

Savings for Ontario School Boards

*In the last three months, SEC has been successful in negotiating rate reductions for Hydro Ottawa and a few other distributors, saving about **\$2.3 million**, but was unsuccessful on the contested OPG clawback case. The most important result, though, was the decision of the Supreme Court of Canada in the OPG appeal, affirming SEC's view of the scope of regulatory authority over high cost utilities.*

Further delays likely mean the Toronto Hydro decision will be seen in Q4. Also in the last quarter will be the decision on the multi-year gas conservation programs. An application to approve Ontario's largest ever utility merger is also expected.

ONGOING MATTERS - NATURAL GAS

Conservation Programs. Enbridge and Union Gas applied in April to recover from customers six years of conservation spending (2015-2020), expected to total \$1 billion. This is the culmination of a year of policy consultations, guided by active government direction.

SEC has been among the strongest voices supporting conservation programs, but has also taken the position that the Energy Board is not asking enough from the utilities. The SEC theme throughout the proceeding has been "*More Money = Higher Expectations*".

A lengthy oral hearing was held in August, with arguments from the many parties, including SEC, filed in September. A decision by the Energy Board is expected in December.

Union Gas 2016 Rates. Union Gas has now filed an application for its 2016 rates, based on the five year rate plan we negotiated with them last year. SEC's role in this proceeding is to ensure that the rates are consistent with the agreement.

Enbridge 2016 Rates. Enbridge has also filed for 2016 rates, in this case consistent with the five year plan ordered by the Energy Board after a hearing in 2015. SEC's role is, as with Union's application, to ensure the new rates are consistent with the decision.

ONGOING MATTERS - ELECTRICITY

Hydro One IPO. The public offering of Hydro One shares has been announced, with completion likely by the end of December. It is not currently expected that the Energy Board will be asked to review or approve the transaction.

Powerstream/Horizon/Enersource/Brampton Merger. Four of Ontario's largest electricity distributors, serving more than 925,000 customers (including almost 1000 schools), have agreed to merge to form the largest Ontario distributor after Hydro One. Approvals of the transaction by the municipal shareholders will be completed by the end of October. An application for approval of the transaction by the Energy Board, including a review of the impacts on customers, is expected to start in December.

Toronto Hydro 2015-2019 Rates. The Toronto Hydro five year rate decision continues to be delayed. Originally expected in June or July, and then delayed to September, it is now targeted for November, but that may be optimistic. A decision by the end of December is now the likeliest result.

The Energy Board is faced with a dilemma in deciding these rates. Not only are the dollars in issue enormous (about \$4 billion requested), but there are a number of very difficult regulatory and policy issues. Of particular interest is how

the Energy Board handles a utility with costs that are clearly too high, but is still making a strong push for more.

The potential impact on schools remains \$10 million over five years. A further complication now arises because the 2015 increase may be delayed until the spring, and thus potentially doubled up in 2016.

Powerstream 2016-2020 Rates. Powerstream, which serves the 905 area north of Toronto, was not scheduled to have their costs reviewed until next year, but elected to seek an early review, covering the five year period 2016-2020. Their rationale was that the normal level of rate increases would only provide them with an additional \$80 million over those five years, and they claim to need an additional \$275 million. They therefore filed an application for higher rates to collect this additional money.

What complicates matters is the upcoming mega-merger, described above. That merger, planned for early 2016, will generate forecast savings in the Powerstream area of \$472 million, of which at least \$112 million are expected in the 2016-2020 period. In effect, they don't actually expect to need most of the extra rate revenues they are requesting.

Powerstream has been successful in convincing the Energy Board to consider their rate application as if no merger is going to happen, notwithstanding that Powerstream filed a year early, apparently to get higher rates ahead of the merger. If this decision carries through to the final rates, the \$472 million of merger savings will not be shared with Powerstream's customers for at least ten years.

A negotiation is scheduled for October. Assuming (as is likely) that a settlement is not possible, an oral hearing will start in late November. SEC will continue to take the position that, even without the merger, the rate increases requested by Powerstream are too high. We will also take the position that some part of the merger savings should be shared with the customers.

Ottawa 2016-2020 Rates. The 254 schools served by Hydro Ottawa faced incremental rates of \$2.8 million over five years, a 46% increase. With SEC as lead negotiator, the customer groups have now agreed with Hydro Ottawa to a revised rate plan. The result, once it is approved by the Energy Board, is that the five year rate increase for schools will now be just over 12%, and the Ottawa schools will save about **\$2.2 million**.

Oshawa 2015-2019 Rates. Oshawa Hydro sought a 43% rate increase over five years, increasing costs for 68 schools by about \$6,000 each. Negotiations were unsuccessful, and a hearing took place early in July. An Energy Board decision is expected in November.

Other 2016 Distribution Rates. Savings from the settlements with some other utilities for 2016 rates will total **\$160,000**. Applications for 2016 rates by Halton Hills, Milton, Entegrus, and a number of other smaller distributors have now been received, with settlement discussions likely in the November through January period.

OPG Deferral Account Clearances. Ten months ago Ontario Power Generation filed an application to collect an additional \$1.3 billion from ratepayers to cover extra costs. Most of this recovery is mandated by legislation. As previously reported, a negotiated settlement led to a reduction in payments by schools over about eighteen months of \$4.4 million, but there was still a disputed issue that went to hearing. The Energy Board has now released their decision, and it was unfavourable to ratepayers. Although not characterized this way, the effect of the decision is to allow OPG to claw back some of our hard-fought savings from the rate decision last year.

OPG 2011 Rates - Supreme Court Appeal. The Supreme Court of Canada has never before considered an appeal from a decision of the Ontario Energy Board, until this year. OPG and its unions had argued that the Energy Board could not cut OPG's rates because its compensation costs were too high, even though OPG had been warned previously that it was offside with all reasonable benchmarks. SEC was the only customer representative that participated in the final appeal to the Supreme Court.

In a decision released September 25th, the Supreme Court agreed with the Energy Board and SEC that the Energy Board does have the power to limit rates to ensure that they recover only reasonable compensation costs. In doing so, the court adopted an analysis presented by SEC that, in regulating monopoly utilities, the Energy Board acts as a proxy for the competitive markets. This decision is a significant milestone in the regulation of utilities in Canada.

Jay Shepherd
Counsel for SEC

Questions? Contact Wayne McNally (wmcnally@opsba.org)
or Jay Shepherd (jay.shepherd@canadianenergylawyers.com)

In conclusion,

OESC is represented by Jay Shepherd who consults regularly with myself and Wayne McNally, who is an advisor to the OESC Board of Directors. It is critical to note that the work of the School Energy Coalition, per OESC, is a respected intervenor at the Ontario Energy Board.

Our work has allowed every school district in the Province of Ontario to avoid significant energy costs. This reality assists with the bottom line to your budget.



Don Drone
Executive Director
Toronto Office 416-340-2540
Mobile 519-837-7719 or ddrone@oesc-cseo.org