RP-2005-0013
EB-2005-0071

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 **PUC Distribution Inc.** for an order or orders approving or fixing just and reasonable rates.

BEFORE: Gordon Kaiser
Vice Chair and Presiding Member

Paul Vlahos
Member

Pamela Nowina
Member

DECISION AND ORDER

Background and Application

In November 2003 the Ontario government announced that it would permit local distribution companies to apply to the Board for the next installment of their allowable return on equity beginning March 1, 2005. The Government also indicated that the Board's approval would be conditional on a financial commitment to reinvest in conservation and demand management initiatives, an amount equal to one year's incremental returns.

Also in November 2003, the Government announced, in conjunction with the introduction of Bill 4, the *Ontario Energy Board Amendment Act, (Electricity Pricing), 2003*, that electricity distributors could start recovering Regulatory Assets in their rates, beginning March 1, 2004, over a four year period.

In February and March, 2004, the Board approved the applications of distributors to recover 25% of their December 31, 2002 Regulatory Asset balances (or additional amounts for rate stability) in their distribution rates on an interim basis effective March 1, 2004 and implemented on April 1, 2004.

On December 20, 2004 the Board issued filing guidelines to all electricity distribution utilities for the April 1, 2005 distribution rate adjustments. The guidelines allowed the applicants to recover three types of costs. These costs concern (i) the rate recovery of the third tranche of the allowable return on equity (Market Adjusted Revenue Requirement or “MARR”), (ii) the 2005 proxy allowance for payments in lieu of taxes (“PILs”) and (iii) a second installment of the recovery of Regulatory Assets.

A generic Notice of the proceeding was published on January 25, 2005 in major newspapers in the province, which provided a 14 day period for submissions from interested parties. On February 4, 2005, the Board issued Procedural Order No. 1, providing for an extension for submissions until February 16, 2005 and also providing for reply submissions from applicants and other parties.

The Applicant filed an application for adjustments to their rates for the following amounts:

MARR: $ 886,854
2005 PILs Proxy: $ 123,292
Regulatory Assets Second Tranche: $ 1,242,073

The Applicant also applied for recovery of amounts and/or items outside of the guidelines. Specifically, the Applicant requested:

- A 2005 PILs proxy amount of $123,292 which is based on the Capital Tax portion of PILs, instead of the total amount of $1,969,693, in anticipation of no taxable income in 2005 as a result of high interest expense.

- The use of December 31, 2004 balances (instead of December 31, 2003) for its Regulatory Asset accounts due to a large increase in its power cost variance account.

Submissions

The Board received one submission which addressed the 2005 rate setting process in general. This submission was made by School Energy Coalition (SEC). SEC objected to the guideline which caused the recovery of the 2005 PILs proxy to be reflected only on the variable charge. SEC was also concerned that monthly service charges and overall distribution charges varied significantly between utilities across the province. SEC also raised concerns regarding the consistency of, and access to, information on the applications as filed by the utilities.

Reply submissions to SEC's general submissions were received from the Coalition of Large Distributors, the Electricity Distributors Association, Hydro One Networks, and the LDC Coalition (a group of 7 distributors). These parties generally argued against the recommendations put forward by SEC, by and large indicating that the Board's existing processes for 2006 and 2007 have been planned to address these issues going forward and that these issues should not be added to the 2005 rates adjustment process.

SEC also made a specific submission in regards of the Applicant's request to use December 31, 2004 balances for its Regulatory Asset accounts in order to recover the significant increase in its power cost variance. Specifically, it stated that:

- The utility notes that some portion of the power cost variance may be paid back to the utility after an arbitration with Great Lakes Power. Waiting until that amount is determined is the prudent course, since the rate impact is potentially significant.

- This is a major change in the Regulatory Assets balances of the utility. The appropriate process to deal with that is in Phase 2 of the Regulatory Assets proceeding, when it can be reviewed properly by the Board. Therefore, this request for a non-standard adjustment is premature.

In response to SEC, the Applicant stated that:

- The issue with Great Lakes Power has been arbitrated and the parties are awaiting a decision. The amount of power which is subject of the arbitration represents less than 5% of the power distributed by PUC Distribution Inc.

- The December 31, 2004 Regulatory Asset balance of $3.7 million represents approximately 36% of the utility's total annual distribution revenue as a result of a major addition from the power cost variance account. The inclusion of a portion of the 2004 power cost variance in rates commencing 2005 would spread the impact over three years rather than two.

The full record of the proceeding is available for review at the Board's offices.

Board Findings

The Board first addresses the general submission of SEC. While SEC raises important issues regarding electricity distribution rates, the Board has put in place a process which will address most of the issues raised by SEC on a comprehensive basis with coordinated cost of service, cost allocation and cost of capital studies for all distributors in 2006, 2007 and 2008. The Board does agree that unless there are compelling reasons to diverge from the Board's original filing guidelines for the 2005 distribution rate adjustment process, distributors should follow the guidelines in their applications.

The Board finds PUC Distribution Inc.'s deviation from the guidelines of using December 31, 2004 balances for its Regulatory Asset balances is justifiable due to the unique nature of the utility's power contract with Great Lakes Power and the significance of the balance of the power cost variance amount. The Board also notes that the Applicant applied only for a portion of the 2005 PILs proxy based on the Capital Tax amount instead of the total PILs amount, mitigating the impact of the power cost variance. Therefore, the Board finds PUC Distribution Inc.'s request to use December 31, 2004 balances for its Regulatory Asset balances reasonable.

The Board finds that, otherwise, the application conforms with earlier decisions of the Board (including approval for the Applicant's Conservation and Demand Management plan), directives and guidelines.

The Board will issue a separate decision on cost awards.

THE BOARD ORDERS THAT:

1) The rate schedule attached as Appendix “A” is approved effective March 1, 2005, to be implemented on April 1, 2005. All other rates currently in effect that are not shown on the attached schedule remain in force. If the Applicant’s billing system is not capable of prorating to accommodate the April 1, 2005 implementation date, the new rates shall be implemented with the first billing cycle for electricity consumed or estimated to have been consumed after April 1, 2005.

2) The Applicant shall notify its customers of the rate changes, no later than with the first bill reflecting the new rates and include the brochure provided by the Board.

DATED at Toronto, March 28, 2005

ONTARIO ENERGY BOARD

Original signed by

Peter H. O’Dell
Assistant Board Secretary

Appendix “A”

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March 28, 2005

ONTARIO ENERGY BOARD