



Docket: UE20326
Order: UE21-12

IN THE MATTER of a complaint made by Maritime Electric Company, Limited against the City of Summerside, pursuant to section 12 of the Open Access Transmission Tariff.

CERTIFIED A TRUE COPY

Cheryl Mosher

Cheryl Mosher,
Senior Financial Advisor
Island Regulatory & Appeals Commission

Order

BEFORE THE COMMISSION ON Monday, the 29th day of November, 2021.

J. Scott MacKenzie, Q.C., Chair
M. Douglas Clow, Vice-Chair
Erin T. Mitchell, Commissioner

INTRODUCTION

On February 3, 2021, Maritime Electric Company, Limited (“MECL” or “Maritime Electric”) submitted a complaint to the Island Regulatory and Appeals Commission (the “Commission”) pursuant to section 12 of the Open Access Transmission Tariff (“OATT”).

In the complaint, Maritime Electric is seeking payment from the City of Summerside (“Summerside” or “COS”) for a disputed invoice. The invoice was issued to Summerside on February 19, 2019 in the total amount of \$89,268.31. Maritime Electric also asks that Summerside be required to remit funds to the Prince Edward Island Energy Corporation (“PEIEC”) as contribution to the Cable Contingency Fund.

BACKGROUND

Between July 2008 and July 2018, the transmission system in PEI operated in accordance with an interim OATT (the “Interim OATT”). The OATT, in its current form, has been in effect since August 1, 2018 (see Order UE18-05).

In March 2018, a hearing was held with respect to the OATT. In the course of the hearing, Maritime Electric advised the Commission that Summerside had not been paying its full transmission costs under the Interim OATT.

In accordance with Commission Order UE18-05, Maritime Electric was ordered to work with Commission staff and Summerside to determine the total amount of Summerside’s indebtedness for transmission costs under the Interim OATT. Once the amount of the indebtedness was determined, MECL was required to collect this amount from Summerside. In the event MECL agreed to accept less than the full amount of the indebtedness, the resulting loss would be borne by Maritime Electric – and not by the other transmission customers or by MECL’s distribution customers.

Following the hearing, and as required by Order UE18-05, Maritime Electric sought direction from Commission staff as to which of the following amounts it was required to recover from Summerside:

- A. Underpaid transmission access (July 2008 – July 2018)
- B. Accrued interest on underpaid transmission access fees
- C. Unpaid Cable Contingency Fund Contributions (March 1, 2013 – July 31, 2018)
- D. NB Schedule 9 (November 1, 2017 – July 31, 2018)
- E. Cape Tormentine Property Tax (July 1, 2017 – July 31, 2018)
- F. IRAC OATT Hearing Costs (April 2017 – March 2018)

By letter dated January 28, 2019, Commission staff advised Maritime Electric that the only amounts relating to the unpaid transmission costs, pursuant to Order UE18-05, were items A and B. MECL was not directed to recover items C, D, E and F.

MECL now brings this complaint seeking to recover items C, D, E, and F from Summerside.

POSITION OF THE PARTIES

Following is a summary of the parties’ positions with respect to each item that MECL seeks to recover.

Item C – Unpaid Cable Contingency Fund Contributions

MECL explained that repairs to the underwater cables in 2012 depleted the \$3 million Cable Contingency Fund. Under the Energy Accord Extension, electric rates effective March 1, 2013 included a rate rider to replenish the fund over a ten year period. As the electric rates were also adopted by Summerside, MECL submits that Summerside should remit the amount collected for the period from March 1, 2013 to July 31, 2018.

In response, PEIEC advised that it did not receive Cable Contingency Fund contributions from Summerside between March 1, 2013 to July 31, 2018, as Summerside had no legal obligation to make these payments.

PEIEC advised that the Cable Contingency Fund was established pursuant to the Interconnection Lease Agreement between MECL and the Province. Effective July 1, 2017, the Interconnection Lease Agreement was replaced by the Interconnection Facilities Interconnection Lease Agreement. Both Agreements set out the contributions to be remitted by MECL to the Province. In neither case was Summerside a party to the Agreements, nor was there any mention of contributions being remitted by Summerside.

Summerside agrees with PEIEC, and submits that it is not bound by the Agreements as it was not a party to them. As such, Summerside submits that it should not have to pay the requested Cable Contingency Fund contributions.

Item D – NB Schedule 9 Charges

MECL seeks to recover NB Schedule 9 Charges for the period from November 1, 2017 to July 31, 2018. MECL explained that during this period, it did not have an approved tariff to enable recovery of the Schedule 9 Charges from all transmission users. The amount claimed (\$66,450.01) represents Summerside's proportionate share of the NB Schedule 9 Charges.

Summerside takes no issue with this charge.

Item E – Cape Tormentine Property Tax

MECL seeks to recover Summerside's share of the property taxes incurred as part of the operation of the dedicated facility in New Brunswick. Summerside's share of the property tax for the period from July 1, 2017 to July 31, 2018 is \$165.10.

Summerside takes no issue with this charge.

Item F – IRAC OATT Hearing Costs

MECL seeks to recover \$11,009.50 as Summerside's proportionate share of the Commission assessments issued with respect to the OATT hearing and application.

Summerside takes no issue with this charge.

DECISION

The Commission has had an opportunity to review the submissions of the parties and finds as follows:

- Item C – Cable Contingency Fund contributions for the period from March 1, 2013 to July 31, 2018 are not recoverable from Summerside. During the period in question, the Cable Contingency Fund contributions were collected by MECL from its distribution customers, and remitted to PEIEC. The Cable Contingency Fund contributions were not payable

under the Interim OATT, and were not recoverable from transmission users until the final OATT came into effect on August 1, 2018.

Further, although Summerside chose to implement the same electric rates as MECL on March 1, 2013, it did not have any contractual obligation to charge a Cable Contingency Fund rate rider, or to remit this amount to PEIEC. The Agreements which gave rise to those contractual obligations were solely between MECL and the Province.

- Item D – NB Schedule 9 Charges for the period from November 1, 2017 to July 31, 2018 are recoverable as transmission expenses under the OATT.
- Item E – Cape Tormentine Property Tax for the period from July 1, 2017 to July 31, 2018 is recoverable as a transmission expense under the OATT.
- Item F – IRAC OATT Hearing Costs are recoverable on a *pro rata* basis pursuant to paragraph 6 of Order UE18-05.

The Commission therefore directs that MECL recover from Summerside items D, E and F, being those amounts listed in Invoice Number INV0021307 and dated February 19, 2019. Item C is not recoverable from Summerside.

In its response, Summerside raises the issue of line losses for line T-11. These are identified as item G – T-11 Losses (July 2008 to July 2018) and item H – Accrued Interest on T-11 Losses (July 2008 to July 2018).

Items G and H do not form part of the complaint filed by MECL and currently before the Commission. In any event, the Commission has already determined that Summerside was responsible for T-11 losses under the Interim OATT as line T-11 was a direct assignment facility. Although line T-11 is no longer a direct assignment facility, Commission Order UE18-05 did not retroactively alter or amend the Interim OATT. This determination was communicated to the parties in the January 28, 2019 correspondence from Commission staff.

ORDER

The Commission Orders:

1. Maritime Electric is entitled to collect the following from Summerside:
 - a) Item D – NB Schedule 9 Charges for the period from November 1, 2017 to July 31, 2018;
 - b) Item E – Cape Tormentine Property Tax for the period from July 1, 2017 to July 31, 2018; and
 - c) Item F – IRAC OATT Hearing Costs.
2. Maritime Electric is not entitled to collect Item C – Cable Contingency Fund Contributions from Summerside.

DATED at Charlottetown, Prince Edward Island, this 29th day of November, 2021.

BY THE COMMISSION:

(sgd) J. Scott MacKenzie

J. Scott MacKenzie, Q.C., Chair

(sgd) M. Douglas Clow

M. Douglas Clow, Vice-Chair

(sgd) Erin T. Mitchell

Erin T. Mitchell, Commissioner