

The Toronto Sun

Hydro's 'hidden tax' on T.O. ; Lawyer questions why city council does nothing as utility seeks more money from consumers

Mon Jan 23 2012

Page: 6

Section: News

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Illustrations: graphics

A consumer lawyer is asking why Toronto council stands idly by while its pricey electricity distribution company digs ever deeper into consumers' pockets.

Robert Warren, who represents the Consumers Council of Canada, said city councillors should ask some hard questions of Toronto Hydro after its latest rate application was denied by the Ontario Energy Board.

"Why are you so much worse than every other utility in the province?" said Warren, of the law firm WeirFoulds.

He noted the OEB has found Toronto Hydro to be inefficient and costly compared to other utilities in the province.

The utility went to the OEB in 2011 seeking to boost its rates by \$1.6 billion over three years, which would work out to a monthly fee increase of about \$5, starting this spring.

Coincidentally, that's equivalent to the \$60-a-year vehicle registration tax axed by the Rob Ford administration in 2011.

The cumulative impact by the end of the three years would raise the average monthly bill by more than \$14.

At a time when the mayor and members of council are calling for fiscal restraint and discipline in general, their ongoing silence on Toronto Hydro's demands just might have something to do with the minimum \$25 million it pays to the city each year, Warren said.

"Where is the City of Toronto in all this; where is the shareholder?" he said. "That's a hidden and regressive tax on the residents of Toronto.

"Consumers don't know that they're paying, as part of their electricity rates, distribution rates, a premium to the City of Toronto."

The mayor's office did not respond to a request for comment, referring the matter to Toronto Hydro.

Warren's arguments--and those of other intervenors -- got a sympathetic hearing from the OEB, which slapped down Hydro's nine-figure request and told the utility in no uncertain terms it would have to get by with a \$140-million boost in 2012.

"(Toronto Hydro) is under no current financial stress,

nor do the reliability measures show evidence of system deterioration," the OEB ruling says.

Unlike other Ontario electricity producers, Toronto Hydro has not made significant productivity improvements, even though its customers pay more for power than their counterparts in other large urban centres, the OEB says.

Hydro says it needs the \$1.6 billion to patch together an enormous and ailing system that is at or past its useful life, and which will soon start failing apart if it's not fixed.

"Approximately 40% of power outages in Toronto last year were caused by equipment failures and we have not met the OEB's minimum reliability standards for local distribution companies for the past five years," chair Clare Copeland said in a recent letter to the OEB.

Much of the downtown core uses outdated, paper insulated, lead sheathed power cables that require special training to work with, Copeland said.

'PROACTIVE' WORK

The "aggressive, proactive" work the utility says it needs to do to avoid blackouts and brownouts was put on hold, hydro spokesman Tanya Bruckmueller-Wilson said, after rate freezes in the 1990s and in 2000.

But while repairs went begging, the city scoop up its annual minimum dividend of \$25-million over those years.

The utility recognized it needed to catch up on repairs in 2005 and has been back at the OEB on a regular basis ever since, asking for more in capital funding from the ratepayer--at a cost of up to \$250,000 per application, a cost also borne by consumers.

Starting in 2007, the OEB granted Toronto Hydro more than \$1.4 billion for such repairs before balking at the latest request.

The utility responded swiftly to the OEB's slapdown, issuing an official statement that warned of serious consequences.

"This will likely result in deteriorating service, an increase in power outages, an increased risk to public safety, slower call centre response times as well as the likelihood of major workforce downsizing," the utility says.

OEB Chair Rosemarie Leclair sent a letter to Toronto Hydro, following a blizzard of media coverage, that noted that the utility was free to apply on a case-by-case for additional capital funds, and would likely get \$86 million on top of the existing capital budget.

However, the OEB had a duty to consumers to ensure rates were just and reasonable, Leclair says in her letter.

Warren said the benefit of the current OEB system of setting rates is that it provides residential and business customers with predictable and stable rates.

"The benefit to the utilities is that any savings which they can achieve -- any efficiencies they can achieve over the three years--they get to keep those efficiencies.

"Then, at the end of the three-year period, the savings are built into a new cost base so they accrue to the ratepayers," he said.

"Toronto Hydro's response to that is to say the sky's going to fall."

Hydro shut down all its repair work in the wake of the OEB's refusal, telling 700 external contractors to stop working, putting its own staff on notice and shedding two senior executives.

Once it has reviewed all the projects it has on the go, Bruckmueller-Wilson said, affordable work will proceed.

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