicant has not provided adequate evidence to support these additional costs and will not allow the net difference of $95,000 to be included in the revenue requirement calculation.

PAYMENTS IN LIEU OF TAXES ("PILS")

In its reply submission, Erie Thames indicated that it will use the appropriate tax and depreciation rates in the revised calculation of base distribution rates for 2008.

Board Findings

The Board directs Erie Thames to incorporate all known income and capital tax changes into its PILs calculations for 2008. This approach, which has been followed in numerous other applications for 2008 rates, incorporates the most current tax levels which are substantially enacted.

In calculating the PILs provision, the Board directs Erie Thames to reflect in its Draft Rate Order the applicable income tax rate for the company based on the new maximum federal income tax rate (reduced to 19.5%, yielding a combined maximum federal and Ontario income tax rate for 2008 of 33.5%), the change in the Ontario capital tax exemption amount to $15 million from $12.5 million, the capital tax rate of 0.225%, and the new CCA class rates.

Interest expense additions and deductions should not be included in the PILs tax calculations, since this does not comply with the Board's method.

RATE BASE AND CAPITAL EXPENDITURES

Rate Base

Rate Base consists of Net Fixed Assets plus an allowance for cash working capital. Net Fixed Assets are determined as the average of the beginning and the end year values. Erie Thames proposed a rate base for the test year of $22,154,852 consisting of $16,557,596 in net fixed assets and $5,597,256 in cash working capital.

VECC and Energy Probe made submissions with respect to Erie Thames' rate base and net fixed assets. Both parties requested that Erie Thames provide clarification of the Net Fixed Assets calculation in its reply submission.

VECC submitted that it was unclear as to the 2008 rate base value which Erie Thames proposed and invited Erie Thames to clarify the values for Net Fixed Assets and Working Capital in its reply submission.

Energy Probe also noted that there was some confusion related to the calculation of the Net Fixed Assets figures and provided the calculation in its argument. In its submission, Energy Probe provided its own calculation based on the response to Board staff interrogatory No. 19c and stated the following Net Fixed Assets figures: $15,921,143 for 2006; $16,438,858 for 2007; $16,558,119 for 2008.
In its reply submission, Erie Thames accepted Energy Probe's calculation.

Working Capital Allowance

VECC noted that Erie Thames had used a cost of power of $57.04/MWh in calculating the Working Capital Allowance ("WCA") instead of the more current forecast. VECC also noted that, while Erie Thames updated the forecast for Transmission (Networks and Connection) costs, it did not reflect this in the determination of its rate base.

Energy Probe estimated that the working capital allowance component of rate base should be reduced by approximately $268,000, or 1.2% of the proposed rate base of $22,154,852. Energy Probe also submitted that the general methodology of calculating the WCA as 15% of the sum of Cost of Power plus controllable expenses is "overly generous", and submitted that the inflationary effect of this on rate base should be offset partially by customer deposits held by the utility.

Erie Thames disagreed with Energy Probe's proposal to reduce the WCA by customer deposits, on the basis that this approach was not appropriate for Erie Thames' situation, and there was no lead-lag study available to provide more specific values.

Board Findings

The working capital allowance proposed by the Applicant represents more than 25% of the total rate base forecast. This forecast has been calculated by the Applicant using the 15% factor applied to controllable expenses and power supply expenses. Of these two, the power supply expenses alone account for nearly 88% of the working capital allowance claim. Reductions in the OM&A expenses will have the effect of reducing the working capital allowance amount.

In addition, the Board notes that Erie Thames has used a $57 per megawatt hour forecast in calculating its cost of power component. The most recent forecast cost of power was set by the Board on October 15, 2008, at $60.30 per megawatt hour. It was previously set by the Board in April 2008, at $54.50 per megawatt hour. For the purposes of this application the Board will use the average of these two forecasts, which is $57.40 per megawatt hour. The working capital allowance shall therefore be recalculated to reflect a $57.40 per megawatt hour cost of power.

Another component of the power supply portion of the working capital allowance calculation relates to the costs incurred by the Company with respect to network and connection transmission services provided by HONI. In its Decision in October 2007, the Board reduced transmission rates by an average of 12%. As an embedded distributor, these reductions will be reflected in charges imposed by HONI arising from its current distribution rate application (EB-2007-0681).

While that application has not been decided at the time of writing this decision, the Board requires the Company to reflect HONI's proposal for its new distribution rates in its forecast. The Company is directed to capture in a variance account any differences between the applied-for rate, and the rate that is ultimately approved by the Board in HONI's distribution rates case.

In its submissions, Energy Probe argued that customer deposits should be applied so as to reduce the amount of working capital allowance. The Board does not agree that it is appropriate to follow this approach. In the Board's view, the customer deposits represent a discrete category of funds which ought not to be intermingled with the Company's working capital.

In accordance with other findings and directions from the Board elsewhere in this Decision, Erie Thames shall recalculate its working capital allowance to also reflect any changes in the approved operating expenses.

Capital Expenditures

The following table shows Erie Thames' capital expenditures by year, as documented, in part in the response to Board staff interrogatory #18.

Capital Expenditures by Year
($ millions)

Year	**2002**	**2003**	**2004**	**2005**	**2006**	**2007 Bridge**	**2008 Test**
Capital Expenditures	1.114	1.594	1.395	1.389	1.789	0.950	1.123

Capital expenditures have decreased significantly in 2007 and 2008 relative to 2006, and are also lower than the average annual capital expenditures of $1,373,029 over the period 2002 to 2005. In response to Board staff interrogatory #20, Erie Thames explained that the decrease in 2007 capital expenditure was due to timing for the collection of contributed capital from developers.

Board staff noted that expenditures appear to be comparable on a long-run year-over-year basis, and no parties opposed the proposed capital expenditures. Energy Probe said that the proposed amounts are reasonable. Erie Thames said that the proposed level is supported by its evidence and the historical levels of capital spending.

Board Findings

The Board finds that the capital expenditure budget proposed for 2008 appears to be in line with historic trends and approves it for inclusion in the calculation of 2008 rates. However, there are weaknesses in the evidence and the Board finds it necessary to deal with these weaknesses here.

Reporting of Net Expenditures

Erie Thames's response to Board staff's interrogatory that explained that the decrease in 2007 capital expenditures was due to the timing for the collection of contributed capital from developers, exposes a transparency issue that affects the discovery process. The smoothing of capital spending is desirable so as to avoid rate shock and it is also indicative of good long term planning.

Capital expenditure reporting that nets out capital contributions without any indication of either the nature of or the quantum of the contributions, causes the Board and intervenors to embark on a more searching and intense analysis and investigation of the financial reports in the application than would otherwise be required.

In the future the Board expects Erie Thames to anticipate the concerns and areas of interest of the Board and the intervenors and to provide its evidence in the most helpful manner possible.

Load Transfers

While the levels of spending associated with Erie Thames' load transfer projects do not represent a significant amount in the context of its application, some very basic information would have been helpful to the Board. In its reply submission, Erie Thames introduced information regarding its work with Hydro One and how the two entities were dealing with load transfers in a manner that was most beneficial to the customer. The Board would have been assisted if Erie Thames had supplied the comparative analysis that resulted in the decision as to which of the two respective service providers would be positioned as the physical distributor post transfer agreement.

Project Justification

The Board notes that Erie Thames' Fixed Asset and Acquisition Policy contains language at section 5.02 that indicates that a business case is required to justify asset purchases above $50,000 and that financial justification is not required for purchases required for health and safety reasons.

While the Board accepts that the need for health and safety related acquisitions are not necessarily established on a financial analysis basis, the Board does not consider that principle to apply to the replacement of Erie Thames asset base as a whole.

Erie Thames' application contains 3 capital projects in the materiality analysis section that cite health and safety concerns as justification for projects that are essentially life cycle replacement of assets projects. The applicant has not provided any reliability or financial reasoning in support of the projects. The Board expects asset life cycle replacement programs to be justified on a multi-faceted basis that includes reliability, costs and perhaps demonstrable safety concerns. The cataloguing of projects as being driven by safety concerns does not absolve the applicant of the need to supply sufficient supporting rationale for the projects.

Again, the Board accepts the proposed capital spending level in the revenue requirement calculation primarily on the basis that it appears to be in line with the established historic trend but this acceptance should not be construed as the Board accepting the supporting documentation as sufficient, per se.

Asset Condition and Asset Management

Erie Thames provided a flow diagram entitled “Erie Thames Asset Investment Strategic (AIS) Process” in response to Board staff interrogatory #25. Board staff stated that the process may have some aspects of an asset management plan, and may also be reflected in Erie Thames’ internal processes. However, Board staff observed that it was not clear if or how Erie Thames’ entire inventory of distribution assets is assessed on a regular basis.

VECC submitted that the information provided by Erie Thames did not constitute a comprehensive asset management plan. For example, it did not cover certain projects or assets; nor did it indicate the implications of asset condition for work requirements in the future. VECC submitted that Erie Thames should be directed to prepare and file a comprehensive asset condition assessment study by the end of 2008, so that any issues or concerns arising from the assessment can be addressed as part of an application for 2009 rates.

Erie Thames replied that “there may be a misunderstanding regarding Erie Thames’ asset management practices”, and provided clarification in its reply submission. Erie Thames stated that its asset review covers all major assets of its system.

Board Findings

The record in this area, like many others, expanded as the proceeding moved forward and was still expanding in Erie Thames’s reply argument. The Board commented earlier in this Decision on the usefulness of new information coming to light in reply argument.

The Board finds that the record is insufficient to make a determination on the effectiveness of Erie Thames’s processes related to asset management and condition assessment. The Board has no reason to believe that it is ineffective, but the objective of this proceeding is to have the Board arrive at definite conclusions; not merely to determine there is no evidence of ill effects to ratepayers.

The Asset Investment Strategy (AIS) Process flow chart provided by Erie Thames may be an adequate internal process management tool but it does not inform the outside observer of any of the decision point criteria that would be used by the process practitioner. Key determinative process points such as “Is need valid” and “Is value created or risk mitigated” only inform as to what is being decided, not how.

The Board will not order the production of a comprehensive plan as argued for by VECC, but does expect Erie Thames to materially improve on the manner in which it demonstrates how it manages its physical assets. The value Erie Thames places on the monitoring information it gathers and how that information translates into action must be shown to be taking place, with real examples involving real assets. It is insufficient to file as evidence abstract flow charts and blank form templates.

Service Reliability

Neither Energy Probe nor VECC made any submissions with regard to service reliability.

Board staff noted that:

- Reliability figures are on a per customer basis, and measures of reliability have degraded when measured on that basis.
- Erie Thames stated it currently has no internal targets for service reliability.
- Trees are a contributing factor to the lower reliability figures but are not an uncontrollable factor.

Erie Thames replied that, because its service area is comprised of a number of areas that have only a single supply from Hydro One, an outage will necessarily impact a greater number of customers, and therefore the inference drawn by the Board staff is not warranted. Erie Thames insisted that the SAIDI, CAIDI and SAIFI filings support their position that it has maintained a high level of service quality.

Erie Thames offered some evidence which might be considered as responding to the Board staff concern about degrading reliability. First, Erie Thames said that there were a number of feeder enhancement projects undertaken that increased the number of planned outages. Second, storm intensity was higher than typical in 2007. Finally, Erie Thames indicated that it identified a defective insulator that is now being replaced.

Erie Thames also noted that the actual number of outage events was down, year over year. The Company also noted that feeder enhancement projects should improve the reliability over the long-term, even though it had the immediate impact of increasing outages. The Company suggested that the 2007 reliability statistics are anomalous, and should not be seen to represent an enduring erosion of reliability.

It is not clear whether Erie Thames is addressing all outages or is distinguishing between forced and planned outages. Erie Thames asserted "that targets for reliability are for continuous improvement and to strive for excellence within our pier (sic) grouping". Erie Thames also submitted that it "continues to provide high quality service and will continue to monitor the reliability indicators to ensure the reliability of the service is maintained".

Erie Thames cautioned against "drawing too strong of conclusions (sic) regarding reliability upon a single year" because the greater intensity storms in 2007 "had the impact of creating more issues related to trees".

Board Findings

The Board accepts Erie Thames' submissions on its service reliability. The Board has committed to work with the electrical distribution sector toward the establishment of codified service reliability standards. One of the identified barriers to codifying service reliability standards at this time is the disparate recording methodologies that are in place across the sector. In an effort to prepare for the evolution to codified standards the Board encourages Erie Thames to review its recording processes to ensure the data is captured in sufficient granularity to allow cause and effect analysis. It is important that the codification of these standards results in distributors being accountable for just those areas within management's control to affect change.

COST OF CAPITAL

The Board's guidelines for the cost of capital are set out in its *Report of the Board on Cost of Capital and 2nd Generation Incentive Regulation for Ontario's Electricity Distributors* (the "Board Report"). The Board Report sets out the formulas and policy guidelines to be used to determine the return on equity ("ROE") and the deemed costs of long term and short term debt, and sets out the process by which these figures will be updated.

In its original application, Erie Thames used a deemed capital structure of 53.3% long-term debt and 46.7% equity. It initially used a forecasted long-term debt rate of 7.25%, a forecasted short-term debt rate of 4.77% and a Return on Equity ("ROE") of 8.68%.

Erie Thames acknowledged that the short-term debt rate and ROE would be updated in accordance with the methodologies documented in the Board Report based on January 2008 data from Consensus Forecasts and the Bank of Canada. The Board announced updated cost of capital parameters on March 7, 2008.

Energy Probe concurred with Erie Thames' proposed capital structure and noted that the ROE, as announced by the Board in the March 7, 2008 letter, should be 8.57%.

Erie Thames provided copies of the Shareholders' Agreement in response to Board staff No. 30. Board staff, Energy Probe and VECC all made submissions on Erie Thames' debt rate, and all submitted that the allowed debt rate for the municipal debt should be 6.10%, rather than the 7.25% as proposed by Erie Thames.

Board staff submitted that the updated deemed long-term debt rate should apply, based on the following paragraph from section 2.2.1 of the Board Report:

> **For all variable-rate debt and for all affiliate debt that is callable on demand the Board will use the current deemed long-term debt rate**. When setting distribution rates at rebasing these debt rates will be adjusted regardless of whether the applicant makes a request for the change. [Emphasis in original]

Board staff suggested that the municipal debt should be subject to this section on the basis that:

- The debt does not have a fixed rate for a finite term;
- The debt does not appear to be repaid according to a defined schedule; and
- The debt is convertible.

Board staff also noted that renegotiation of the debt rate is at the discretion of the Board of Directors, who represent the municipal shareholders. VECC and Energy Probe made similar comments in support of using the deemed rate of 6.10%.

In reply, Erie Thames opposed the submissions of Board staff and intervenors. Erie Thames argued that the requested long-term debt rate is consistent with the Board's past treatment in Erie Thames' rates applications since market opening. Erie Thames stated that the municipal debt is not affiliate debt since each municipal shareholder has a 1/7 voting share on ETPC's Board of Directors. Erie Thames stated that the debt has a fixed rate. In Erie Thames' view, the applicable paragraph in section 2.2.1 of the Board Report is:

> **The Board has determined that for embedded debt the rate approved in prior Board decisions shall be maintained for the life of each active instrument, unless a new rate is negotiated, in which case it will be treated as new debt**. [Emphasis in original]

In its reply submission, Erie Thames provided a table showing its proposed cost of capital. This is reproduced as follows:

Capital Component	**Capital Structure (%)**	**Rate Originally Requested**	**Rate Currently Requested**
Long-term Debt: Shareholder - $8,038,524	49.33%	7.25%	7.25%
Long-term Debt: Bank - $3,781,598		5.54%	5.54%
Short-term Debt	4.0%	4.77%	4.47%
Equity	46.67%	8.68%	8.57%
Weighted Average Cost of Capital			7.49%

<u>Board Findings</u>

At the outset, the Board wishes to express its concern with apparently inconsistent Interrogatory responses with respect to this issue. In its original application, Erie Thames proposed a 7.25% long-term debt rate, which was the subject of interrogatories posed by Board staff and intervenors. It appears that, in response to Energy Probe Interrogatory No. 19, Erie Thames revealed new third-party debt held by a bank at 5.54%. VECC picked this up in its submission, but Board staff and Energy Probe missed this change because Erie Thames' responses to other interrogatories on Cost of Capital referenced only the 7.25% debt. In fact, in response to Board staff No. 30 (c), Erie Thames stated that it currently had no third-party debt. Erie Thames provided a table in its reply submission (Table 1, page 6) which noted both the existing municipal debt and the "new" third-party debt.

This new third-party debt carries an interest rate of 5.54%, substantially lower than the shareholder debt, which is currently at 7.25%.

The fact that this material amendment surfaced through the discovery process and was not documented consistently has resulted in staff and intervenors being confused by what is Erie Thames' debt situation and what is being proposed for its 2008 rate-setting. Inconsistencies of this nature are unproductive in this process, and the utility must ensure that in future, materials filed with the Board, or as part of proceedings before it, are generously disclosive and, above all, accurate.

As to the appropriate rate to be applied to the debt held by the shareholder, the Board is convinced that the interest rate applying to this debt instrument should be 6.1%, consistent with the Board's deemed long term rate.

It is clear that this debt meets all of the criteria outlined in Section 2.2.1 of the Board Report. This section of the Report is designed to ensure that interest costs for variable rate debt is deemed at a rate that is reasonable, and not subject to strategic adjustments according to the circumstances of the parties, especially where the interest rate applied is high. Interest costs form part of the revenue requirement upon which rates are determined, and it is important that ratepayers are protected from debt arrangements which impose unreasonable costs being recovered in rates. Erie Thames' submission that the municipal debt is not affiliate debt since each municipal shareholder has a 1/7 voting share on ETPC's Board of Directors is not a determinative factor of this finding. The finding is based on what can be considered a reasonable rate irrespective of the legal relationship of the parties.

The shareholder debt instrument is subject to rate renegotiation as to the applicable rate at the instance of the debt holder, and has no fixed rate for a fixed term. In the Board's view, this qualifies this instrument as a variable rate loan, subject to the deeming provision of the Report.

The Board accepts the rate of 5.54% for the new third-party debt. The Board has determined a cost of long-term debt of 5.92% as the weighted average of the $8,038,524 shareholder debt at 6.10% and $3,781,598 third-party debt at 5.54%.

The table below sets out the Board's updated costs for the various components of the capital structure, which reflects the Board's recently published cost of capital parameters. Erie Thames' weighted average cost of capital for 2008 is 7.10%.

Erie Thames
Board-approved 2008 Capital Structure and Cost of Capital

Capital Component	% of Total Capital Structure	Cost (%)
Short-Term Debt	4.0	4.47%
Long-Term Debt	49.3	5.92%
Equity	46.7	8.57%
Preference Shares	-	
Total	**100.0**	**7.10%**

Smart Meters

Erie Thames is not one of the 13 distributors currently authorized by the Government to undertake smart meter activities and is not named in the combined smart meter proceeding, EB-2007-0063. Erie Thames does not intend to install smart meters until authorized to do so.
In response to an interrogatory from VECC, Erie Thames amended its Application to include a proposal to retain the existing approved smart meter rate adder of $0.26 per month per metered customer, and has stated that no costs associated with smart meters are included in its Application.

In its reply submission, Erie Thames stated that $30,000 in metering costs for 2008 is for replacing customers' meters with interval meters where the customer has had a load increase to a point that would necessitate reclassification and installation of an interval meter. Such meter changes are not part of a smart meter project. Erie Thames stated that it is replacing conventional meters with conventional meters.

No party opposed Erie Thames' proposal to continue with the existing smart meter rate adder.

Board Findings

The Board approves the continuation of the smart meter rate adder of $0.26 per month per metered customer.

COST ALLOCATION AND RATE DESIGN

The following issues are dealt with in this section:

- Low Voltage Costs
- Customer Classification
- Revenue to Cost Ratios
- Rate Design
- Line Losses
- Retail Transmission Rates

Low Voltage Costs ("LV Charges")

Erie Thames projected a cost of LV Charges from the host distributor HONI of $516,713, and a set of Low Voltage rate adders that are reproduced in Table 4 of Erie Thames' reply submission. Erie Thames confirmed that the adders were calculated in proportion to the Retail Transmission Revenues from each class, and are intended to be added to the volumetric rates.

Board staff submitted that the calculation had been made using the existing LV rates, and that a better projection of cost would be based on the Sub-Transmission rates in the HONI application (EB-2007-0681) that is before the Board at the present time. There were no other submissions. Erie Thames re-calculated the cost in its reply submission at Table 6, together with an explanation of lower and higher charges and certain charges that will be applied for the first time. The updated cost projection is $576,651.

Board Findings

The Board is satisfied that the re-calculation of this cost reflected in the Applicant's Reply Submission is appropriate, and directs the Applicant to recalculate the Low Voltage rate adders for inclusion in the volumetric rates accordingly.

Customer Classification

Erie Thames has requested approval for a new class for embedded distributors. This would replace the current practice which has been to bill the embedded distributor on General Service rates.

Board Findings

The Board approves the Applicant's proposal.

Revenue to Cost Ratios

Board staff submitted a table of Revenue to Cost ratios as found in Erie Thames' Informational Filing, and as proposed by Erie Thames in this application. For convenience, the table is augmented below with the Board's policy ranges in column 3.

Erie Thames

Revenue to Cost Ratios (%)

	Informational Filing **Col 1**	**Application** **Col 2**	**Policy Range** **Col 3**
Customer Class			
Residential	91.1	101.0	85 – 115
GS < 50 kW	144.3	101.0	80 – 120
GS 50 – 999 kW	117	101.0	80 – 180
GS 1000 – 2999 kW	147.5	101.0	80 – 180
GS 3000 – 4999 kW	190.0	101.0	80 – 180
Large Use > 5 MW	99.3	101.0	85 – 115
Street Light	14.4	70.0	70 – 120
Sentinel Light	55.7	101.0	70 – 120
USL	187.9	101.0	80 – 120
Embedded Distributor	5.0	101.0	

With one exception, Erie Thames proposed a revenue to cost ratio of 101% for all classes, including a new customer class to be called “Embedded Distributor”. The exception would be the Street Lighting class, for which the proposed revenue to cost ratio is 70%. Board staff noted that this proposal is a re-balancing of rates that implements the Board’s cost allocation policy to nearly the fullest extent.

Board staff noted that the total bill impact on Street Lighting is nearly 200%, reflecting the movement from 14.4% in the Informational Filing to the lower limit of the policy range of 70%. Energy Probe submitted that the application continues to include a large cross-subsidy to Street Lighting, and that the revenue to cost ratio should be increased to 100% during the period covered by this Decision. Specifically, Energy Probe submitted that the ratio should be raised to 85% in 2009 and 100% in 2010. Energy Probe noted that the ratios of the other classes would have a corresponding decrease.

Erie Thames disagreed with Energy Probe’s suggestion on two grounds: first, that the bill impact of moving to 100% is a dramatic change for the ratepayer; and secondly, that the adjustments in 2009 and 2010 are inconsistent with the IRM methodology. It proposed instead to implement a ratio of 100% in 2011.

VECC did not agree with the proposal to increase the ratio for all classes to 101%. VECC submitted that in other Decisions the Board has approved ratios that started from the percentage revenue distribution across the customer classes in the Informational Filing, whereas the Erie Thames application is not affected by the starting point. In the approach suggested by VECC, the re-balancing would involve primarily those classes with ratios above the policy range (GS< 50 kW, GS> 3000 kW, Unmetered Scattered Load) and those below the policy range (Street Lighting and Sentinel Lighting).

Board Findings

This aspect of the application has understandably been heavily influenced by the Board's report on cost allocation, *Application of Cost Allocation for Electricity Distributors*, Report of the Board, EB-2007-0667, dated November 30, 2007. The Board has adopted a practice in virtually all of the rebasing applications for 2008 rates where utilities have been obliged to move revenue-to-cost ratios to points within the ranges depicted above, wherever practicable, and closer to the range in circumstances where achieving the range would result in what is considered to be an unreasonable rate impact.

An important element in the Board Report on cost allocation was its express reservation about the quality of the data underpinning cost allocation work to date. The report frankly indicated that the Board did not consider all of the data underpinning the report to be so reliable as to justify the application of the report's findings directly into rate cases. For this reason, among others, the Board established the ranges depicted above and mandated the migration of revenue to cost ratios currently outside the ranges to points within the ranges. In short, the ranges reflect a margin of confidence with the data underpinning the report. No point within any of the ranges should be considered to be any more reliable than any other point within the range.

The Board notes that all of the Applicant’s proposed revenue to cost ratios fall within the range as provided in the Board report, in fact most are proposed at the 101% level. The Applicant’s Informational Filing, noting the existing ratios, showed a number of rate classes that were falling outside of the Policy Range. The Applicant is proposing a rate rebalancing to bring all classes to within the Board established ranges. Street lighting is proposed to be moved to the lower end of the Policy Range. The Board approves the Applicant’s proposal.

Rate Design

Board staff submitted that the Monthly Service Charges for all of the General Service classes and the Large Use class are above the ceiling amounts calculated in the cost allocation Informational Filing, but that in all cases the proposed charge is lower than the currently approved charge. Board staff submitted that the proposed charges are consistent with Board policy.

VECC noted that it had been unable to replicate the calculation of the Residential Monthly Service Charge, and requested that the Draft Rate Order include documentation of the calculation of the charge that will be found there.

Board Findings

As is noted above, the Applicant's proposal is consistent with Board policy. However, there are some abiding concerns that the methodology used to arrive at these values may not be as transparent or replicable as might be desired. Accordingly, the Board directs the Applicant to provide a detailed calculation of the monthly charges which reflects the Board findings in this case, including how the Monthly Service Charge incorporates the Smart Meter adder, and how the volumetric rates incorporate the Low Voltage adder. This detailed calculation should be provided coincident with the Applicant's Draft Rate Order.

Line Losses

Erie Thames is a partially embedded distributor, served by host distributor HONI. In its original application, Erie Thames proposed a 2008 Total Loss Factor (TLF) of 1.0436 and an underlying Distribution Loss Factor (DLF) of 1.0389 based on the average of the 5-year period from 2002 to 2006. In response to Board staff Interrogatory No. 44, Erie Thames revised its 2008 TLF to 1.0358 owing to an error in the compilation of data related to the actual loss factors for the years in question. Following a series of interrogatories and submissions, Erie Thames calculated that the 5-year average value of 1.0355 is the proposed DLF exclusive of losses in the HONI distribution system for the embedded portion of Erie Thames' supply. The Applicant further clarified that the data provided on wholesale kWh supplied by the IESO takes into account the losses in the HONI system. The five year average of the loss factor calculated in this way is 1.0695. Erie Thames' 2007 approved TLF is 1.0427.

VECC submitted that there has been a general downward trend in Erie Thames' historic loss factors and suggested that the 2008 DLF should be calculated using the most recent 3-year period for which data is available rather than the 5-year period.

Board Findings

The Board does not accept Erie Thames' subtraction of the entire HONI distribution system loss of 3.4% to obtain the proposed composite DLF of 1.0355 because Erie Thames is only partially, and not completely, embedded within the HONI distribution system. In the absence of more reliable data, the Board will approve a continuation of the currently approved TLF of 1.0427.

Retail Transmission Rates

Erie Thames is an embedded distributor, served by host distributor HONI. Erie Thames originally proposed a decrease for each rate class of approximately 18% to 19% in its Retail Transmission Rate – Network Service (RTR-N), and of approximately 5% to 6% in its Retail Transmission Rate – Line and Transformation Connection Service (RTR-C).

In response to VECC Interrogatory No. 24, Erie Thames demonstrated that it lowered the RTR-N and RTR-C by the same percentage as the approved reduction for 2008 in wholesale transmission rates which was 18% for the wholesale transmission network rate and 5% for the combined wholesale transmission line connection and transformation connection rates. As Erie Thames is partially embedded within HONI, its wholesale cost of transmission service is determined by a composite of both (1) the approved 2008 wholesale transmission rates, and (2) HONI's proposed rates for retail transmission service that apply to embedded distributors. HONI's proposal calls for a reduction in the latter of 20% in the network rate and 10% in the combined line connection and transformation connection rates. Erie Thames' calculation of its proposed RTR-N and RTR-C did not consider the difference between the wholesale rate decrease and HONI's proposed retail rate decrease. VECC submitted that the approach used by Erie Thames is reasonable.

Board Findings

The Board recognizes that lowering of the RTR-N and RTR-C by a composite of the reduction in the (1) the approved 2008 wholesale transmission rates, and (2) HONI's proposed rates for retail transmission service that apply to embedded distributors would result in greater accuracy. Good ratemaking suggests that to the extent possible and practical, rates and charges at a point in time should reflect the most current information so that any differences captured in variance accounts would be minimized. In this case, the loss of accuracy is relatively minor. Therefore in the interests of practicality, the Board finds that Erie Thames' proposal is acceptable.

DEFERRAL AND VARIANCE ACCOUNTS

The following table shows the deferral and variance account balances Erie Thames was seeking to recover in its original application. Erie Thames had originally sought to recover the balances over a two year time horizon.

Erie Thames
Deferral and Variance Accounts Proposed for Disposition
(balances forecast as at April 30, 2008)

ACCOUNT #	ACCOUNT NAME	BALANCE REQUESTED FOR DISPOSITION
1550	LV Variance	$370,764
1580	RSVA, Wholesale Market Service Charges	($132,988)
1582	RSVA, One Time	$55,533
1584	RSVA, Retail Transmission Network Charges	($97,359)
1586	RSVA, Retail Transmission Connection Charges	($242,231)
1588	RSVA, Power	$503,984
TOTAL		**$457,702**

In its reply submission at paragraph 85, Erie Thames withdrew its disposition request for all of the accounts listed above.

Board Findings

With one exception, the Board accepts Erie Thames' proposal to withdraw the disposition request of the above listed accounts. In the interests of disposing of balances in a timely manner, the Board directs that account 1550, the LV Variance account, be cleared to ratepayers via a rate rider designed with an expiry date of April 30, 2009.

IMPLEMENTATION

The Board has made findings in this Decision which change the revenue deficiency and the deferral and variance account balances for disposition, and therefore the proposed 2008 distribution rates. These are to be reflected in a Draft Rate Order prepared by Erie Thames. This Draft Rate Order is to be developed assuming an effective date of May 1, 2008. The Board will order the new rates to be implemented once it issues its final Rate Order. The Board expects the implementation date to be December 1, 2008.

The Board issued an Interim Rate Order on April 29, 2008 declaring the existing approved rates interim as of May 1, 2008. The current interim rates will remain in effect until the Board issues a final Rate Order.

The Board notes that Erie Thames has calculated a revenue sufficiency for 2008. The Board would like to ensure that ratepayers have the benefit of this sufficiency and will therefore order that the sufficiency, for the period May 1, 2008 to the implementation date, expected to be December 1, 2008, be refunded to ratepayers by means of a rate rider calculated on a volumetric basis. The rate rider shall be designed with an expiry date of April 30, 2009.

The Draft Rate Order submitted by the applicant will reflect the following: a) the Deferred Revenue Recovery rate rider from the previous Board decision EB-2007-0016 dated July 12, 2007; b) a rate rider respecting LV charges; and c) a rate rider respecting the revenue sufficiency for 2008. While these rate riders can be combined for presentation on the bill, the applicant will provide detailed calculations for each. These rate riders will terminate on April 30, 2009.

The Board will accept Erie Thames' suggestion that the cost allocation and rate design changes take effect on a going forward basis only. These changes will therefore be implemented and made effective coincident with the final Rate Order, on December 1, 2008.

In filing its Draft Rate Order, the Board expects Erie Thames to file detailed supporting material, including all relevant calculations showing the impact of this Decision on its proposed revenue requirement, the allocation of the approved revenue requirement to the rate classes, and the determination of the final rates. Erie Thames should also show detailed calculations of the revised retail transmission rates and all rate riders reflecting this Decision. The Draft Rate Order shall also include customer rate impacts.

A Rate Order will be issued after the processes set out below are completed.

1. The Company shall file with the Board, and shall also forward to Energy Probe and VECC, a Draft Rate Order attaching a proposed Tariff of Rates and Charges reflecting the Board's findings in this Decision, within 14 days of the date of this Decision.

2. Energy Probe and VECC may file with the Board and forward to the Company responses to the Company's Draft Rate Order within 20 days of the date of this Decision.

3. The Company shall file with the Board and forward to Energy Probe and VECC responses to any comments on its Draft Rate Order within 26 days of the date of this Decision.

A cost awards decision will be issued after the steps set out below are completed.

4. Energy Probe and VECC shall file with the Board and forward to the Company their respective cost claims within 26 days from the date of this Decision.

5. The Company may file with the Board and forward to Energy Probe and VECC any objections to the claimed costs within 42 days from the date of this Decision.

6. Energy Probe and VECC may file with the Board and forward to the Company any responses to any objections for cost claims within 49 days of the date of this Decision.

The Company shall pay the Board's costs of, and incidental to, this proceeding upon receipt of the Board's invoice.

DATED at Toronto, October 27, 2008
ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary