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BY EMAIL

February 1, 2010

Ontario Energy Board
P.O. Box 2319
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2300 Yonge Street
Toronto ON M4P 1E4

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

**Re: Board Staff Submission on Midland Power Utility Corporation
2010 Electricity Distribution Rates Application
Board File Number EB-2009-0236**

Please see attached Board staff's submission for the above proceeding. Please forward the attached to Midland Power Utility Corporation and any intervenors and observers in this proceeding.

Midland Power Utility Corporation reply to submissions is due February 18, 2010

Yours truly,

Original Signed by

Martin Benum
Advisor, Applications and Regulatory Audit



ONTARIO ENERGY BOARD

STAFF SUBMISSION

2010 ELECTRICITY DISTRIBUTION RATES

Midland Power Utility Corporation

EB-2009-0236

February 1, 2010

**Board Staff Submission
Midland Power Utility Corporation
2010 IRM3 Rate Application
EB-2009-0236**

Introduction

Midland Power Utility Corporation (“Midland”) filed an application with the Ontario Energy Board (the “Board”), received on October 20, 2009, under section 78 of the Ontario Energy Board Act, 1998, seeking approval for changes to the distribution rates that Midland charges for electricity distribution, to be effective May 1, 2010. The application is based on the 2010 3rd Generation Incentive Regulation Mechanism.

The purpose of this document is to provide the Board with the submissions of Board staff based on its review of the evidence submitted by Midland.

Board staff makes submissions on the following matters:

- Disposition of Deferral and Variance Accounts as per the Electricity Distributors’ Deferral and Variance Account Review Report (the “EDDVAR Report”);
- Treatment of Smart Meter Funding Adder;
- Adjustments to the Revenue to Cost Ratios;
- Adjustments to the Retail Transmission Service Rates; and
- Accounting for the implementation of the Harmonized Sales Tax (“HST”).

DISPOSITION OF DEFERRAL AND VARIANCE ACCOUNTS AS PER THE EDDVAR REPORT

General Background

For purposes of 2010 IRM applications, the EDDVAR Report requires a distributor to determine the value of its December 31, 2008 Group 1 Deferral and Variance account balance and determine whether the balance exceeded the preset disposition threshold

of \$0.001 per kWh using the 2008 annual kWh consumption reported to the Board. When the preset disposition threshold is exceeded, a distributor is required to file a proposal for the disposition of Group 1 account balances (including carrying charges) and include the associated rate riders in its 2010 IRM Rate Generator for the disposition of the balances in these accounts. The onus is on the distributor to justify why any account balance in excess of the threshold should not be cleared.

Any distributor exceeding the preset disposition threshold was required to file a Deferral and Variance Account Workform.

Midland Specific Background

Annual Disposition

Midland has requested the disposition of its Group 1 account balance. Board staff interrogatories requested that Midland complete and submit an updated version 4 of the Deferral Variance Account Workform. Midland has complied with this request.

Global Adjustment

In response to Board staff interrogatory # 3a, Midland stated it had reviewed the Regulatory Audit & Accounting Bulletin 200901 and confirmed that it had accounted for its Account 1588 RSVA power and global adjustment sub-account in accordance with this Bulletin. In response to Board staff interrogatory #3b, Midland confirmed that it had not made adjustments subsequent to its initial application to comply with the Regulatory Audit & Accounting Bulletin 200901 with respect to account 1588 and the global adjustment sub-account.

In response to Board staff interrogatory #4a, Midland agreed that a separate rate rider be prospectively applied to non-RPP customers to dispose of the global adjustment sub-account balance would be appropriate on the basis of cost causality. Midland however noted "Although Midland fundamentally agrees with the board staff proposal, the amount of the Global Adjustment (GA) attributable to residential and GS<50

customers represents less than 9% of the total GA variance of \$28,447 (see 2010 IRM3 Deferral Variance – Midland V4_20100107, Tab E1.2 Cost Allocation Non-RPP kWh). Consequently, taking into consideration the materiality factor, it would appear that the amount attributable to residential customers should not be disposed of to those classes. With respect to residential customers there is also a timing issue as some customers who receive or pay the GA are no longer Non-RPP customers.”

In response to Board staff interrogatories #4b, Midland stated that it “...did not currently have the billing capability to have a separate rate rider applicable to non-RPP customers to dispose of the global adjustment sub-account balance. Midland however indicated Midland is aware that its billing CIS system, Harris, could be changed to allow this separate rate rider, however, the costs involved in changing the software would clearly be disproportionate to the allocation of the \$1,944 and \$715 (see 2010 IRM3 Deferral Variance – Midland V 4_20100107, Tab E1.2 Cost Allocation Non-RPPkWh). In addition to the costs incurred through Harris, Midland would incur additional staffing costs which will be needed to implement the change and account for same on a go forward basis”.

As of November 1, 2009 the MUSH sector (Municipalities, Universities, Schools and Hospitals) and other designated institutional customers that remained as RPP customers were required to switch to non-RPP customer status as per O. Reg. 95/05 of the Ontario Energy Board Act, 1998. In response to Board staff interrogatories #6d, Midland indicated that the rate rider should not apply to RPP customers, and should exclude customers in the MUSH sector.

Midland has requested that the Board review and approve the disposition of the December 31, 2008 balances of other Group 1 Deferral and Variance accounts as defined by the EDDVAR Report. The total balance of the Group 1 accounts, excluding the 1588 global adjustment sub-account is a credit of \$284,362. The balance in the 1588 global adjustment sub-account is a debit of \$28,447. Midland has included

interest, using the Board's prescribed interest rates, on these account balances up to April 30, 2010. Debit balances are amounts recoverable from customers.

Midland did not address any concern with respect to the impact on its cash flow were it to use the one-year default disposition period contemplated in the EDDVAR Report to clear its deferral and variance account balances. Midland has selected a 2-year disposition period in its Deferral Variance Account Workform V4.

Submission

Based on Midland's response to Board staff interrogatories referenced above, Board staff notes that in the case of Midland, it would not be practical nor feasible to consider establishing a separate rate rider for the disposition of the global adjustment sub-account balance. The Board may wish to consider Midland's proposal to recover the global adjustment sub-account balance from customer rate classes other than the residential and GS< 50 kW classes. The Board may also wish to consider, as an alternative, to recover the allocated global adjustment sub-account balance from all customers in each class. This approach would recognize the customer migration that might occur both away from the non-RPP customer group and into the non-RPP customer group.

The Board must also decide on the time period over which the rate riders should apply. Board staff submits that a disposition period no longer than one year for Group 1 account balances would be appropriate. These balances have been accumulating over the last four year period and to delay immediate action is not in the customer's best interest. Board staff recognizes that some volatility in electricity bills [may](#) result. That aside, Board staff believes that a one year disposition period would reduce inter-generational inequities and would be in the interest of all parties.

The EDDVAR Report includes filing guidelines for the disposition of deferral and variance account balances. With respect to the reliability of account balances, the

EDDVAR Report at page 27 states”...The Board believes that ...additional audit certification is not necessary. The Board however will require a distributor to file a reconciliation of the regulatory trial balance that is reported to the Board as part of RRR and the audited financial statements.”

Board staff notes the original balances proposed for disposition (and supported by audited financial statements) might have been adjusted to account for events subsequent to the release of the EDDVAR Report. They include, but are not exclusive to the following:

1. The Regulatory Audit & Accounting Bulletin 200901 (“accounting bulletin”) dated October 15, 2009 and accounting frequently asked questions issued in October 2009 clarified the accounting rules for account 1588 RSVApower and global adjustment sub-account. The accounting bulletin required electricity distributors to review and correct misstatements since January 1, 2005 or since the last time Account 1588 RSVApower and global adjustment sub-account were cleared by the Board on a final basis. Due to the changes to account balances arising from the accounting bulletin Board staff asked distributors to confirm their compliance to the accounting requirements specified in the bulletin.
2. Applicants retroactively reviewing, and correcting Group 1 account balances over the January 1, 2005 to December 31, 2008 period.

Board staff notes that the final proposed balances for disposition may no longer reconcile with previously audited balances nor with Midland’s RRR filings. Board staff has reviewed the balances and notes that the changes do not result in material differences. Board staff notes that Midland stated in response to Board staff’s interrogatory # 7d that Midland has complied with the Board’s accounting policies and procedures. Board staff is mindful of the importance of a timely disposition of deferral and variance account balances and does not believe that the disposition should be

delayed. Board staff suggests that the Board consider approving the proposed deferral and variance account balance disposition rate riders on a final basis.

TREATMENT OF SMART METER FUNDING ADDER

Background

Midland has a current Board-approved smart meter funding adder of \$1.00 per month per metered customer. In its application, Midland is requesting an increase in its rate adder to \$2.00 per month per metered customer. Midland is authorized for smart meter deployment under the amended Regulation pursuant to and in compliance with the London Hydro RFP process. In its application, Midland filed supporting documentation in accordance with section 1.4 of the Smart Meter Guideline.

Midland is not seeking approval for capital and operating costs incurred to date or in 2010 in this application, but will track actual costs, and revenues received from the funding adder, in the established deferral accounts for review and disposition in a subsequent application.

Submission

Board staff submits that Midland has complied with the policies and filing requirements of the Smart Meter Guideline. Actual smart meter expenditures will be subject to review when Midland makes application for disposition of the account balances in a subsequent proceeding. Hence, Board staff takes no issue with Midland's proposal to increase its smart meter funding adder to \$2.00 per month per metered customer.

ADJUSTMENTS TO THE REVENUE TO COST RATIOS

Background

The Board's Decision (EB-2008-0236) for Midland's 2009 cost of service rate application prescribed a phase-in period to adjust revenue to cost ratios. The 2010

Supplemental Filing Module included schedules for Midland to complete to address this matter. The process adjusts base distribution rates before the application of the price cap adjustment.

Submission

Board staff submits that Midland has complied with the filing requirements of the 2010 Supplemental Filing Module. Board staff takes no issue with Midland's revenue to cost ratio adjustments.

ADJUSTMENTS TO THE RETAIL TRANSMISSION SERVICE RATES (RTSR)

General Background

Electricity transmitters in Ontario charge Uniform Transmission Rates (UTR) to their transmission connected customers. These UTRs are charged for network, line connection and transformation connection services. Based on the Decision and Rate Order of the Board in the EB-2008-0272 proceeding, the new UTRs effective July 1, 2009 were as follows:

- Network Service Rate was increased from \$2.57 to \$2.66 per kW per month, a 3.5% increase;
- Line Connection Service Rate remained unchanged at \$0.70 per kW per month; and
- Transformation Connection Service Rate was decreased from \$1.62 to \$1.57 per kW per month, for a combined Line and Transformation Connection Service Rates reduction of 2.2%.

On July 22, 2009 the Board issued an amended "Guideline for *Electricity Distribution Retail Transmission Service Rates*" ("RTSR Guideline"), which provided electricity distributors with instructions on the evidence needed, and the process to be used, to adjust Retail Transmission Service Rates ("RTSRs") to reflect the changes in the UTRs effective July 1, 2009. The Board set as a proxy at that time an increase of 3.5% for the

Network Service Rate and reduction of 2.2% for the combined Line and Transformation Connection Service Rates. The Board also noted that there would be further changes to the UTRs in January 2010.

Based on the Decision and Rate Order of the Board in the EB-2008-0272 proceeding, a Rate Order issued January 21, 2010 revised the UTRs effective January 1, 2010 as follows:

- Network Service Rate has increased from \$2.66 to \$2.97 per kW per month, an 11.7% increase over the July 1, 2009 level or 15.6% over the rate in effect prior to July 1, 2009;
- Line Connection Service Rate has increased from \$0.70 to \$0.73 per kW per month; and
- Transformation Connection Service Rate has increased from \$1.57 to \$1.71 per kW per month, for a combined Line and Transformation Connection Service Rates increase of 7.5% over the July 1, 2009 level or 5.2% over the rate in effect prior to July 1, 2009.

Midland Specific Background

Midland has applied for an adjustment to its RTSR rates based on the July 22, 2009 RTSR Guideline proxy rate adjustments.

Submission

Board staff notes that very few distributors, including Midland, effected in their 2009 rates the July 1, 2009 level of UTRs since for most of them, distribution rates would have been implemented on May 1, 2009. Therefore, in accordance with the July 22, 2009 RTSR Guideline, Board staff submits that the revisions to the RTSRs ought to reflect the changes from the current level to the January 1, 2010 level, that is an increase of about 15.6% to the RTSR Network Service rate, and an increase of about 5.2% to the RTSR Line and Transformation Connection Service Rate.

Board staff has reviewed the evidence provided by the applicant and submits that the proposal by Midland may no longer be reasonable, based on the January 1, 2010 level of the UTRs. Board staff submits that the applicant's proposed rates be revised to reflect the January 1, 2010 values.

ACCOUNTING FOR THE IMPLEMENTATION OF THE HARMONIZED SALES TAX

General Background

The Ontario provincial sales tax ("PST") (currently at 8%) and the Federal goods and services tax ("GST") (currently at 5%) will be harmonized effective July 1, 2010, at 13%, pursuant to Ontario Bill 218 which received Royal Assent on December 15, 2009.

The PST is currently an incremental cost applied to the price of goods purchased by an electricity distributor and is included in a distributor's OM&A expenses and capital expenditures. The PST is therefore included in the distributor's revenue requirement and is recovered from ratepayers through the application of distribution rates.

When the PST and GST are harmonized, distributors will pay the HST on purchased goods and service but will now claim an input tax credit for the PST portion. The mechanics of HST as a value added tax means that the distributor will no longer incur that portion of the tax that was formerly applied as PST (i.e. the 8%) on goods purchased. However, the current rates as applied will continue to effect cost recovery as if the PST was still in place. If no action is taken, the distributor will realize a savings in the cost of goods purchased while applying rates which do not reflect those savings.

Midland Specific Background

In response to Board staff interrogatory # 8a which asked if Midland agrees that a deferral account should be established to capture the reductions in OM&A and capital expenditures, Midland stated that it "does not agree to capture in a variance account the reductions in OM&A and capital expenditures".

Submission

Board staff notes that many distributors' comments on the administrative burden and costs of sales tax harmonization are at odds with the provincial and Federal governments' pronouncements regarding the stimulative and competitive results of harmonization. Because the costs and savings are not clear at this point, Board staff submits that tracking of these is warranted at this point to quantify, per government pronouncements, that the potential savings for corporations like Midland could be significant. Accordingly, Board staff submits that the Board may wish to consider establishing a deferral account to record the amounts, after July 1, 2010 and until Midland's next cost-of-service rebasing application, that were formerly incorporated as the 8% PST on capital expenditures and expenses incurred, but which will now be eligible for an HST Input Tax Credit ("ITC"). The intention of this account would be to track the incremental change due to the introduction of the HST that incorporates an ITC from the 5% to the 13% level. To qualify for this treatment, the cost of the subject items must be in the category of distribution revenue requirement. Tracking of these amounts would continue in the deferral account until Midland's next cost of service application is determined by the Board or until the Board provides guidance on this matter, whichever occurs first.

Midland would apply to clear the balance in the account as a credit to customers at the next opportunity for a rate change after the account balance information becomes available and is supported by audited financial statements.

All of which is respectfully submitted