



June 15, 2011

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319, 27th Floor
2300 Yonge Street
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Horizon Utilities Corporation
2011 Electricity Distribution Rate Application
Submission of AMPCO's Final Argument (Public)
Board File No. EB-2010-0131**

Pursuant to the Board's letter of June 10, 2011, attached please find a public version of AMPCO's final submissions in the above proceeding that is unchanged from the version filed in confidence on May 5, 2011.

Please contact me if you have any questions or require additional information.

Sincerely yours,

(ORIGINAL SIGNED)

Adam White

President
Association of Major Power Consumers in Ontario

Copies to: Horizon Utilities Corporation
Intervenors (email)

Association of Major Power Consumers in Ontario

www.ampco.org

372 Bay Street, Suite 1702
Toronto, Ontario M5H 2W9

P. 416-260-0280
F. 416-260-0442

EB-2010-0131

IN THE MATTER OF the Ontario Energy Board Act,
1998, S.O. 1998, c.15 (Schedule B);

AND IN THE MATTER OF an application by Horizon Utilities Corporation for an
order approving just and reasonable distribution rates and other charges
effective January 1, 2011.

FINAL SUBMISSIONS OF AMPCO

May 5, 2011

**DAVIS LLP
1 First Canadian Place
Suite 6000
P.O. Box 367
100 King Street West
Toronto, Ontario
M5X 1E2**

**Mr. David Crocker
Tel: 416-941-5415
Email: dcrocker@davis.ca**

Counsel to AMPCO

IN THE MATTER OF the Ontario Energy Board Act,
1998, S.O. 1998, c.15 (Schedule B);

AND IN THE MATTER OF an application by Horizon Utilities Corporation for an order approving just and reasonable distribution rates and other charges effective January 1, 2011.

**Final Submissions of AMPCO
May 5, 2011**

I. Introduction

1. Horizon Utilities Corporation (“Horizon”) filed a cost of service application on August 23, 2010 pursuant to section 78 of the *Ontario Energy Board Act, 1998, S.O. 1998, c. 15* (Schedule B), seeking an Order approving just and reasonable distribution rates and other charges for electricity distribution to be effective January 1, 2011.
2. In its original filing, Horizon sought to recover a service revenue requirement of \$108,707,939. After revenue offsets of \$5,481,969, the base revenue requirement sought was \$103,225,970; the application indicated a revenue deficiency of \$19,560,006.¹
3. Following adjustments and updates to the evidence, the service revenue requirement now sought is \$108,099,607, the base revenue requirement is now \$102,617,636, and the revenue deficiency is now \$20,721,655 (the “Application”).²
4. The Application represents an 18.7% increase over 2010 actuals.³

II. Issues to be Argued

5. AMPCO has included herein submissions on the following issues:

III. Cost Allocation;

IV. Rate Design;

¹ Horizon Argument-In-Chief Page 2

² Horizon Argument-In-Chief Page 3

³ Undertaking J3.5

- V. Load Forecast;
- VI. Proposed Deferral Account 1572;
- VII. Rate Year and Implementation Date.

III. Cost Allocation

6. As part of the Application, Horizon updated its cost allocation study.⁴ The updated 2011 study reflects 2011 costs, volumes and revenues before adjustments in the revenue to cost ratios.⁵
7. Horizon updated its Large Use customer forecast in March 2011. Accordingly, a re-run of the cost allocation model was undertaken and filed on April 6, 2011 in advance of the hearing. The following table shows Horizon’s previously approved Revenue-to-Cost (R/C) ratios, revised status quo R/C ratios, revised proposed R/C ratios for 2011, and the Board’s Target Range for each rate class;⁶

Rate Class	Previously Approved Ratios	Revised Status Quo Ratios	Revised Proposed Ratios	Board Target Range ⁷
Residential	106.4	110.6	104.0	85-115
General Service < 50 kW	88.1	102.7	102.7	80-120
General Service > 50 kW	98.0	84.8	91.2	80-180
Large Use	95.2	63.9	91.2	85-115
Sentinel Lights	72.3	62.4	91.2	70-120
Street Lighting	70.0	75.7	91.2	70-120
Unmetered Scattered Load	62.0	129.8	120.0	80-120
Standby Power	65.8	79.0	91.2	

8. In this application, Horizon is seeking approval of the revised proposed R/C ratios shown in the above table.
9. Based on the updated data, Horizon is proposing adjustments to bring the R/C ratios for three rate classes within the Board Approved Target Ranges (Large Use, Sentinel Lights, Unmetered Scattered

⁴ Exhibit 7, Appendix 7.1
⁵ Exhibit 7, Tab 1, Schedule 2, Page 3
⁶ Exhibit K1.2, Revised VECC Interrogatory #44 (d) & (g)
⁷ EB-2007-0667, November 28, 2007 Report, Pages 8 to 11

Load).

10. Horizon is also proposing additional adjustments to continue moving its customer classes toward parity. Horizon submits this approach is appropriate as individual class revenue will more closely reflect the actual cost of providing distribution service to such class.⁸
11. The Board's Report, "Application of Cost Application for Electricity Distributors" dated November 28, 2007 (EB-2007-0667) (the "Cost Allocation Report") indicates that "The ranges established by the Board are set out in section 3, and are intended to be minimum requirements. To the extent that distributors can address influencing factors that are within their control (such as data quality), they should attempt to do so and to move revenue-to-cost ratios nearer to one."
the Cost Allocation Report, page 4
12. The Cost Allocation Report indicates that, "[d]istributors should endeavour to move their R/C ratios closer to one if this is supported by improved cost allocations".
the Cost Allocation Report, page 7
13. It appears to AMPCO that Horizon has used in the Application current, 2011 cost data and has applied experience gained working with the cost allocation model since its last cost of service application in 2008. As such, Horizon is using a better quality of data than was the case in their previous cost of service application.
14. AMPCO submits that unity is the target and any other R/C ratio is inconsistent with the principle of cost causality. In the setting of just and reasonable rates each customer class should be paying the actual costs of providing distribution services to that class.
15. AMPCO also submits that moving R/C ratios closer to unity is within the Board's mandate to set just and reasonable rates consistent with the principle of cost causality.
16. AMPCO, therefore, supports Horizon's proposal to move the R/C ratios toward unity in the Application for all rate classes.

⁸ Exhibit 7, Tab 1, Schedule 1, Page 3

17. It should be noted, however, that AMPCO members have expressed to their representatives significant concerns with respect to the absolute costs attributed to the Large Use Class. Whether stranded assets, particularly in St. Catharines, are included in these costs was questioned. The proposed costs do not seem to reflect reality to AMPCO members.
18. AMPCO members have also expressed the concern that Horizon's promised savings associated with the merger with the St. Catharines' utility assets have not been reflected in any proposed revenue requirements AMPCO members have observed.
19. AMPCO submits, therefore, that if the costs attributed to the Large Use Class are inflated, that fact may be used to temper any movement in the cost allocation for the Large Use Class proposed by Horizon.

IV. Rate Design

20. Horizon Utilities is proposing to increase the fixed proportion of the revenue recovered from the Large Use Class from 34.25% to 49.4%.⁹ Based on the Monthly Service Charges (MSC) provided at the hearing, this translates into a 123% increase in the MSC for the Large User, taking it from \$11,151.32¹⁰ in 2010 to \$24,900.49 in 2011.¹¹ Horizon is also proposing to increase the variable proportion from \$1.01230/kWh to \$1.5193/kWh - an increase of over 50%.
21. In Horizon's Argument-in-Chief, it indicates that, "[t]hroughout the Application process, Horizon Utilities has been conscious of and focussed on minimizing impacts to customers".¹²
22. At the hearing, AMPCO's Counsel provided a hypothetical example of the impact on a typical Large Use Customer with a monthly demand of 50,000 kW of the increases in the MSC and Variable Charge as proposed. The hypothetical illustrated an annual increase of over \$556,000 on the

⁹ Exhibit 8, Tab 1, Schedule 1, Page 8, Table 8-7

¹⁰ Exhibit 8, Tab 1, Schedule 5, Page 4

¹¹ Exhibit K3.1

¹² Horizon Argument-In-Chief, April 21, 2011, Page 4

distribution portion of the bill for the typical Large User excluding funding adders and rate riders.¹³

23. AMPCO submits this increase is significant. During cross examination by AMPCO's Counsel, Horizon's witness conceded that the increase is substantial.¹⁴
24. AMPCO submits that Horizon's proposed rate design for the Large User is inconsistent with Horizon's statement that they have, "been conscious and focusing on minimizing impacts to customers".¹⁵
25. Horizon has indicated that this structural change in rate design is appropriate in order to respond to volatility in the Large User customer load and provide revenue surety. In the first place, with respect to the issue of volatility, AMPCO agrees with the position of the School Energy Coalition ("SEC") in their Un-redacted Confidential Final Argument, section 1.3, Volume Forecast-Large Users.¹⁶
26. With the caveats provided by SEC mentioned above, AMPCO acknowledges that there have been marginal declining loads in the Large User class since 2008 that may put financial pressure on the utility. AMPCO submits, however, that loading more fixed costs onto the Large User is not an appropriate approach to rate design to deal with any potential revenue shortfalls moving forward.
27. The Large User is the customer class with the lowest proportion of distribution revenue recovered through a monthly service charge. The GS>50 kW rate class has the next lowest fixed proportion of distribution revenue at 49.4%.¹⁷
28. Horizon proposes to increase the fixed portion of the Large User class to a percentage equal to the GS < 50 kW customer class; i.e. to 49.4%.¹⁸ Horizon is proposing to maintain the fixed/variable split

¹³ Exhibit K3.2, AMPCO Compendium Page 4

¹⁴ Transcript Volume 3, Page 99

¹⁵ Horizon Argument-In-Chief, April 21, 2011, Page 4

¹⁶ Transcript Volume 3, Page 28

¹⁷ Exhibit 8, Tab 1, Schedule 1, Page 6

¹⁸ Exhibit 8, Tab 1, Schedule 1, Page 6

for all other rate classes.¹⁹

29. With respect to Horizon's proposed changes to the rate design for the Large User customer, AMPCO adopts the arguments of SEC in the document described above at section 7.1.
30. AMPCO submits that Horizon's rate design proposal for the Large User is not based on sound objectives and principled rate making.
31. In the first place, rate design practices should not be based on reducing the revenue risk for the utility and passing that revenue risk onto customers by increasing the fixed portion of rates for that purpose. If there is risk it should be born by the utility.
32. Secondly, Horizon's proposal to set the fixed proportion to match the fixed proportion of the next closest customer class, in this case GS<50 kW, is arbitrary and not supported by the current policy objectives of the Province.
33. The Board is guided in part by the following objectives²⁰:
 1. *To protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service.*
 2. *To promote economic efficiency and cost effectiveness in the generation, transmission, distribution, sale and demand management of electricity and to facilitate the maintenance of a financially viable electricity industry.*
 3. *To promote electricity conservation and demand management in a manner consistent with the policies of the Government of Ontario, including having regard to the consumer's economic circumstances.*

¹⁹ Exhibit 8, Tab 1, Schedule 1, Pages 4 & 6

²⁰ Ontario Energy Board Act, 1998, S.O. 1998, c.15 (Schedule B)

34. AMPCO submits that Horizon's proposed rate design for the Large User class is inconsistent with those principles.
35. In addition, during cross examination by AMPCO's Counsel, Mr. Basilio of Horizon agreed that as the fixed component of the bill is increased, the incentive for demand management is reduced.²¹
36. In response to AMPCO interrogatory 16, Horizon indicated that "In the current application, Horizon once again considered proposing a 100% fixed charge in order to address the volume risk associated with some of its customers. There is support for such a position."²²
37. During cross examination on this issue by AMPCO's Counsel, the witness mused about a 100% fixed charge for the Large User Class. He went on to say that in any event the distribution component is relatively small compared to their overall cost of electricity and [the distribution charge] "has a very small, if any, impact on their decisions with respect to curtailing demand".²³
38. This position, AMPCO submits, indicates an insensitivity to its customers and a lack of understanding of their objectives by Horizon.
39. AMPCO submits that Large Users have been significantly impacted by the economic downturn and are managing all costs of doing business extremely carefully in order to be more cost effective. In support of demand management and with a focus on reducing overall operating costs, Large Users are more likely to use the system more efficiently with a lower fixed MSC and a higher variable rate.
40. Most AMPCO members serviced by Horizon are in various stages of recovery from the recent economic downturn and have expressed serious concerns about Horizon's proposed increases to the fixed and variable charges for the Large User, in particular the proposed 123% increase in the MSC.

²¹ Transcript Volume 3, Page 109

²² AMPCO Interrogatory # 16

²³ Transcript Volume 3, Page 112

41. The impact of increasing the fixed portion by 123% may in some cases make the business case for these Large Users to consider alternative service delivery options.
42. Horizon confirms in the response to AMPCO interrogatory # 20, that Horizon Utilities does not have any Large Users that are supplied from Horizon substations. All of the Large Users are fed from Hydro One transformer stations. There are 8 Horizon Large User customers that are served directly from a line from a Hydro One station that does not also feed any other Horizon customers.²⁴
43. With only 12 customers in the Large User class, if one or more of these customers bypass Horizon and connect directly to Hydro One, the impact on Horizon may be substantial.
44. AMPCO submits that an outcome where one or more Large User customers leave the utility is not the desired outcome and as a result other rate design proposals need to be considered.
45. Another potential outcome could be that with the increase in costs, large projects do not move forward at the same pace as planned and instead smaller scale projects become more viable resulting in a lower than anticipated load forecast for the Large User class.
46. Horizon's updated allocation model (Sheet O2) provides minimum and maximum fixed charges for each customer class. The minimum level is based on the avoided costs and the maximum level is based on the avoided costs plus the allocated customer costs. For the Large User class, the minimum and maximum levels for the MSC are \$264.26 and \$726.87, respectively.²⁵
47. The Cost Allocation Report states that The Board considers it to be inappropriate to make significant changes to the ceiling for the MSC at this time, given the number of issues that remain to be examined. The appropriateness of the methodologies cited above, used to set the MSC is an issue that will be examined within the scope of the Rate Review. The Rate Review will also examine the role of rate design in achieving various objectives, including conservation of energy. Both of these undertakings will have determinative impacts on the fixed/variable ratio policy. In the interim, the

²⁴ AMPCO Interrogatory # 20

²⁵ Updated 2011 Cost Allocation Model, April 6

Board does not expect distributors to make changes to the MSC that result in a charge that is greater than the ceiling as defined in the Methodology for the MSC and that distributors that are currently above the ceiling are not required to make changes to their MSC to bring it to or below that level at this time.”

48. Horizon’s Monthly Service Charges exceed the floor amount for all customer classes.²⁶
49. Further to the discussion of the absolute costs attributed to the Large User Class in paragraph 17 and following above, AMPCO members have expressed to their representatives concern with respect to the value attributed by Horizon to the infrastructure used to support the Large User Class and, therefore, the basis on which the increases in the fixed and variable cost of service rates have been determined.

Order of the Board requested by AMPCO

50. The current MSC for the Large User Class is significantly greater (over 1400%) than the ceiling for the MSC provided in the 2011 cost allocation model (re-run).
51. On the basis of the Cost Allocation Report AMPCO respectfully requests, at a minimum, the MSC for the Large User should be maintained at 2010 levels and not increased further in 2011 as proposed by Horizon.
52. In addition, AMPCO respectfully requests that the Board order Horizon to develop a rate design alternative for the Large User Class that reduces the MSC below the 2010 level to bring it closer to the ceiling level of \$726.87 provided by the 2011 cost allocation model.

V. Load Forecast – Large User

53. The original forecast for 2010 and 2011 for the Large User class was based on 2009 actual results. In March 2011, Horizon updated its evidence to reflect the actual consumption and demand values for 2010. In addition, Horizon made changes in the consumption and demand values for three of its

²⁶ Exhibit 8, Tab 1, Schedule 1, page 4

customers.

54. The demand for one customer was eliminated from the load forecast to reflect a recent plant shutdown. For another customer experiencing an ongoing lockout, the actual demand for January and February 2011 was used and demand for March to December was based on the average of the most recent three months of actual demand used as the monthly demand. For the third customer who acquired part of an existing customer's facilities, the actual demand for January and February 2011 for this customer was used and the demand for March to December was based on an average of the most recent three months of actual demand and used as the monthly demand.²⁷
55. In response to VECC Interrogatory # 39 on the revised evidence, Horizon confirmed that the demand for the first customer is not zero as reflected in the updated 2011 load forecast. Rather, as a result of the shutdown, the demand had dropped to 15% of the 2009 monthly average demand by March 2011.
56. For the purposes of updating the 2011 load forecast, Horizon does not project any change in the lockout situation for the second customer or growth for the third customer that acquired the existing facilities described above. Horizon has not projected any growth for the remaining Large User customers.
57. Based on the above assumptions made by Horizon for the purposes of forecasting the 2011 load, AMPCO submits that it is likely that Horizon has underestimated its 2011 load forecast.
58. In that regard, AMPCO submits that Horizon has not acknowledged that the declining load from the Large User class may be temporary based on the economic circumstances from 2008 through 2010 which are, by all accounts, changing.
59. In addition, AMPCO submits that the loss of revenue is somewhat less than as portrayed by Horizon over the period of time at issue.

²⁷ Exhibit 3, Tab 2, Schedule 2, Page 16 Updated March 14, 2011

60. In addition, AMPCO submits that it is unrealistic of Horizon to assume that the lockout will continue indefinitely and that there will be no growth from the Large Use customer which acquired the assets described above.

61. Finally, AMPCO submits that attributing zero load to the Large Use customer which has shut down but is actually at 15% of its pre-shut down load, is unfair and inaccurate.

Order of the Board as requested by AMPCO

62. AMPCO respectfully requests, therefore, that an arbitrary, but more realistic, load forecast for the Large User class would be an average of the last three years as proposed by SEC. AMPCO submits that even that forecast is likely to be conservative.

VI. Proposed Deferral Account 1572

63. Horizon is seeking approval to use Account 1572 to track any additional net distribution revenues above the established baselines in the revised load forecast for the two existing Large Use customers described above that are experiencing a plant closure and an ongoing lockout.²⁸

64. Horizon proposes that any net distribution revenue in excess of those baselines be shared with its Large Use customers on a 50/50 basis.²⁹ The disposition of the variance account would be at a future date in a manner determined by the Board upon a future application.

65. AMPCO takes the position that with a conservative load forecast (even as revised if AMPCO's requested Order of the Board is reflected in the Board's Order), net distribution revenue will likely accrue.

66. AMPCO strongly submits that any accrued revenue should not be split 50/50 with the Large Use Customer Class. 100% of the accrued revenue should be returned to Horizon customers.

67. AMPCO submits that the Board's approved Return On Equity ("ROE") is provided to utilities to compensate the shareholder for normal business risks, including the risks of revenue variations. As

²⁸ Exhibit 9, Tab 1, Schedule 1, Page 4

²⁹ Exhibit 9, Tab 1, Schedule 1, Page 4

indicated above when discussing the issue of rate design, AMPCO submits that such risks should remain with the utility.

Order of the Board as requested by AMPCO

68. AMPCO respectfully requests that the Board decline Horizon's request for such a deferral account.

VII. Change in Rate Year

69. AMPCO agrees with the submissions of other intervenors that Horizon's rate year should be a calendar year.

VIII. Effective Date for Rates

70. AMPCO also supports the submissions of other intervenors that Horizon's next IRM Application would be effective January 1, 2012 and their next rebasing year would remain unchanged at 2016.

IX. Costs

71. The Board confirmed that AMPCO is eligible to apply for an award of costs under the Board's Direction on Cost Awards.

72. AMPCO submits that it participated responsibly in this proceeding and sought to limit its involvement to matters that are relevant to AMPCO.

73. AMPCO respectfully requests that it be awarded 100% of its reasonably incurred costs of participating in this proceeding.

ALL OF WHICH IS RESPECTFULLY submitted this 5th of May 2011.