



EB-2009-0056

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 Espanola
Regional Hydro Distribution Corporation for an order or
orders approving or fixing just and reasonable distribution
rates and other charges, to be effective May 1, 2009.

BEFORE: Paul Vlahos
Presiding Member

Ken Quesnelle
Member

DECISION
July 31, 2009

Background

Espanola Regional Hydro Distribution Corporation (“Espanola”) filed a cost of service application for its 2008 rates (EB-2007-0901) on November 6, 2007. In that application, Espanola indicated that there was \$457,257 of loss carry-forwards available at December 31, 2006. Espanola considered this amount to be adequate to offset Payments in Lieu of Taxes (PILs) for the 2007 and 2008 rate years and therefore did not include any amount of PILs in determining its 2008 revenue requirement. A Board decision was issued on June 3, 2008 and the new rates, which reflected to amount for PILs, became effective July 1, 2008.

On November 11, 2008, Espanola filed an IRM based rate application (EB-2008-0173) for the 2009 rate year. As part of that application, Espanola requested that its rates, to be effective May 1, 2009, include amounts for PILs as it had discovered that the amount of the loss carry-forward available at December 31, 2006 was in fact only \$115,272 and not \$457,257 as it had originally reported. The application had noted that the \$115,272 was applied to 2007 and therefore there was no remaining loss carry-forward amount available for 2008. On November 25, 2008 the Board decided that it would not accept this element of the application as it was outside the scope of the IRM mechanistic process. The IRM decision on the IRM portion of the application was issued on March 13, 2009 and the new rates became effective May 1, 2009. The new rates, which are the current rates, did not reflect any amount for PILs.

Espanola made the present application (EB-2009-0056) on February 18, 2008 in which it requested that a PILs amount of \$29,101 be reflected in rates. Espanola estimated that the impact of the application would be an increase of about \$0.53 on the monthly bill of a typical residential customer.

The Board issued a Notice of Written Hearing and Procedural Order #1 on March 16, 2009. The parties identified in the EB-2008-0173 proceeding were deemed to be parties in this proceeding. The Board proceeded by way of written hearing. Other than Board staff, no parties took an active role in the proceeding.

On March 30, 2009 Board staff filed interrogatories. On April 1, 2009 Espanola requested an extension to responding to the interrogatories (due on April 6, 2009) to April 24, 2009. Espanola advised that it had received a communication on March 31, 2009 from the Ministry of Finance indicating that a decision on Espanola’s Notice of

Objection to a reassessment of 2001, 2002 and 2003 taxable income filed on February 6, 2006, was expected to be issued in “approximately 2 weeks” and that the decision from the Ministry might impact the amount Espanola was seeking to be included in rates.

On April 21, 2009 Espanola advised the Board that it the Ministry’s decision would be further delayed by “at least 3 weeks”. Espanola requested a further extension in responding to Board staff’s interrogatories and that the Board declare Espanola’s rates interim as of May 1, 2009. On April 23, 2009 the Board accepted the reasons for the delay and declared the rates interim as of May 1, 2009. In declaring Espanola’s rates interim as of that effective date the Board noted that this should not be construed as predictive of the final determination of this application with regards to the effective date. On June 29, 2009 Espanola filed responses to Board staff’s interrogatories. As part of that filing, Espanola explained that, while no decision had been made by the Ministry, subsequent testing by its external auditors concluded that even with a favourable decision from the Ministry Espanola would still have used up all available loss carry-forwards and would be required to remit PILs post 2008 and therefore the inclusion of a PILs allowance in 2009 rates would be required.

In its submission, Board staff noted that it has no concerns with the requested PILs amount of \$29,101 or the effective date of May 1, 2009. Board Staff submitted that, if the Board accepts the PILs amount and the May 1, 2009 effective date, the implementation date for the rate rider should be September 1, 2009 and be in effect until April 30, 2010. Board staff submitted that, because of the relatively small amount involved, the amount should be allocated to the rate classes in proportion to the distribution revenues and the rate riders be applied on a volumetric basis. Board Staff further submitted that the \$29,101 allowance for PILs be included in the 2010 base rates. In its reply submission, Espanola agreed with Board staff.

Board Findings

The Board finds the request to include in 2009 rates the \$29,101 proposed amount for PILs reasonable. The Board also finds that May 1, 2009 is a reasonable effective date in the circumstances.

The Board does not accept Board staff’s suggested method of implementing the adjustment to rates. The Board prefers that the \$29,101 amount be reflected in base

rates now on an annualized basis beginning September 1, 2009, and it so directs. The foregone revenue from May 1, 2009 to August 31, 2009 (estimated to be about \$10,000) shall be recorded in deferral account 1592 to be disposed of at a later time.

Espanola shall file with the Board for review and approval the rate schedules that will reflect the Board's finding as soon as possible so that the new rates can be implemented September 1, 2009.

Espanola shall pay any Board costs incidental to this proceeding.

DATED at Toronto, July 31, 2009

ONTARIO ENERGY BOARD

Original Signed By

Paul Vlahos
Presiding Member

Original Signed By

Ken Quesnelle
Member