EB-2010-0131

IN THE MATTER OF the *Ontario Energy Board Act,* 1998, being Schedule B to the *Energy Competition Act,* 1998, S.O. 1998, c.15;

AND IN THE MATTER OF an Application by Horizon Utilities Corporation to the Ontario Energy Board for an Order or Orders approving or fixing just and reasonable rates and other service charges for the distribution of electricity as of January 1, 2011.

ARGUMENT-IN-CHIEF OF HORIZON UTILITIES CORPORATION

DELIVERED APRIL 21, 2011

A. INTRODUCTION

1. Horizon Utilities Corporation ("Horizon Utilities") is the successor corporation to Hamilton Hydro Inc. and St. Catharines Hydro Utility Services Inc. Horizon Utilities owns and operates the electricity distribution systems located in the City of Hamilton and the City of St. Catharines.

2. Horizon Utilities last rebased in 2008, and its next rebasing would have otherwise typically taken place in 2012. In September 2009, Horizon Utilities made an application to the Ontario Energy Board (the "Board") for a rate adjustment resulting from the loss of a significant amount of revenue related to one of its Large Use customers (the "Z-factor Application", EB-2009-0332). While the Board denied the claim of Horizon Utilities in its Z-factor Application by way of a Decision dated March 24, 2010, the Board indicated that the appropriate manner of dealing with the circumstances described in the Z-factor Application was to bring forward a Cost of Service application.

3. On August 26, 2010, Horizon Utilities submitted a forward test year cost of service distribution rate Application (the "Application") to the Ontario Board seeking an order approving just and reasonable distribution rates and other charges for electricity distribution to be effective January 1, 2011. Following a round of interrogatories and submissions on the preliminary issue of whether Horizon Utilities would be permitted to advance this Application, on December 15, 2010, the Board issued its Decision on the Preliminary Issue confirming that it would allow the advanced Application to proceed without preconditions.

4. In the Application as originally filed, Horizon Utilities sought approval to charge rates effective January 1, 2011 to recover a service revenue requirement of $108,707,939.

After revenue offsets of $5,481,969, the base revenue requirement was $103,225,970. As initially filed, the Application indicated a revenue deficiency of $19,560,006.

5. Board Staff and Intervenor interrogatories were delivered to and answered by Horizon Utilities in January 2011, and a Technical Conference (preceded by Technical Conference questions and responses) was conducted on February 25, 2011. A Settlement Conference was conducted in this proceeding commencing March 8, 2011, but, despite the efforts of the parties, no settlement was achieved.

6. On March 14, 2011, following the Settlement Conference, Horizon Utilities filed an update to its evidence – that update primarily addressed further erosion of its Large Use customer load and, in particular, the announced shutdown of one of its Large Use customers and the ongoing lockout at another of its Large Use customers. The update also accounted for the addition of a new Large Use customer that had acquired a small fraction of an existing Large Use customer's facilities[1]. The evidentiary update revised Horizon Utilities' Large Use load forecast and proposed a variance account that would allow for the sharing of gains with Horizon Utilities' customers in the event that the aggregate loads for the subject customers were higher than that anticipated in the updated load forecast. Horizon Utilities had filed the revisions to the load forecast confidentially given the nature of the load data, i.e. that its currency was sensitive and had competitive value. On March 31, 2011, the Board issued its Decision on confidentiality and ruled that such material was not considered confidential as Horizon Utilities had filed similar material in August 2010, with the pre-filed evidence. During the oral hearing, Horizon Utilities asked the Board to, at a minimum, have references to the subject customers kept confidential in the oral hearing. The Board determined that the cross examination of the witness panels in the oral hearing could be undertaken without disclosing the identity of specific customers. Consequently, Horizon Utilities has avoided naming specific customers in this submission.

7. Further adjustments were made to Horizon Utilities' service and base revenue requirements and its revenue deficiency in the course of responding to interrogatories on the March 14th update and during the oral hearing in this matter, conducted on April 7, 8, 11, and 14, 2011. An update to Horizon Utilities' load forecast was delivered as part of

[1] Board staff Interrogatory 15 b)

its response to undertakings given during the hearing to address three matters related to conservation and demand management.[2] With the updates, the key elements of the Application include the following:[3]

(a) The revenue deficiency set out in the Application was $19,560,006. As revised, it is now $20,721,655.

(b) The Service revenue requirement set out in the Application was $108,707,939. It is now $108,099,607.

(c) The Base revenue requirement set out in the Application was $103,225,970. It is now $102,617,636.

(d) The rate base set out in the Application was $376,890,026. It is now $375,220,769.

8. An updated Revenue Requirement Work Form (the "RRWF") was provided by Horizon Utilities on April 15, 2011. That RRWF sets out the key elements of the Application, as fully updated, with one exception. During Day 2 of the oral hearing, Horizon Utilities agreed that its tax calculation should be reduced by the amount of $36,250 as a result of the Ontario Small Business Deduction[4]. While such adjustment was incorporated into Horizon Utilities' response to Undertaking J2.2, it was not incorporated into the RRWF filed on April 15, 2011. Horizon Utilities confirms that it will incorporate such into the calculation of its Draft Rate Order. Horizon Utilities also confirms that it will provide a revised proposed Schedule of Rates and Charges in conjunction with its Draft Rate Order. Horizon Utilities submits that its Application, as updated, before the OEB for approval, will provide the revenue necessary to sustain its capital, operating, and maintenance programs in a manner that continues to provide safe and reliable distribution of electricity in its service areas. It will also provide the revenue necessary to address the need for increasing expenditures on renewal of Horizon Utilities' distribution system as identified in its Asset Management Plan and to address the need for increased OM&A expenditures as set out in the Application.

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[2] Response to Undertaking J3.3
[3] Response to Undertaking J3.3
[4] Transcript, Vol 2, p.12

9. Throughout all phases of this Application, Horizon Utilities has made a strong effort to be open and transparent and cooperative in its communications with the Board and stakeholders. Horizon Utilities filed over 2,000 pages of comprehensive pre-filed evidence including working models for its load forecast, revenue requirement, and distribution rate design. In the fall of last year, Horizon Utilities responded to approximately 50 interrogatories from Board Staff and intervenors on the preliminary issue of whether the Application should proceed. This year, after the Board approved the advancement of the Application, Horizon Utilities responded to another approximately 600 interrogatories from Board Staff and intervenors on the merits of the Application itself. Horizon Utilities responded to approximately 200 Technical Conference Questions in advance of the Technical Conference conducted on February 25, 2011, and approximately 30 Undertakings given during the Technical Conference and oral hearing. Horizon Utilities has worked diligently to respond to all requests for information within the Board's deadlines, and there is a wealth of evidence on the record in this proceeding to support the Application.

10. Throughout the Application process, Horizon Utilities has been conscious of and focused on minimizing impacts to customers. Based on the revised Application, Horizon Utilities is proposing rates that will result in minimal average total bill impacts of (for example): 4.09% for the Residential Class customer with a monthly consumption of 800 kWh; and 4.15% for a General Service < 50 kW Class customer with a consumption of 2000 kWh[5].

11. Horizon Utilities submits that its proposed revenue requirement has been determined appropriately; that its proposed capital and OM&A programs for the 2011 Test Year are reasonable and supported by the evidence in this proceeding; and that the resulting distribution rates are fair and reasonable. Horizon Utilities submits that in approving this Application, the Board will have met its objective, set out in section 1 of the *Ontario Energy Board Act, 1998*, as amended, "to protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service."

[5] From bill impacts associated with Horizon Utilities' revised RRWF filed on April 15, 2011

B. RELIEF SOUGHT

12. Horizon Utilities requests that the Board approve the following items in this Application:

(a) Approval to charge rates effective January 1, 2011 to recover a Service revenue requirement of $108,099,607 and a Base revenue requirement of $102,617,636. Such annualized revenue requirement includes a revenue deficiency of $20,721,655;[6]

(b) Approval of the proposed loss factor as set out in Exhibit 8, Tab 1, Schedule 3, Table 8-20;

(c) Approval of revised low voltage rate riders as proposed and described in Exhibit 8, Tab 1, Schedule 1, Table 8-11;

(d) Approval to charge Retail Transmission-Network Service and Retail Transmission-Connection charges, as set out in Exhibit 8, Tab 1, Schedule 3;

(e) Approval to continue the Specific Service Charges, Transformer Allowance, Wholesale Market Service Rate and Rural Rate Protection Charge as approved in the Board's Decision and Order in Horizon Utilities' 2010 3rd GIRM Application (EB-2009-0228);

(f) Approval to dispose of the Deferral and Variance Account Balances over a one-year period as described and using the method of recovery set out in Exhibit 9;

(g) Review of the prudency of Horizon Utilities' Basic Green Energy Act Plan (the "GEA Plan") and approval of the method of cost recovery for the GEA Plan as set out in Exhibit 4, Tab 2, Schedule 6, Appendix 4-3;

(h) Approval of calculated balances in deferral and variance accounts and disposition of such balances as proposed in Exhibit 9, Tab1, Schedule 2 and as revised on March 14, 2011;

[6] As initially set out in Exhibit 1, Tab 2, Schedule 4, as updated March 14, 2011 and most recently in its response to Undertaking J3.3.

(i) Approval of a Deferral Sub-account to Account 1595. Horizon Utilities proposes transferring the balances in the deferral and variance accounts for which it is seeking disposal in this Application to this new sub-account. Recoveries and disposition via rate riders would then be recorded to this account;

(j) Approval of a Deferral Account to record the increases in OMERS pension contributions as set out in Exhibit 9, Tab 1, Schedule 1;

(k) Approval to use Account 1572 for the tracking of any additional net distribution revenues above the established baselines in the revised load forecast for the two Large Use customers identified in the March 14, 2011 update to Exhibit 3, Tab 2, Schedule 2[7] and a 50/50 sharing of any net distribution revenue in excess of those baselines between the shareholder and ratepayers in a manner to be determined by the Board upon a future application;

(l) Approval of a variance account to track the impact on cost of capital arising from the difference between the 6.1% rate on Horizon Utilities' $116 million Promissory Note due July 31, 2012 and the rate on a refinancing of such note once it is refinanced in July 2012, in the manner described in Exhibit 5, Tab 1, Schedule 1, Page 3, lines 6-14. Horizon Utilities would seek the disposition of the resulting balance in a subsequent IRM application along with an adjustment to its Long-Term Debt rate as described in the noted reference (as described in Exhibit 5, Tab 1, Schedule 1, Page 3, lines 11-14[8]. Horizon Utilities also identified options in this regard in its response to School Energy Coalition Interrogatory 33.

(m) Approval of revenue to cost ratios for rate classes as proposed in Exhibit 7, Tab 1, Schedule 2 and as revised in the April 6, 2011 response to VECC Interrogatory 44 on the revised evidence;

(n) Approval of fixed/variable charge splits within rate classes as proposed in Exhibit 8, Tab 1, Schedule 1, Page 6;

[7] Exhibit 3, Tab 2, Schedule 2, Page 20, lines 1-4 and Table 3-24A, revised March 14, 2011
[8] Transcript, Vol 3, p.84

(o) Approval of a change in the way the standby charge is applied to load displacement generators, as described at Exhibit 3, Tab 2, Schedule 2, Page 14 of the Application; and

(p) Approval of an effective date of January 1, 2011 for the new rates;

(q) Approval for the determination as part of the Draft Order of a rate rider to recover the forgone revenue from an effective date of January 1, 2011 to the implementation date of the new rates over the remainder of 2011. For example, if Horizon Utilities received an implementation date for new rates of July 1, 2011, the rate rider would be calculated on the basis of having to recover the forgone revenue in the last half of the year; and

(r) Approval for the Late Payment Penalty ("LPP") Charges recovery through a specific fixed rate rider for each class, as elaborated in paragraph 16, below.

13. In its Application, Horizon Utilities had also requested two additional Deferral and Variance Accounts as follows:

i. As related to the Provincial Meter Data Management and Repository ("MDM/R") Costs from the IESO for the Smart Meter Entity ("SME"); and

ii. As related to Late Payment Penalty ("LPP") Charges.[9]

14. As noted in its response to VECC Interrogatory No. 37(e) on the March 14, 2011 evidence update and as reiterated at the opening of the oral hearing[10], Horizon Utilities is withdrawing these two requests.

15. First, since the IESO has not yet filed an application with the Board requesting recovery of MDM/R costs as had been anticipated at the time of filing, an account accumulating costs in this regard is not required at this time.

16. Second, recovery of the LPP settlement costs was the subject of a generic hearing,[11] in which the Board determined a mechanism of LPP-related riders, so that the

[9] Exhibit 9, Tab 1, Schedule 1, Pages 4 to 8
[10] Transcript, Vol 1, p.20
[11] Board File No. EB-2010-0295

establishment of another deferral/variance account is not required. Pursuant to that Decision[12], Horizon Utilities apportioned the amount of $1,102,335.23 to each rate class, based on distribution revenue and calculated a specific fixed rate rider for each class based on the 2009 year-end actual customer or connection data, as filed in its RRR filing. Such was submitted to the Board on February 28, 2011. Horizon Utilities seeks approval of this rider, as part of this proceeding. As noted in the aforementioned decision, the Board indicated that "*The submitted rate riders shall be verified in the Affected Electricity Distributors' respective IRM or cost of service applications.*"[13]

C. SUMMARY OF EVIDENCE AND ISSUES

17. There is no Board-approved Issues List for this proceeding. However, for the purposes of organizing this submission, Horizon Utilities has followed the order of matters addressed in the Board's Filing Guidelines and its Application in preparing this submission. This approach has been used in order to ensure that all relevant matters have been addressed.

    1. Administration
    2. Rate Base
    3. Operating Revenue
    4. Operating Costs
    5. Cost of Capital and Capital Structure
    6. Calculation of Revenue Deficiency or Surplus
    7. Cost Allocation
    8. Rate Design
    9. Deferral and Variance Accounts

18. The submissions that follow have been organized according to these categories.

1. Administration

19. Horizon Utilities submits that its Application contains all elements required by the Board's Filing Requirements, and that it has addressed all outstanding requirements from its previous cost of service application (EB-2007-0697), including the preparation of

[12] Decision, EB-2010-0295, dated February 22, 2011
[13] Ibid, page 20

a Lead/Lag study. That study, performed by Navigant Consulting, has been filed as part of the Application.[14]

2. Rate Base

20. Horizon Utilities has calculated its rate base as required by the Board – that is, as an average of the balances at the beginning and the end of the 2011 Test Year plus a working capital allowance. Horizon Utilities commences recording depreciation in the month related assets come into service. The working capital allowance is 14% of the sum of the cost of power and controllable expenses based on Horizon Utilities' Lead/Lag Study, a reduction from the 15% level underlying its current rates. Horizon Utilities' 2011 Test Year Rate Base is $375,220,769 and reflects all updates through the course of this proceeding including the adjustments shown in response to Undertaking J3.3.

21. Horizon Utilities included in its Application extensive evidence in support of its 2011 Capital Expenditures, including Horizon Utilities' Asset Management Plan[15].

22. Horizon Utilities' capital plans include Customer Demand, Renewal, Security, Capacity, Reliability, Regulatory Requirements, and Stations expenditures. Horizon Utilities has continued significant work in reviewing the condition of its system since its last cost of service application and has confirmed that a significant amount of incremental renewal work will be required for the next several years. Horizon Utilities has been increasing its capital expenditures at a graduated pace commencing in 2008 in recognition of the fact that additional investment is needed in this area to address its aging network.[16]

23. As discussed in the Application,[17] "In order to balance distribution system risks and customer bill impacts, Horizon Utilities' capital plan provides for managing investments in the distribution system over a 20 year period, which will increase Horizon Utilities' annual capital expenditure, particularly in the area of end of life asset investment, by approximately $11.5 million per year. Even at this increased rate of investment, the ratio of assets beyond end of life to total assets is expected to increase until 2014, but Horizon Utilities considers this both necessary and reasonable to manage customer cost increases at a graduated pace." As can be seen from Figure 2-1 at Exhibit 2, Tab 1,

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[14] Exhibit 2, Tab 4, Schedule 1, Appendix 2-3
[15] Exhibit 2, Tab 3, Schedule 2, Appendix 2-1
[16] Exhibit 2, Tab 1, Schedule 3, Page 1
[17] Exhibit 2, Tab 1, Schedule 3, Page 5

Schedule 3, Page 3 of the Application, without the increased capital investments proposed in this Application, the proportion of Horizon Utilities' assets at end of life will continue to increase, which will require increased reactive maintenance costs and will contribute to persisting levels of reduced system reliability.

24. The capital expenditures of $43,992,099[18] proposed for the 2011 Test Year are necessary to enable Horizon Utilities to maintain acceptable standards of safety, reliability, performance indices, and customer satisfaction and to address the increased renewal requirements described in Horizon Utilities' Application and in the Asset Management Plan. Horizon Utilities submits that any reduction in its proposed capital program will result in increased operating and maintenance expenditures of infrastructure at the end of its useful life; impair its ability to pursue cost efficiency through systems and process replacement and innovation; and impair the delivery of more effective and sustainable customer service.

25. Horizon Utilities has confirmed in its response to Undertaking J1.4 that changes in in-service dates for a limited number of 2011 capital projects would not prevent such from going into service in 2011.

3. Operating Revenue

26. Evidence with respect to Horizon Utilities' operating revenue, including the methodology related to its load forecast can be found at Exhibit 3 of the Application. Horizon Utilities has provided the variance analyses required by the Board's Filing Requirements.[19]

27. The largest source of regulated revenue for the Test Year is the Base Revenue Requirement, which is predicated on the load forecast. Horizon Utilities has provided substantial evidence in support of its load forecast for the Test Year. With respect to its non-Large Use customer classes, on April 13, 2011, in response to Undertaking J3.3, Horizon Utilities provided an update to its load forecast for all customer classes (other than Large Use) to address three CDM-related matters, as follows:

   a. The Decision of the Board in Horizon Utilities' most recent LRAM/SSM Application (EB-2009-0158) and the OPA 2006 – 2009 Final Report (a copy of

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[18] Exhibit 2, Tab 2, Schedule 2, Page 5
[19] Exhibit 3, Tab 1, Schedule 3

which was filed in response to Undertaking No. J3.4) in which the assumptions and measures for CFLs were revised from a 4 year life and 104 kWh to an 8 year life and 43 kWh (as referenced in Horizon Utilities' response to Technical Conference Undertaking No. JT1.2);

b. The impact of OPA program measures that did not have persistence into 2011; and;

c. A double counting issue that Horizon Utilities determined in the course of responding to Undertaking J3.3. In formulating its response, Horizon Utilities determined that some of the impacts of the 2006 OPA programs were double counted in calculating the 2011 Load Forecast as initially filed. Those programs included the Every Kilowatt Counts program and the Fridge Bounty program.

28. In making the revisions set out above, the CDM activity variable was corrected for the entire period covered by that variable (2005 – 2011), and the revised load forecast was prepared. In the absence of that correction, inaccurate CDM values would have remained in the forecast.

29. At the close of the hearing on April 14, 2011, the Panel requested that Horizon Utilities "*confirm that that the rate order previously approved by the Board with respect to LRAM reflects the most recent OPA data for all years. This is of interest to the Board, as it relates to the LRAM claim in this application*."

30. Horizon Utilities has reviewed its previous LRAM/SSM application (EB-2009-0158) and the Board-approved rate order in that proceeding, and confirms that the rate order does reflect the most recent OPA data for all years. Horizon Utilities offers the following information for the Board's assistance:

a. The LRAM/SSM application included, among other items, LRAM claims for 2007 and 2008 related to carry-over from Third Tranche 2005/2006 programs of $909,395; Third Tranche 2007 initiatives of $51,448; and OPA 2007 Programs of $146,940, plus carrying costs. In that application, Horizon Utilities had used the updated OPA input assumptions for the 2007 programs, but not for the 2005/2006 programs.

b. In its Decision of October 8, 2009 on Horizon Utilities' LRAM/SSM application, the Board directed Horizon Utilities to adjust the LRAM amounts associated with its Third Tranche 2005/2006 programs and associated carrying charges to reflect the use of the updated OPA input assumptions endorsed by the Board in January 2009. The updated assumptions were therefore applied not only to initiatives from 2007 onward (as had been proposed by Horizon Utilities in its application), but also to the 2005 and 2006 programs.

c. In its comments on Horizon Utilities' draft rate order in that proceeding, VECC advised that it agreed with the revised kWh calculation for the 2005/2006 carry forward component and the LRAM claim as set out in Table 6 of the Draft Rate Order.

d. In its final Order of October 23, 2009, the Board subsequently approved the draft tariff of rates and charges and confirmed that it accurately reflected the Board's October 8, 2009 Decision.

31. The revised load forecast model was filed in conjunction with Horizon Utilities' response to Undertaking J3.3. Horizon Utilities submits that these adjustments represent both necessary and appropriate corrections to the original load forecast, prepared in compliance with the Board's Filing Requirements, and that the resulting revised forecast should be accepted by the Board.

32. With respect to Large Use customers, as discussed previously, Horizon Utilities' Large Use loads have consistently been below their 2008 Board-approved levels. This situation was addressed in the Application as filed. However, events subsequent to the filing of the Application, in the fourth quarter of 2010, resulted in further declines in forecast Large Use load by approximately 7%.[20] Consequently, on March 14, 2011, following the Settlement Conference, Horizon Utilities filed an update to its evidence to address this further erosion of Large Use customer load, and, in particular, the announced shutdown of one of Horizon Utilities' Large Use customers and the ongoing lockout at another of Horizon Utilities' Large Use Customers. The update also accounted for the addition of one new Large Use customer. The update provided for:

[20] Transcript. Vol 4, p.44-45

a. a revised Horizon Utilities' Large Use load forecast reflecting these subsequent events; and

b. a proposed variance account for the tracking of any additional net distribution revenues above the aggregate of the established baselines in the revised load forecast for the two Large Use customers identified in Exhibit 3, Tab 2, Schedule 2, Page 15-21, revised March 14, 2011. Horizon Utilities proposes that any net distribution revenue in excess of the aggregate of those baselines be shared with its customers on a 50/50 basis in a manner to be determined by the panel of the Board clearing that balance.

33. For the customer that is shutting down, Horizon Utilities has set that customer's load at zero for the 2011 Test Year. For the customer involved in the lock-out, Horizon Utilities updated the Large Use load forecast by using actual loads for January and February 2011, and the average of December 2010 through February 2011 for the March-December 2011 period. Horizon Utilities submits that the revision of its Large Use load forecast is both necessary and appropriate in order to avoid similar circumstances to those it confronted following its 2008 Cost of Service Decision – that is, an almost immediate deficiency of actual loads relative to forecast loads used in establishing rates.

4. Operating Costs

34. Horizon Utilities' OM&A costs from 2007 Actual through the 2011 Test Year are set out in Table 4-1 of the Application, at Exhibit 4, Tab 2, Schedule 1, Page 1. Drivers for the OM&A costs were set out at Table 4-2 of the Application.[21] In the adjustments filed on April 6, 2011[22], Horizon Utilities adjusted its proposed Test Year OM&A to amend the amortization period for the recovery of regulatory costs from three to four years. Such resulted in a change to OM&A of approximately $80,000 (these are summarized in Horizon Utilities' response to Undertaking J3.3a)

35. Horizon Utilities' proposed 2011 Test Year OM&A, with the adjustment described above, is $47,457,439[23].

[21] Exhibit 4, Tab 2, Schedule 5, Page 2
[22] Horizon Utilities' Response to VECC Interrogatory 37 e), filed April 6, 2011
[23] Horizon Utilities' RRWF, filed April 15, 2011

36. Horizon Utilities has provided extensive evidence in support of its proposed OM&A budget for the 2011 Test Year, including detailed departmental business plans and budget information[24]. At Exhibit 4, Tab 2, Schedule 6, Horizon Utilities addresses the variances in its OM&A costs. Since its last rebasing, Horizon Utilities has developed its Workforce Labour Strategy and Plan[25] (the "WLSP") that provides a ten-year outlook for its trades, distribution technical staff, and professional staff. Horizon Utilities submits that the planned 2011 hires provided in Table 4-26 of its Application[26], as well as the 2009 and 2010 positions added to Horizon Utilities' staff complement, are consistent with and supported by the WLSP. Horizon Utilities submits that the planned new hires represent an appropriate and necessary mix of trades, administrative, and support personnel necessary to operate and maintain the distribution system and to provide for the replacement of its aging workforce.

37. Horizon Utilities submits that its proposed 2011 Test Year OM&A budget is reasonable and supported by the evidence in this proceeding.

38. Horizon Utilities has also requested a prudency review and approval of its Basic Green Energy Act Plan[27]. The Ontario Power Authority's approval letter in respect of the Plan has been included at Exhibit 4, Tab 2, Schedule 6, Appendix 4-4. Horizon Utilities wishes to clarify one matter in respect of this Plan – as discussed during the oral hearing, Horizon Utilities confirms that it seeks approval of its proposed expenditures in the Plan for the 2011-2014 period[28].

39. Finally, Horizon Utilities made corrections with respect to Payment in Lieu of Taxes ("PILs") in response to Energy Probe Technical Conference Question 8. Horizon Utilities submits that such corrections with respect to Class 52 assets and the calculation and inclusion of certain Federal and Ontario apprenticeship-related tax credits improve the accuracy of 2011 Test Year PILs calculations in compliance with the Board's requirements.[29] Further, in its response to Undertaking J2.2, Horizon Utilities accepted a

[24] Exhibit 1, Tab 2, Schedule 2
[25] Exhibit 4, Tab 2, Schedule 6, Appendix 4-2
[26] An updated version of this Table was submitted in conjunction with Horizon Utilities' response to Undertaking J2.4.
[27] Tr. Vol 2, Page 53
[28] Tr. Vol.2, at Pages 54-55
[29] Horizon Utilities' response to VECC Interrogatory 37e), filed April 6, 2011

tax reduction of $36,250 and reflected such in its response to this undertaking. Horizon Utilities confirms that it will incorporate that reduction into the calculation of its Draft Rate Order.

5. Cost of Capital and Capital Structure

40. Horizon Utilities' current deemed capital structure for rate making purposes comprises 56% Long-Term Debt, 4% Short-Term Debt, and 40% Equity. Such structure is unchanged from the current approved structure for Horizon Utilities, and no changes to such are proposed in this Application.

41. Based on Horizon Utilities' revised rate base of $375,220,769 for the 2011 Test Year, as set out in its response to Undertaking J3.3, the aggregate Deemed Debt requested is $225,132,461; and comprises a Short-Term Debt component of $15,008,831 and a Long-Term Debt component of $210,123,630. The amount of Deemed Equity requested is $150,088,307.

42. In its Application, Horizon Utilities used the Board's cost of capital parameters applicable to 2010 electricity distribution rate applications and acknowledged that they would be subject to change based on the Board's parameters for 2011 rates. Horizon Utilities confirms that its proposed rates and charges have now been recalculated based on the Board's parameters for January 1, 2011 with respect to the Return on Equity (now 9.66%) and short term debt (now 2.43%)[30]. Horizon Utilities has proposed a long term debt rate is 5.79%, based on the dollar weighted average of its funded debt.[31]

6. Calculation of Revenue Deficiency

43. Horizon Utilities had included a copy of the Board's Revenue Requirement Work Form as part of its Application[32], which provided for a revenue deficiency of $19,560,006. With all revisions accounted for as set out in Horizon Utilities' response to Undertaking J3.3[33],

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[30] Per the Letter of the Board on November 15, 2010 in which the Cost of Capital Parameters for January 1, 2011 Cost of Service filers was set

[31] Exhibit 5, Tab 1, Schedule 1, Page 3, as revised by Horizon Utilities' response to Schools Interrogatory No. 34

[32] Exhibit 6, Tab 1, Schedule 2, Appendix 6-1

[33] Such excludes the $36,250 pertaining to the Small Business Deduction noted in Paragraph 8 of the Argument-in-Chief

the revenue deficiency that it is required to recover in this Application is $20,721,655[34] That revenue deficiency is shown in Horizon Utilities' revised Revenue Requirement Work Form[35].

7. Cost Allocation

44. At Exhibit 7, Tab 1, Schedule 1 of the Application, Horizon Utilities set out its proposal to continue a transition of the revenue-to-cost ratios of its customer classes directionally toward parity; to the extent practical including consideration for individual class rate impacts. This represents a progression from the changes made to Horizon Utilities' revenue-to-cost ratios in its 2008 EDR application and the Board's decision thereon.

45. Table 7-3 of the Application illustrates the previously approved ratios and the "status quo" ratios resulting from Horizon Utilities' updated Cost Allocation Study and reflecting the Board's Decision in Horizon Utilities' 2009 IRM application. In its Application, Horizon Utilities proposed to move the Residential customer class from the updated Cost Allocation Study revenue to cost ratio of 110.2% to 104%, that is, approximately half way to parity. It also proposed to move other customer classes toward parity. It should be noted that, in certain cases such as that of the Large Use customer class, the "status quo" ratio based on the updated Cost Allocation Study had dropped far below the low end of the Board's approved range of ratios, due to significantly reduced actual revenues in the bridge and historical years. Horizon Utilities proposes increasing the ratios for those customers so that they are once again within the Board-approved ranges, although in the cases of the GS>50 kW and Large Use classes, Horizon Utilities does not propose to return them to their 2008 Board-approved levels. Instead, Horizon Utilities proposed that each of the GS>50, Large Use, Sentinel Light, Street Light and Standby classes be moved to a ratio of 91.3%.

46. Horizon Utilities acknowledges that its "Proposed" ratios provided in Table 7-3 may change as a result of the Board's Decision. As discussed on Day 4 of the oral hearing, Horizon Utilities clarified its method of rebalancing revenue to cost ratios by starting with the movement of the Residential class such that it would seek to move the Residential

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[34] See Horizon Utilities' revised Revenue Requirement Work Form filed April 15, 2011 (note that the RRWF shows a deficiency of $20,721,653, with rounding).
[35] Ibid

class one-half of the way toward parity[36], and, thereafter move the ratios for the other classes closer to parity. Horizon Utilities has proposed specific ratios for each rate class[37]. If the Board does not accept these proposed ratios, Horizon Utilities anticipates that the Board will direct the adjustment of such.

8. Rate Design

47. Horizon Utilities' approach to rate design is set out at Exhibit 8 of the Application, and clarified in its response to Undertaking J3.7. Horizon Utilities' Schedule of Rates and Charges was filed as part of the Application, and an updated version was provided as part of Horizon Utilities' March 14, 2011 evidence update. The RRWF filed by Horizon Utilities on April 15, 2011 sets out new rates for the Residential and GS<50 kW classes reflecting the CDM-related revision to the load forecast discussed above. Horizon Utilities submits that changes to rates resulting from the CDM-related update to the load forecast have had minimal impacts when the rates are compared to those resulting from the March 14, 2011 update. Horizon Utilities will be providing a complete Schedule of Rates and Charges as part of the preparation of its Draft Rate Order. Horizon Utilities reiterates two matters of rate design addressed in the Application in the following paragraphs.

48. Horizon Utilities proposes to maintain its fixed/variable splits for all of its customer classes with the exception of the Large Use class. The reasons for the proposed treatment of the Large Use class are discussed in Exhibit 8 and summarized below. While the Monthly Service Charges ("MSCs") for Horizon Utilities' customer classes exceed the upper bound set out in the Board's November 28, 2007 Report on Cost Allocation for Electricity Distributors, the Board did not prohibit proposals for increases in MSC values. This approach is supported most recently by the April 4, 2011 Decision of the Board in Hydro One Brampton Networks Inc.'s ("HOBNI's") 2011 cost of service application (EB-2010-0132) where at page 37 of the Decision, the Board accepted HOBNI's proposed increases in MSCs notwithstanding that in some cases the upper band of the MSC was exceeded, and referred to other applications in which similar relief was granted.

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[36] Transcript, Vol 4, p.54, lines 18-25
[37] Exhibit 7, Tab 1, Schedule 2, Table 7-3

49. With the exception of the Large Use class, increases in MSCs proposed in this Application are driven by changes in the revenue requirement attributable to each customer class, and the existing fixed/variable splits are being maintained. With respect to the Large Use customer class, the current fixed/variable split is 34.3%/65.8%. Horizon Utilities proposes to increase the fixed proportion to the proportion of the next highest class – that is 49.4%, the current GS > 50 kW split. As discussed in the Application and above, loads and distribution revenues from the Large Use class have declined significantly since Horizon Utilities' last Cost of Service application, while the costs of providing distribution service are largely fixed, such that they do not vary with consumption.

50. Large Use revenues have been the most volatile and susceptible to material decline with respect to past and persisting adverse economic conditions. However, the Large Use customer class has the lowest proportion of class revenue recovered through the MSC; which is very low considering the largely fixed nature of distribution costs. This condition results in a high level of risk and uncertainty with respect to Horizon Utilities' ability to recover the revenue allocated to this class. In the Decision on the Z-factor Application, the Board indicated at page 9 that it "*is in agreement with staff and intervenors that Horizon has not demonstrated that the revenue losses experience are an event genuinely external to the regulatory regime for which the management of the Applicant could not plan*".

51. As Horizon Utilities submitted in J3.7, it is appropriate that the fixed proportion be increased as increasing the MSC is the only practical means within rate design for Horizon Utilities' management to plan for addressing this risk. Despite the proposed increase in MSC for the Large Use class, which is supportive of addressing this risk, Horizon Utilities submits that there remains a significant general risk of cost recovery within rate design related to the level of mismatch between the amount of fixed revenue and fixed costs.

9. Deferral and Variance Accounts

52. Horizon Utilities is seeking an order from the Board permitting it to clear the balances accumulated in its:

i. Group 1 Deferral and Variance accounts from January 1, 2009 to December 31, 2009; and

ii. Group 2 accounts for the period of January 1, 2007 through December 31, 2009, with carrying charges through December 31, 2010.[38] Horizon Utilities submits that it has established the prudency of account balances in its Application.

53. In connection with the clearance of the Group 1 and Group 2 balances referred to above, Horizon Utilities requests approval to establish a new sub-account of Account 1595, Disposition of Regulatory Asset Balances. Horizon Utilities proposes that the balances in the deferral and variance accounts for which it is seeking disposition in this Application be transferred to the new sub account. The impact of settlements of these balances through rate riders would then be recorded in this account.

54. In its March 14, 2011 evidence update, Horizon Utilities proposed that Account 1572 would be used for the tracking of any additional net distribution revenues above the aggregate established baselines in the revised load forecast for the two Large Use customers identified in Exhibit 3, Tab 2, Schedule 2 of the revised Application. Horizon Utilities proposed that any net distribution revenue in excess of the aggregate of those baselines[39] be shared with its Large Use customers on a 50/50 basis. However, during the oral hearing, Horizon Utilities acknowledged that the treatment of the proposed customer share of the net distribution revenue in excess of the aggregate above the baseline would be determined by the Board panel dealing with a related future request of Horizon Utilities for disposition of the balance.[40]

10. Rate Year Alignment, Effective Date and Implementation Date

55. On January 21, 2010, the Board issued a letter to LDCs and other interested parties initiating a consultative process to review the need for and the implications of a potential alignment of the rate year with the fiscal year for LDCs (EB-2009-0423). The Board invited interested parties to make comment on the proceeding. In a letter to all parties on April 15, 2011 concluding the proceeding, the Board noted that all filings supported the idea that the Board allow each distributor the discretion to apply to align its rate year

[38] See Exhibit 9, Tab 1, Schedule 1.
[39] Exhibit 3, Tab 2, Schedule 2, Page 20, lines 1-4 and Table 3-24A, revised March 14, 2011
[40] Transcript, Vol 3, p.80

with the fiscal year. In addition, all filings suggested that any proposal for an alignment of the rate year with the fiscal year be made in a Cost of Service application.

56. Horizon Utilities prepared its Application on the basis of rate year and fiscal year alignment such that the rate-financing of investments and costs in the Application are effectively coterminous with their incurrence. As identified in Exhibit 1, Tab 2, Schedule 1, Page 15-17, such alignment benefits both the utility and the ratepayer. For the assistance of the Board, such benefits are repeated here.

"Benefits to the Utility

The alignment of rate year and fiscal year is particularly important to distributors that require financial liquidity from third party lenders. Horizon Utilities has a significant requirement for debt capital and incurs such in a manner, with related terms and covenants, similar to other large utilities such as Toronto Hydro Electric System Limited and Hydro One. All of such utilities including Horizon Utilities have public debt ratings which directly impact both the cost and availability of debt capital to support their financing requirements for distribution system infrastructure. Lenders and rating agencies base their respective decisions on the availability and relative certainty of cash flow to support business investment requirements and debt servicing. The alignment of the rate year with the fiscal year is supportive of cost effective and available financial liquidity as: i) the incurrence of investment and cost more closely aligns with cash flow; and, ii) there is less regulatory uncertainty related to the approval of expenditures months after the commencement of the fiscal year. This is a material issue for Horizon Utilities as the present lag, based on the revenue deficiency determined in this Application, represents approximately $6.5 MM or approximately 43.9% of proposed utility net income for 2011.

Regulatory uncertainty in relation to the rate year/ fiscal year lag also creates investment risk for a utility. There is a significant risk that, in the first effective year of a COS application, the Board may disallow the recovery of certain investments and costs that have been incurred in advance of its rate decision. The alignment of the rate year and fiscal year simplifies the explanation of fiscal year results in relation to regulatory approvals of investments, costs, and return on equity. Such returns are presently computed in rate applications based on calendar year budgets. However, such are not practically available given the misalignment of the rate year and fiscal year. This creates confusion for users of financial statements, such as the lenders and rating agency to Horizon Utilities, and also complicates variance analyses in rate applications.

Lastly, Horizon Utilities' reporting to the Board is provided on a calendar year basis and, as such, all underlying input data into rate applications is based on the calendar year. For example, variance analyses are addressed by way of comparisons with prior years. Consequently, an alignment of the rate year and fiscal year would allow for further consistency in comparative data collection *presentation, reporting, and analysis. This would improve efficiency in utility reporting processes.*

Benefits to Ratepayers

As noted previously, previous changes to the rate year have often been made to align such with changes in the price of the commodity. Currently, the rate year is aligned with the May 1st change in commodity prices. Rate year and fiscal year alignment will offer ratepayers transparency and, with appropriate communication from the utility and the Board, a clearer understanding of the rates on which their bills are based, without the confusion of other coterminous changes to billing elements.

In the natural gas sector in Ontario, commodity rate changes are effected quarterly. Additionally, electricity distributors have other billing elements, such as riders, that are implemented on dates other than May 1. As such, there is no apparent ratepayer benefit of changing distribution rates and commodity rates as of the same date.

Ratepayers also benefit from the utility having more certain and timely cashflow resulting from fiscal/rate year alignment. Such allows for more timely and confident investment in capital and operating costs to support a sustainable distribution system and customer service delivery."

Horizon Utilities further identified the implications for the utility and its customers of not having a January 1, 2011 effective date for rates in its responses to interrogatories and Technical Conference Questions[41].

57. Horizon Utilities submits that it is appropriate that Board approve rate year alignment in this Application and that the effective date of its rates be January 1, 2011. It is noteworthy that not only has the Board previously approved changes to the rate year[42], but it has also approved a rate year/fiscal year alignment for Hydro One Distribution and for Hydro One Transmission Applications. More recently, on April 4, 2011, the Board issued its decision in the 2011 EDR Cost of Service Application for Hydro One Brampton Networks Inc. (EB-2010-0132) in which it approved the alignment of rate year and fiscal year. Similarly, the Board approved an effective date for rates in that case of January 1, 2011.

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[41] For example, see Horizon Utilities' responses to CCC Interrogatories 2, 3 and 4, and its response to Board Staff Technical Conference Question 3

[42] Exhibit 1, Tab 2, Schedule 1, Page 15

58. Horizon Utilities submits that the alignment of rate year and fiscal year and an effective date of January 1, 2011 are a reasonable outcome to this Application. However, the implementation date of the rates would be that which is practical relative to the date of issuance of the Decision of the Board in this Application. Horizon Utilities identifies for the Board's benefit, that, in order to implement its new rates, it will need to have the final rate order in advance of the 15th of the month. Otherwise Horizon Utilities would either have to hold customer bills (that is, delay billing) or miss the implementation of rates in the billing cycle of that month.

59. As noted earlier, Horizon Utilities requests the recovery of the revenue shortfall arising from the period between the effective date and the implementation of the new rates be over the remaining part of 2011.

CONCLUSION

Horizon Utilities submits that the relief requested in this Application, as updated and set out in its response to Undertaking J3.3 and the RRWF filed April 15, 2011 and as summarized in this submission, is just and reasonable, and requests that the Board direct Horizon Utilities to prepare a draft rate order that implements the requested relief with an effective date of January 1, 2011.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 21st DAY OF APRIL, 2011.

Original Signed by James C. Sidlofsky
James C. Sidlofsky
Counsel to Horizon Utilities Corporation

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