

Savings for Ontario School Boards

Although the second quarter included two major cases, and two other significant victories for SEC, the immediate savings are small. We are awaiting the two big decisions, and the value of the victories is not yet measurable. Thus, total savings for schools were only about \$200,000.

Both of the major cases – Hydro One Distribution rates and Enbridge/Union merger – will likely be decided by year end, as well as an appeal on transmission rates. Coming up by year end are two more big rate cases, Toronto Hydro and another transmission case. As well, SEC is finally starting to see traction in its hitherto quixotic resistance to Hydro One's acquisition of local electricity distributors. And, we have a new government.

ONGOING MATTERS - ELECTRICITY

Hydro One Distribution 2018-2022 Rates. Hydro One's rate application was filed early in 2017, but did not move quickly. The eleven day oral hearing was just completed on June 28, 2018, and written arguments will be filed by the utility, the intervenors (led by SEC), and the staff of the Energy Board throughout the month of July. A decision could be as late as November, with new rates kicking in at the beginning of 2019.

The \$9 million of increases proposed for schools are part of a larger set of issues. Hydro One has been taking steps to control its high costs, but turning the utility around is a long process. They continue to seek room to spend freely, but SEC and others are pressing for regulatory limits on what they can collect from customers. Hydro One also continues to attempt acquisitions of lower cost utilities, but this case has exposed the impacts on the customers acquired.

Hydro One Transmission – Appeals. In the distribution case (see above) the Energy Board has set aside the issue of the phantom taxes. The issue, which SEC won last fall in the transmission case, was appealed by Hydro One. The first appeal was argued in February, and a decision

was expected in May. Instead, there has been only silence from the regulator.

While it is possible that the delay is because of the June election, it is equally possible that the difficulty of the issue – and its \$800 million impact – is causing the Energy Board to take its time in reaching a decision on this appeal.

If Hydro One is unsuccessful in this first appeal, it is expected that they will head off to court to try again in the fall.

Alectra Utilities. The merger of Powerstream, Horizon, Enersource and Brampton produced the second largest electricity distributor in the province. This, their 2018 rate case, was their first as a merged entity. While most of their rates were to be set based on a formula, the key goal of the utility was to gain acceptance for extra increases to cover capital spending above a fairly low threshold. The utility sought to use a technique called an Incremental Capital Module to do so. The risk was that, if they were successful, a very expansive ICM would then be available to all electricity and gas distributors, potentially costing customers hundreds of millions of dollars a year.

In a decision released early in April, the Energy Board agreed with SEC and other customer groups that the ICM rate method cannot be viewed – as the utilities want – as a kind of “top-up”. Instead, it must be limited to capital projects that are not part of the normal course spending of the utility. In addition, the Energy Board rejected a rate increase for an accounting change buried in the evidence, which SEC caught during discovery.

The result was that only half of the proposed increases were allowed. While the immediate impact for Alectra schools is only about **\$200,000** over the nine year Alectra rate plan, the impact of the decision in reducing the claims of other utilities will likely be substantial.

Hydro One Orillia Acquisition. Hydro One – the highest cost large utility in the province – continues to chase acquisitions of smaller utilities, in every case with a near term offer of lower rates followed by “all bets are off”. With most of its previous 90+ acquisitions, after the near term deal rates went up dramatically. Thus, SEC has been opposing Hydro One acquisitions for the last four years, with limited success. The most SEC has been able to achieve is general statements by the Energy Board that acquired customers must share in the benefits of any acquisition.

In its recent distribution rate case, Hydro One again proposed to raise rates for acquired customers to levels much higher than they would have paid had their utilities remained independent. SEC is opposing that in that case, but in a separate case – the proposed acquisition of Orillia Power – SEC argued that the rate increase was proof the Orillia customers would also be harmed. After appeals, the Energy Board has agreed. In May, they denied approval of the Hydro One acquisition of Orillia Power.

Hydro One is, of course, appealing again. However, in the meantime they have started to rethink their rate strategy for acquired customers.

There will be savings from this win, but at this point it is not possible to estimate them with any accuracy.

ONGOING MATTERS – NATURAL GAS

Enbridge/Union Merger. This application seeks approval for the amalgamation of Union Gas and Enbridge Gas Distribution, who together serve more than 90% of the natural gas customers in Ontario. Most customer groups, including SEC, support the amalgamation, since the two utilities are already under common ownership.

However, in addition the two utilities sought to piggyback on special rate rules designed to incent mergers and acquisitions of electricity distributors. Those rules allow a period of up to ten years where the owners of the utility can keep all of the savings from a merger, and still ask for extra money for capital spending (see Alectra, above).

In the case of Union and Enbridge, access to that favourable set of policies would allow them to keep all of the efficiencies from the last five years, which otherwise would have to be used to reduce rates. It would also allow the amalgamated company to increase base rates by inflation each year, and then seek rate increases for about \$12 billion of incremental capital spending on top of that.

Schools pay about \$40 million a year to these two utilities, of which \$22 million a year would be dealt with in this rate plan, if approved. What SEC learned through questioning of the utility witnesses is that, although average rate increases for all customers would be about 30% over ten years, for schools and commercial customers the increase would be just over 50%. In total, the impact on Ontario’s schools would be an extra \$62 million of gas distribution bills over the next ten years, compared to current rates.

SEC has argued that the favourable policies should not be applied to Enbridge and Union, who do not need to be incented to amalgamate. The utility proposal, we have said, amounts to an attempt to get a billion dollars or more of excess profits from higher than needed rate increases.

The case is now in the hands of the adjudicators, with a decision expected in September.

OTHER MATTERS

Attack on Customer Representation. The Energy Board's foray into what they have called Proportionate Regulation continues at a slow and careful pace. SEC is still resisting attempts to cut out the customers. Some internal changes at the Energy Board may slow this process further, but the future is not clear.

Review of the Energy Board. The external review of the Energy Board was put on hiatus during the election period. It's fate today - along with the fate of many initiatives of the previous government - is unknown in these early days of the new government.

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Questions? Contact Wayne McNally (wmcnally@opsba.org) or Jay Shepherd (jay@shepherdrubenstein.com) or Mark Rubenstein (mark@shepherdrubenstein.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.



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