

January 4, 2011

Delivered by E-mail and Courier

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, Ontario M4P 1E4

Dear Ms. Walli:

**Re: EB-2010-0131
Horizon Utilities Corporation
Application to the Ontario Energy Board for Electricity Distribution
Rates and Charges as of January 1, 2011**

We are counsel to Horizon Utilities Corporation (“Horizon Utilities”) with respect to the above-captioned matter. We are writing to you today with respect to two matters: confidentiality; and a request for inclusion in Horizon Utilities’ 2011 Test Year Revenue Requirement and rates an amount related to LEAP Emergency Financial Assistance.

Confidentiality:

Horizon Utilities’ Application was filed on August 26, 2010. As discussed in the cover letter to the Application, two pages of the Application contained a small amount of redacted material – specifically, Exhibit 4, Tab 2, Schedule 10, pages 11 and 14 (Tables 4-25 and 4-26). A description of the material, and the grounds for Horizon Utilities’ request for confidentiality in respect of the redacted material were set out in detail at pages 8-10 of that Schedule, and unredacted versions of those pages were delivered to the Board on August 27, 2010. In the cover letter and the Schedule, Horizon Utilities indicated that it was prepared to provide copies of the confidential material to parties’ counsel and experts or consultants provided that they have executed the OEB’s form of Declaration and Undertaking with respect to confidentiality and that they comply with the Practice Direction, subject to Horizon Utilities’ right to object to the OEB’s acceptance of a Declaration and Undertaking from any person.

In its December 15, 2010 Decision on the preliminary issue of early rebasing and Procedural Order No. 4, the Board ordered that Board staff and intervenors may file with the Board and deliver to Horizon Utilities Corporation and other parties any submissions with respect to the claim for confidentiality submitted by Horizon Utilities, and that such submissions were to be filed on or before December 23, 2010. Any reply submission by Horizon Utilities would be due by January 7, 2011. No submissions have been received from Board staff or intervenors in this regard.

Last night (January 3, 2011), we received a copy of correspondence from Mr. MacIntosh, a consultant to Energy Probe, advising that he had not received unredacted versions of pages 11 and 14. In reviewing our records, it appears that while unredacted copies of certain material provided in confidence in response to interrogatories on the preliminary issue in this proceeding were provided to persons who had executed the confidentiality undertaking (the Board subsequently determined that that material would be placed on the public record), unredacted versions of pages 11 and 14 may not have been provided to those persons. I apologize for that oversight, which was entirely inadvertent. Copies of the two pages will be provided forthwith to those persons who had executed the confidentiality undertaking. At this time, we have undertakings from Mr. Warren (counsel to CCC); and from Messrs. Aiken and MacIntosh (Energy Probe).

We respectfully submit that the nature of the minimal redactions from the Application and the grounds for those redactions have been clear since last August, and that disclosure of the specific redacted numbers in Tables 4-25 and 4-26 is not necessary for submissions on confidentiality, if any. Accordingly, Horizon Utilities believes that it is not necessary to make any further provision with respect to intervenor submissions and a reply submission on confidentiality, and that the timeline set out in Procedural Order No. 4 should not be altered. If the Board believes that additional time should be given for confidentiality-related submissions, Horizon Utilities submits that the Board should provide only for minimal extensions to the confidentiality-related deadlines. Horizon Utilities trusts that there will be no change to the interrogatory-related deadlines, as the determination of the confidentiality issue is independent of the interrogatories. Horizon Utilities is confident that staff and intervenors will phrase any questions related to the material proposed to be kept in confidence in such a way as to respect the confidentiality request pending the Board's determination of that request.

LEAP Emergency Financial Assistance:

On October 20, 2010, almost two months after the Horizon Utilities Application was filed, the Board issued a letter regarding LEAP Emergency Financial Assistance. The Board determined an appropriate Emergency Financial Assistance funding level is the greater of 0.12% of a distributor's Board-approved distribution revenue requirement, or \$2,000. With respect to recovery of that amount through rates, the Board wrote (at page 3):

“With respect to the recovery of LEAP emergency financial assistance funding through distribution rates, each distributor that applies to the Board for new cost of service-based rates for 2011 should include the relevant LEAP amount as part of the distributor's operating, maintenance and administration (OM&A) expenses. For greater clarity, Board-approved total distribution revenue means a distributor's forecasted service revenue requirement as approved by the Board. The relevant LEAP amount proposed would be adjusted in distributors' draft rate orders to account for any changes resulting from the Board's decision on the final service revenue requirement.”

In the case of Horizon Utilities, the LEAP Emergency Financial Assistance amount will be approximately \$130,450, based on 0.12% of Horizon Utilities' proposed service revenue requirement, in accordance with the Board's methodology.

Horizon Utilities confirms that it intends to include this amount in its revenue requirement for recovery through its 2011 electricity distribution rates, and acknowledges that the actual LEAP amount will depend on any changes resulting from the Board's decision on Horizon Utilities' final service revenue requirement. At this time, Horizon Utilities can confirm that LEAP-related impacts on rates and bills will be minimal, and Horizon Utilities can provide further information in this regard if requested to do so in staff or intervenor interrogatories.

We thank you for your consideration in these matters. Should you have any questions or require further information, please do not hesitate to contact me.

Yours very truly,
BORDEN LADNER GERVAIS LLP

Original Signed by James C. Sidlofsky

James C. Sidlofsky
JCS/ac
Encl.

- cc. Keith Ritchie, Ontario Energy Board
- John G. Basilio, Horizon Utilities Corporation
- Indy J. Butany-DeSouza, Horizon Utilities Corporation
- Intervenors of Record

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