



EB-2014-0162

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 Milton Hydro Distribution Inc. for an order, approving the recovery of certain amounts related to the restoration of electricity service in the Town of Milton due to an ice storm in December 2013, to be effective November 1, 2014 for 18 months.

BEFORE: Christine Long
Presiding Member

Allison Duff
Member

DECISION AND ORDER

October 16, 2014

Milton Hydro Distribution Inc. (“Milton Hydro”) filed an application with the Ontario Energy Board (the “Board”) on April 16, 2014 under section 78 of the *Ontario Energy Board Act, 1998, S.O. 1998, c. 15, (Schedule B)*, seeking approval for the recovery of certain amounts related to the restoration of electricity service in the Town of Milton due to an ice storm in December 2013.

The Energy Probe Research Foundation (“Energy Probe”) and the Vulnerable Energy Consumers Coalition (“VECC”) applied for and were granted intervenor status and cost eligibility. The hearing process included interrogatories and written submissions.

While the Board has considered the entire record in this proceeding, it has made reference only to the evidence necessary to provide context to its findings. The following issues are dealt with in this decision:

- Materiality;
- Prudence;
- Causation; and
- Cost Recovery.

Background

On December 21st and 22nd an ice storm swept across Southern and Eastern Ontario. Falling trees and power lines resulted in extensive damage to electricity distribution systems across the Province. Approximately 15,000 Milton Hydro customers, almost 50% of its customer base, were without power at the height of the ice storm. To aid in restoring power, Milton Hydro obtained the assistance of ten external contractors and eight electricity distributors. Power was restored to most customers, except those with privately owned lines, by December 28, 2013.

On February 10, 2014 Milton Hydro notified the Board of its intention to file a “Z-factor” claim. A Z-factor claim is an option available to an electricity distributor to seek the recovery of costs arising from unforeseen events outside of its control. If a claim is approved, the distributor can establish a new, incremental rate, without having to wait until its next cost of service proceeding.

Milton Hydro requested the recovery of \$946,967 for Operations Maintenance & Administration (“OM&A) costs incurred as a result of the ice storm. Milton Hydro did not seek the recovery of any capital costs, as the amounts were immaterial. Milton Hydro proposed recovery through a fixed rate rider, charged to all metered rate classes. The rate rider would be charged for 18 months beginning November 1, 2014 and ending April 30, 2016, to coincide with its next cost-of-service rate application.

Z-factor claims must satisfy three eligibility criteria, in accordance with the *Board’s Report on 3rd Generation Incentive Regulation for Ontario’s Electricity Distributors*¹ dated July 14, 2008:

- Materiality – The amounts must exceed the Board-defined materiality threshold and have a significant influence on the operation of the distributor, otherwise they should be expensed in the normal course and addressed through organizational productivity improvements.

¹ http://www.ontarioenergyboard.ca/oeb/ Documents/EB-2007-0673/Report_of_the_Board_3rd_Generation_20080715.pdf

- Prudence – The amounts must have been prudently incurred. This means that the distributor's decision to incur the amounts must represent the most cost-effective option (not necessarily least initial cost) for ratepayers.
- Causation – Amounts should be directly related to the Z-factor event. The amount must be clearly outside of the base upon which rates were derived.

Materiality

Milton Hydro had an approved revenue requirement of \$13,005,180 from its 2011 cost-of-service decision (EB-2010-0137). The Board-defined materiality threshold for a Z-factor claim is 0.5% of distribution revenue requirements greater than \$10 million and less than or equal to \$200 million. Therefore, Milton Hydro's materiality threshold is \$65,025.

No party took issue with the fact that the Z-factor claim of \$946,967 exceeded the materiality threshold.

Board Findings

The Board finds that the materiality test has been met.

Prudence

Milton Hydro incurred incremental OM&A costs when it retained crews from ten external contractors and eight electricity distributors to help with the restoration effort. Service was restored to 14,000 customers within three days and service was restored to most other customers within six days.

Board staff did not take issue with the associated costs, yet noted that some invoices lacked cost verification. Given the circumstances, Board staff submitted that Milton Hydro acted in a prudent, cost efficient way, given its priority was to restore power quickly and safely. Energy Probe and VECC submitted that the claim amounts were prudently incurred.

Board Findings

The Board finds that Milton Hydro prudently incurred costs, using its affiliations with external distributor organizations and enlisting the services of outside contractors in order to restore service to its customers.

Causation

Milton Hydro's total claim of \$946,967 was comprised of the following costs:

Table 1 – Claimed Restoration Costs	
Overtime for Milton Hydro unionized employees and its hourly vehicle costs	\$80,360
Electricity Distributors	\$440,684
External Contractors	\$374,761
Accommodation and Meals	\$22,854
Fuel – outside distributors' vehicles	\$6,307
Material	\$9,277
Miscellaneous	\$1,265
Projected carrying charges	\$11,460
Z-Factor Amount Requested for Recovery	\$946,967

Milton Hydro had a budget for "Emergency Distribution System Problems" and provided a comparison of budget and actual costs from 2008 to 2013:

Table 2: Emergency Distribution System Problems – Budget versus Actual

	2008	2009	2010	2011	2012	2013
Budget	\$200,900	\$195,775	\$269,120	\$269,120	\$88,290	\$87,600
Actual	\$251,158	\$325,283	\$245,371	\$186,963	\$96,525	\$134,805

Milton Hydro submitted that its 2013 budget had been spent when the ice storm occurred in December. Its actual expenses of \$134,805 excluded any ice storm costs. Milton Hydro explained that it decreased its 2012 and 2013 budget significantly after it changed its cost allocation methodology and stopped allocating cost burdens, such as corporate overhead costs, to overtime labour.

Board staff submitted that Milton Hydro has sufficiently demonstrated that the Z-factor claim costs were directly related to the ice storm and outside of the base upon which Milton Hydro's 2013 rates were set.

Energy Probe submitted that the 2011 budget for emergency response was built into Milton Hydro's base rates and Milton Hydro had not provided sufficient evidence to determine whether the budget change was appropriate or where the costs had been re-allocated.

Energy Probe submitted that the difference between the 2011 budget of \$269,120 and the 2013 actual of \$134,805 should be considered excess and used to reduce the Z-factor claim. As a result, the Board should reduce the \$946,967 claim to \$812,652.

VECC submitted that Milton Hydro's base rates include an allowance for storm costs that must be accounted for. The 2011 budget of \$269,120 for emergency problems included storms and the budget was included in base rates. On that basis, VECC submitted the Z-factor claim must be adjusted to account for the \$269,120 in base rates less the amount spent in 2013. Accordingly, VECC submitted that the amount eligible for Z-factor recovery should be reduced by \$134,315 to \$812,652.

In its reply submission, Milton Hydro reiterated that the costs removed from its emergency budget continue to be incurred and continue to be included in base rates. The only change was the allocation of those costs. Milton Hydro submitted that Energy Probe and VECC inaccurately interpreted the reduction in the Emergency Distribution Systems Problems budget as a cost savings to Milton Hydro.

Board staff also raised the issue of Milton Hydro's regulatory return on equity in 2013 which was 103 basis points higher than the Board approved return. Board staff indicated that a distributor earning a higher return should be able to fund emergency repairs to a certain extent. However, Board staff did not propose a reduction to the Z-factor claim as Milton Hydro had not repeatedly or continuously exceeded the Board-approved return on equity.

In reply, Milton Hydro submitted that its level of earnings should not be used to offset its Z-factor claim, particularly given its over-earning had not been habitual, and given it had not earned the Board-approved return since 2006.

Board Findings

The Board finds that the causation criterion has been met. The costs included in the Z-factor claim were directly related to the ice storm event and the costs were audited as part of Milton Hydro's 2013 year-end Financial Statements. The Board accepts \$946,967 as the total amount incurred related to the ice storm.

The Board will not reduce Milton Hydro's Z factor claim based on its 2011 budget for Emergency Distribution System Problems. To satisfy the causation criterion "the amount must be clearly outside of the base upon which rates were derived". The Board finds that the costs incurred to restore service after the ice storm were clearly outside of the type and scope of emergency system problems funded through rates. The Board accepts Milton

Hydro's evidence that its 2013 budget for Emergency System Problems had been spent when the December 21st ice storm occurred, and it did not have excess funds available for ice storm expenses.

In addition, Milton Hydro selected the Price Cap Incentive Rate-Setting ("Price Cap IR") option to adjust its base rates in 2012 and 2013. During a Price Cap IR period, a utility is incented to drive efficiencies through changes to its operations and budgets. A utility may change individual line items within its budget and Board approval is not required. It would be contrary to the intent of Price Cap IR for the Board to hold Milton Hydro to a line item in its 2011 budget when its 2013 budget was provided in evidence.

The Board will not adjust Milton Hydro's claim as a result of its achieved return on equity in 2013. No party proposed an adjustment to the claim, yet Board staff indicated that a distributor earning a higher return should be able to use the excess return to fund emergency repairs. Board staff's suggestion has neither been reviewed nor endorsed by the Board as a policy applicable to Z-factor claims.

In summary, the Board finds Milton Hydro's Z-factor claim satisfies the three eligibility criteria of materiality, prudence and causation.

Cost Recovery

Once the cost of the claim has been determined, the Board must decide on the manner in which costs will be allocated to customers for recovery. By convention, costs for Z-factor claims are recovered by dedicated rate riders. Milton Hydro initially proposed a fixed rate rider of \$1.54 per month, across all metered customer classes based on its customer count on December 31, 2013. Milton Hydro also sought Board approval to track the variance between its approved claim amount and actual revenue recovery.

Allocation of Costs to Customer Classes

Board staff submitted that Z-factor events are normally a general distribution system problem and the Board, in prior decisions, has approved recovery from all rate classes on the basis of distribution revenue. Board staff further submitted that the allocation of Milton Hydro's approved costs to all rate classes on the basis of the last approved distribution revenue was simple and fair.

Energy Probe submitted that the Board approved method resulted in more costs allocated to rate classes with higher revenue-to cost-ratios, as the ratios are not the same for all rate classes. Energy Probe submitted that it would more appropriate to allocate Z-factor costs to rate classes in proportion to costs in Accounts 5120 and 5125 which are incurred to prevent service interruptions, such as asset maintenance and tree trimming.

VECC submitted that the costs should be allocated to the rate classes on the basis of distribution revenue as per Milton Hydro's 2011 Cost of Service Application.

In reply submission, Milton Hydro agreed with Board Staff and VECC and changed its proposed recovery to be consistent with the Board approved method of allocating Z-factor costs to all rate classes based on distribution revenue. In response to Energy Probe's concerns, Milton Hydro suggested an alternative in which its 2011 cost-of-service distribution revenue could be adjusted for the revenue-to-cost ratios approved by the Board in its 2012 Price Cap IR decision.

Board Findings

The Board finds that it is appropriate to allocate the Z-factor costs across all rate classes. The work to restore service after the ice storm did not discriminate between metered and unmetered customers.

In addition, the Board finds it appropriate to allocate Z-factor costs based on the last Board-approved distribution revenue by rate class, consistent with prior Board decisions². The Board is satisfied that distribution revenues are a reasonable proxy for allocating these costs. The added precision of adjusting for updated revenue-to-cost ratios as proposed by Milton Hydro or basing the allocation of specific accounts as proposed by Energy Probe is not required.

Rate Rider Determination

Milton Hydro proposed a fixed rate rider for cost recovery. Milton Hydro submitted that a variable rate rider was not appropriate as the costs of restoration were not dependent on a customer's energy consumption or demand.

No party took issue with Milton Hydro's proposal.

² EB-2007-0514/0595/0571/0551 and EB-2011-0186

Board Findings

The Board finds that a fixed charge rate rider is sufficient and appropriate to recover Milton Hydro's Z-factor claim. The Board does not find a variable rate rider to be appropriate as the costs were customer driven, not consumption driven.

Customer/Connection Counts

Milton Hydro initially proposed to use its number of customers at the end of 2013 to calculate the fixed rate riders. In addition, Milton Hydro requested the Board's approval to track any difference in the approved claim and the amount collected from customers in Account 1572 for disposition at a date to be determined.

Energy Probe and VECC submitted that the rate riders should be based on Milton Hydro's forecast customer numbers during the term of the rate rider, an increase of 8.8%. Even if the Board approved a variance account to enable a true-up, it was better to set the rate riders on readily available information and avoid a potential over-collection from customers.

In reply, Milton Hydro submitted that its forecast customer counts were not necessarily reliable for rate making as the numbers were not vetted with developers in the Town of Milton. The forecasts were intended for internal purposes only. Milton Hydro submitted that its 2013 year-end customer count was accurate and should be used to calculate the rate riders.

In reply submission, Milton Hydro also provided its August 2014 customer count actuals and indicated that the updated numbers could be used to calculate the rate riders.

Board Findings

The Board finds that actual customer count numbers as of December 31, 2013 should be used to determine the rate riders. The Board does not agree with VECC and Energy Probe that Milton Hydro's forecast customer numbers should be used. The Board finds the forecast to be unreliable as it was intended for internal purposes and had not been shared with developers in the Town of Milton. In addition, the Board will not allow the use of the August 2014 customer numbers as it is reluctant to accept information provided only in reply submission.

The Board appreciates the concerns of Energy Probe and VECC regarding the customer growth expected by Milton Hydro. The Board directs Milton Hydro to transfer the balance of \$946,967 from Account 1572 "Extraordinary Event Costs" to separate sub-accounts of

Account 1595 applicable to principal and interest carrying charges. The use of Account 1595 "Disposition and Recovery of Regulatory Balances Control Account" will allow the difference between the \$946,967 approved Z-factor claim and the amount collected from the fixed rate riders to be tracked.

Effective Date and Term of Rate Rider

No party took issue with Milton Hydro's proposed effective date and term for the fixed rate riders. The Board approves an effective date of November 1, 2014 for the fixed rate rider, continuing for 18 months, ending on April 30, 2016. As a result, the termination of the rate rider will coincide with Milton Hydro's next cost of service rate application.

Implementation

The Board has made findings in this Decision which change the Z-factor rate riders from those proposed by Milton Hydro. In filing its draft Rate Order, the Board expects Milton Hydro to file detailed supporting material, including all relevant calculations showing the impact of the implementation of this decision on its Z-factor rate riders, including bill impacts.

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

THE BOARD ORDERS THAT:

1. Milton Hydro 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 and other filings reflecting the Board's findings in this Decision and Order within **10 days** of the date of this Decision and Order.
2. Energy Probe and VECC and Board staff shall file any comments on the draft Rate Order with the Board and forward to Milton Hydro within **7 days** of the date that Milton Hydro files the draft Rate Order.
3. Milton Hydro shall file with the Board and forward to Energy Probe and VECC responses to any comments on its draft Rate Order within **4 days** of the date of receipt of comments.

Cost Awards

The Board will issue a separate decision on cost awards once the following steps are completed:

1. Energy Probe and VECC shall submit its cost claims no later than **7 days** from the date of issuance of the final Rate Order.
2. Milton Hydro shall file with the Board and forward to Energy Probe and VECC any objections to the claimed costs within **17 days** from the date of issuance of the final Rate Order.
3. Energy Probe and VECC shall file with the Board and forward to Milton Hydro any responses to any objections for cost claims within **24 days** from the date of issuance of the final Rate Order.
4. Milton Hydro shall pay the Board's costs incidental to this proceeding upon receipt of the Board's invoice.

All filings to the Board must quote the file number, **EB-2014-0162**, be made through the Board's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <http://www.ontarioenergyboard.ca/OEB/Industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Suresh Advani at suresh.advani@ontarioenergyboard.ca and Board Counsel, Ljuba Djurdjevic at Ljuba.Djurdjevic@ontarioenergyboard.ca.

ADDRESS

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DATED at Toronto, October 16, 2014

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary