



Ontario Energy Board Commission de l'énergie de l'Ontario

DECISION AND ORDER

EB-2016-0077

HORIZON UTILITIES CORPORATION

Application for electricity distribution rates and other charges
beginning January 1, 2017

BEFORE: Ken Quesnelle
Vice Chair and Presiding Member

Christine Long
Vice Chair and Member

Allison Duff
Member

January 12, 2017

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1 INTRODUCTION AND SUMMARY

This is the Decision and Order of the Ontario Energy Board (OEB) on an application filed by Horizon Utilities Corporation (Horizon) to change distribution rates in 2017.

Horizon serves approximately 245,000 customers in the City of Hamilton and the City of St. Catharines. Horizon filed an application with the OEB seeking approval for changes to its rates that it charges to its customers for electricity distribution, to be effective January 1, 2017 (Application). Electricity distributors must apply to the OEB to change the rates that they charge customers.

Horizon filed a Custom Incentive Rate-setting (Custom IR) application in 2014 for electricity distribution rates for the period 2015-2019. The OEB issued its decision on December 11, 2014 (Custom IR decision¹) which allowed Horizon to update its rates on an annual basis during the 2015-2019 term to reflect certain changes. This Application is Horizon's second annual update during its Custom IR term and includes a number of proposed adjustments and rate changes.

The OEB approves Horizon's proposed rate changes for 2017 effective January 1, 2017 with the exception of the proposed rate riders. The OEB directs Horizon to file a draft rate order reflecting this Decision, including rate riders based on a February 1, 2017 implementation date, and to incorporate updates to regulatory charges, the cost of power and Global Adjustment approved by the OEB since the Application was filed.

¹ Horizon Utilities Corporation, EB-2014-0002, Decision and Order, December 11, 2014

2 THE PROCESS

Horizon published a Notice of Application (Notice) on its website, and served the Notice on individuals the OEB determined to be appropriate. The Notice indicated that anyone interested in participating in the Application process should apply for intervenor status.

Four intervenors, who each represented different groups of customers affected by the Application, participated in the proceeding:

- Association of Major Power Consumers in Ontario (AMPCO)
- Building Owners and Managers Association (BOMA)
- Consumers Council of Canada (CCC)
- School Energy Coalition (SEC)

OEB staff also participated in the proceeding. The OEB provided intervenors and OEB staff the opportunity to ask Horizon questions about its evidence through written interrogatories. Horizon responded to the interrogatories through written responses.

The intervenors and OEB staff made written submissions on November 16, 2016 and Horizon filed a reply submission on November 25, 2016. The OEB provided for the opportunity for the filing of additional submissions regarding Horizon's 2015 return on equity calculation and applicability of the Earnings Sharing Mechanism. Accordingly, OEB staff and SEC filed additional submissions on December 12, 2016 and Horizon replied with additional submissions on December 16, 2016.

3 UPDATES DURING THE CUSTOM IR TERM

The Custom IR decision approved a partial settlement proposal reached between Horizon and the intervenors of that proceeding (settlement proposal). The settlement proposal included “reopeners” that would justify reopening the 2015-2019 Custom IR proceeding:

- changes to income tax rates and laws
- changes to environmental laws
- changes to technical requirements beyond the control of the utility
- items that qualified for a Z-factor
- accounting framework changes
- changes to the permitted market rates to be charged for wireless pole attachments

Horizon indicated that none of these reopeners applied to 2017. The intervenors and OEB staff agreed.

Subsequent to the Custom IR decision, the OEB issued decisions and policy changes that require rate changes in 2017 for Horizon. This section of the Decision addresses the three required rate changes in 2017.

3.1 Cost Allocation for Street Lighting and LU(2) classes

The OEB approved rate changes in 2016² for the Street Lighting class resulting from OEB policy changes to the street lighting adjustment factor and the revenue-to-cost ratio³. The OEB directed Horizon to phase in the revenue to cost changes over the 2015-2019 Custom IR term. Accordingly, Horizon proposed changes to the Street Lighting class rates in 2017.

Horizon also proposed changes to 2017 rates for the large use LU(2) class to maintain a revenue-to-cost ratio within the range established by OEB policy.

There were no objections to Horizon’s proposals.

Findings

The OEB approves Horizon’s proposed changes to the Street Lighting and LU(2) rate classes in 2017 as the changes are consistent with prior OEB decisions and OEB policies.

² EB-2015-0075, Ontario Energy Board Decision and Order, December 10, 2015

³ *Issuance of New Cost Allocation Policy for Street Lighting Rate Class*, EB-2012-0383, June 12, 2015

3.2 Residential Distribution Rate Design

All residential distribution rates currently include a fixed monthly charge and a variable usage charge. The OEB's residential rate design policy⁴ stipulates that electricity distributors will transition residential customers to a fully fixed monthly distribution service charge over a four year period starting in 2016.

The OEB approved rate changes to Horizon's residential rates in 2016 and Horizon's transition plan for 2016-2020⁵. The Application included the 2017 rate changes from Horizon's approved transition plan.

Horizon proposed to increase the residential fixed distribution charge to \$2.50 in 2017. Horizon indicated that the impact of the change for customers consuming at the 10th percentile of consumption was a 2.32% increase.

OEB staff submitted that Horizon correctly implemented the OEB policy on residential rate design and that further mitigation beyond a four-year transition period was not required. There were no objections from intervenors.

Findings

The OEB finds that the proposed increase of \$2.50 to the residential monthly fixed charge is in accordance with the OEB's EB-2015-0075 decision and the OEB's policy on distribution rate design for residential customers. The OEB approves the proposed increase in the fixed distribution rate and corresponding decrease in the variable distribution rate for the residential class in 2017. The OEB confirms that the change in residential rates in 2017 is revenue neutral for Horizon; the forecast revenue Horizon will collect from the residential customer class in 2017 will not change as a result of the approved rate design changes.

3.3 Regulatory Charges

Customers are charged a number of fees to cover the costs associated with various programs and wholesale market services.

The Rural or Remote Electricity Rate Protection (RRRP) program is designed to partially offset the relatively high cost of electricity distribution to eligible customers located in rural or remote areas of Ontario. The funding level is established by the

⁴ OEB Letter to all Licensed Electricity Distributors, RE: *Implementing a New Rate Design for Electricity Distributors*, OEB File: 2012-0410, July 16, 2015

⁵ EB-2015-0075, Ontario Energy Board Decision and Order, December 10, 2015

government of Ontario and is recovered from all electricity customers in the province through a charge that is set annually by the OEB.

Wholesale market service (WMS) charges recover the cost of the services provided by the Independent Electricity System Operator (IESO) to operate the electricity system and administer the wholesale market. These charges may include costs associated with: operating reserve, system congestion and imports, and losses on the IESO-controlled grid, as well as the costs of the IESO's Capacity Based Recovery (CBR) initiative. Individual electricity distributors recover the WMS charges from their customers through the WMS rate.

Distributors bill Class A customers their share of the actual CBR charge based on their contribution to peak demand. Accordingly, the WMS rate applied to these customers by distributors does not contain that portion of the WMS rate applicable to CBR.

These charges are components of the Regulatory Charge on customers' bills and are established annually by the OEB through a separate order.

Findings

The OEB previously determined⁶ that the RRRP charge for 2017 shall be \$0.0021 per kWh. The WMS rate used by rate-regulated distributors to bill their Class A customers shall continue to be \$0.0032. For Class B customers, a CBR component of \$0.0004 per kWh is added to the WMS rate for a total of \$0.0036 per kWh.

These changes are effective January 1, 2017 for all distributors. The OEB directs Horizon to file a draft rate order that reflects these changes to the Regulatory Charge.

⁶ Decision and Rate Order, EB-2016-0362, December 15, 2016

4 ANNUAL ADJUSTMENTS

In its Custom IR decision, the OEB approved the settlement proposal filed by Horizon and the intervenors in that proceeding. The settlement proposal indicated that Horizon's rates would be adjusted annually for a number of items. Horizon proposed the following annual adjustments in 2017.

4.1 Changes in the Cost of Capital

As per the settlement proposal, Horizon's annual cost of capital should include the return on equity and short-term debt rate established annually by the OEB in its cost of capital parameters decision. Horizon's long-term debt rate will correspond to the weighted average cost of long-term debt issued and outstanding each year.

Findings

The OEB approves Horizon's proposed cost of capital as it appropriately includes the OEB's 2017 cost of capital parameters as issued on October 27, 2016 and reflects the terms of the settlement proposal.

4.2 Changes in the Working Capital Allowance

As per the settlement proposal, Horizon updated its 2017 working capital allowance with the following inputs:

- Cost of Power and Global Adjustment were updated with the most recent rates at the time of the filing effective from November 1, 2015 to October 31, 2016. Horizon will update the filing with the most recent rates effective November 1, 2016 to October 31, 2017
- Retail Transmission Service Rates were updated to incorporate 2015 demand for Horizon Utilities and 2016 Uniform Transmission Rates and Hydro One Sub Transmission Rates
- The Smart Metering Entity Charge has been updated to incorporate 2015 Residential and GS < 50 kW customer count with no change to the Rate Rider
- The RPP vs. non-RPP volumes were updated for 2015 actuals
- The Wholesale Market Service Rate was updated from \$0.0044/kWh to \$0.0036/kWh

- The Ontario Electricity Support Program charge of \$0.0011/kWh has been included in the Wholesale Market Service Charge in the Cost of Power

OEB staff submitted that the requested annual adjustments set out above are consistent with the approved settlement proposal in the Custom IR application.

Findings

The OEB approves Horizon's proposals for its working capital allowance and expects the draft rate order will reflect the updated Cost of Power and Global Adjustment rates effective November 1, 2016.

4.3 Changes in Other Third Party Pass Through Charges

The settlement proposal provided for changes due to other third party pass through charges. Other than the changes proposed to the calculation of the working capital allowance, Horizon did not propose any other changes to third party pass through charges.

The OEB finds that Horizon's proposals are consistent with the settlement proposal. Other than the update to the working capital allowance, no other third party pass through charges change in 2017.

4.4 Earnings Sharing Mechanism (ESM)

The settlement proposal provided for earnings in excess of the approved return on equity (ROE) to be divided on a 50/50 basis between Horizon Utilities and its customers. A deferral account would track earnings in excess of the OEB's annual approved ROE. For 2015, Horizon calculated an ROE of 9.275% for the purpose of the Earnings Sharing Mechanism and submitted that no earnings sharing was required as 9.275% was less than the 2015 approved ROE of 9.30%. Horizon Utilities calculated the 9.275% based on a number of exclusions, which included the exclusion of an out-of-period tax adjustment of \$505k.

OEB staff submitted that Horizon's calculation of 9.275% ROE was correct except for the out-of-period tax adjustment. Since the settlement proposal did not specifically make a provision for an adjustment for out-of-period tax adjustments, OEB staff submitted that \$550k should be included, not excluded, in the ROE calculation. OEB staff submitted the correct 2015 ROE was 9.56% and that Horizon should be required to record

\$251,041 in the ESM deferral account to be refunded to customers (50% of the difference between net income at 9.56% and 9.30%). CCC and AMPCO agreed with OEB staff's submission.

Horizon maintained that its proposal was consistent with the settlement proposal which indicated "regulatory net income will be calculated, for the purpose of earning sharing, in the same manner as net income for regulatory purposes under the RRR filings"⁷ in addition to a list of exclusions. Horizon submitted that the nature of the tax credit and the timing of the underlying expenditures justified the exclusion from the 2015 ROE.

The OEB found that Horizon raised some arguments in reply submission that were not specifically addressed by OEB staff. The OEB issued Procedural Order No. 2 to allow the filing of additional submissions on the topics of Horizon's 2015 ROE and the applicability of the ESM in order to complete the record in the proceeding.

In its additional submission, OEB staff maintained its position that the \$550k tax credit should be included in the 2015 ROE calculation for the following reasons:

- The current tax provision in Horizon's audited financial statements⁸ includes the out of period tax adjustment. Horizon included the \$550k credit for information only, not as an adjustment. As a result, Horizon's 2015 net income is higher as is its reported ROE. In addition, it is each distributor's responsibility to identify all necessary adjustments to the achieved ROE
- Inclusion ensures the 2015 earnings sharing assessment is final. Horizon's approach would enable Horizon to retroactively record in 2015 the tax adjustments received in later years
- Excluding tax adjustments received in subsequent years would result in one-sided adjustments, which would be unfair to Horizon's customers
- The \$550k tax adjustment is lower than Horizon's materiality threshold of \$608k

OEB staff agreed with Horizon in principle that the deemed or approved ROE and achieved ROE should be on a consistent basis and that a one-sided adjustment to ROE is not reasonable.

⁷ EB-2015-0075, Ontario Energy Board Decision and Order, December 10, 2015, Appendix A Settlement Proposal, page 30.

⁸ Horizon RRR 2.1.5.6 report, cells fa and fa1.

SEC submitted that Horizon must establish which year's taxes were reassessed. If Horizon received the \$550k tax credit as a refund cheque in 2015, SEC submitted that it should never have been part of the 2015 tax calculation in the first place. Conversely, SEC submitted that if the tax credits are claimed on the 2015 tax return because of prior year expenses, then the tax credit should be included in the ROE calculation as a reduction in the tax payable in 2015.

Horizon, in its final reply submission, confirmed that the Canadian Scientific Research and Experimental Development Tax Incentive Program (SR&ED) tax credit of \$550k is part of a tax recalculation for prior years. The tax credit was reported in Horizon's amended income tax returns for 2013 and 2014.

Horizon also addressed OEB staff and SEC's submissions indicating that:

- The tax credit was not included in the 2015 cost of service application and therefore should not be included in the determination of the actual 2015 ROE
- The earnings sharing assessment for 2015 should be considered final and not open to further potential tax adjustments.
- The nature of the tax credits meets the criteria advanced by SEC for an adjustment to the ESM calculation
- OEB staff's submission was incorrect as the settlement proposal did not reference "reported RRR ROE for 2015"
- Tax credits were not included in the 2015 PILs used to determine deemed ROE. To include the credit would result in the achieved ROE and the deemed ROE being reported on an inconsistent basis.

Findings

The OEB accepts Horizon's 2015 ROE calculation of 9.275% for the purpose of the earning sharing mechanism. As a result, no entry to the deferral account for earning sharing is required as 9.275% is lower than the deemed ROE of 9.30% for 2015.

In reply submission, Horizon confirmed that the SR&ED tax credit of \$550K was reported in amended 2013 and 2014 income tax returns. Horizon clarified that the transaction that occurred in 2015 was the corresponding receipt and recording of a \$515k refund and \$35k receivable, related to the prior years' tax returns. Based on this information, the OEB agrees that the tax credit is appropriately excluded from the 2015

ROE calculation for purposes of the ESM. The OEB does not require the filing of further evidence to render its decision on this issue.

The OEB finds that the terms of the settlement proposal have been met as Horizon's ROE calculation aligns with RRR Section 2.1.5.6, the ROE Complete Filing Guide⁹.

The OEB does not find Horizon's actual, reported 2015 RRR filing relevant to this proceeding.

4.5 Capital Investment Variance Account (CIVA)

The settlement proposal provided for a deferral account to refund ratepayers any difference in the revenue requirement should in-service capital additions be lower than the approved forecast. Each year, Horizon Utilities will determine the impact to revenue requirement of the variance in its cumulative capital additions for the period from January 1, 2015 to the end of the relative year, as compared to the baseline.

Horizon Utilities reported 2015 capital additions of \$46.6M, which is \$8.3M higher than the forecasted capital additions of \$38.3M. Since the capital additions are above the forecast no entry was made to the CIVA.

AMPCO and OEB staff accepted the calculation for the CIVA.

Findings

The OEB approves the proposed calculation for the CIVA as it is consistent with the settlement proposal.

4.6 Efficiency Adjustment

The settlement proposal included an efficiency adjustment intended to incent Horizon to maintain or improve its cohort position based on the OEB's stretch factor assignments. The efficiency adjustment would operate as a proxy stretch factor in the event that Horizon is placed in a less efficient cohort in any year during the Custom IR term. Horizon was in the Group III cohort in 2015 and remains in Group III for the purpose of calculating 2017 stretch factors.

⁹ OEB's RRR 2.1.5.6 Return on Equity Complete Filing Guide, dated March 2016, pages 19-23

Findings

The OEB finds that no efficiency adjustment is required in 2017 as Horizon's assigned cohort has not changed since 2015.

4.7 Adjustments to the Stranded Meter Rate Rider

Horizon applied to recover its remaining balance of stranded meter assets. Horizon indicated that it would revise the rate riders for disposition of the remaining balance to include a return of 1.76% equal to the OEB's approved short-term debt rate for 2017.

OEB staff submits that Horizon's proposal is consistent with the settlement proposal.

Findings

The OEB approves the recovery of the stranded meter assets and return of 1.76%, consistent with the OEB's approved 2017 cost of capital parameters and the settlement proposal. The OEB directs Horizon to recalculate the stranded meter rate riders for inclusion in the draft rate order given the approved February 1, 2017 implementation date and an 11-month disposition period.

5 DEFERRAL AND VARIANCE ACCOUNTS

Horizon requested disposition of its Group 1 deferral and variance account (DVA) balances, in accordance with OEB policy. The settlement proposal did not mention, or include an agreement on, the disposal of Horizon's DVAs during the Custom IR term.

5.1 Group 1 DVA balance

The OEB's policy¹⁰ is to review and dispose of a distributor's Group 1 balances if they exceed (as a debit or credit) the pre-set disposition threshold of \$0.001 per kWh. Horizon's total Group 1 DVA balance as of December 31, 2015 including interest calculated to December 31, 2016, is a credit of \$8,484,548. This total represents a credit claim of \$0.0016 per kWh which exceeded the disposition threshold. Horizon proposed to refund the credit to customers over a one-year period through rate riders.

OEB staff submitted that the Group 1 DVA balances reconcile to Horizon's RRR filing and the proposal to dispose is in accordance with OEB policy.

Findings

The OEB approves the Group 1 DVA credit balance of \$8,484,548 for disposition, which is the balance at December 31, 2015 including interest to December 31, 2016. The following table identifies the principal and interest amounts which the OEB approves for disposition.

¹⁰ Report of the Board on Electricity Distributors' Deferral and Variance Account Review Initiative (July 31, 2009)

Table 1 - Group 1 Deferral and Variance Account Balances

Account Name	Account Number	Principal Balance (\$) A	Interest Balance (\$) B	Total Claim (\$) C=A+B
LV Variance Account	1550	471,028	7,159	478,187
Smart Meter Entity Variance Charge	1551	(22,681)	(356)	(23,038)
RSVA - Wholesale Market Service Charge	1580	(10,407,994)	(150,131)	(10,558,125)
Variance WMS - Sub-account CBR Class B	1580	1,108,630	15,758	1,124,388
RSVA - Retail Transmission Network Charge	1584	(1,237,207)	(15,135)	(1,252,343)
RSVA - Retail Transmission Connection Charge	1586	(230,302)	(1,328)	(231,630)
RSVA - Power	1588	(859,776)	(4,321)	(864,097)
RSVA - Global Adjustment	1589	2,612,621	44,945	2,657,566
Disposition and Recovery of Regulatory Balances (2015)	1595	199,898	(15,358)	184,542
Total Group 1 Excluding Global Adjustment - Account 1589		(10,978,404)	(163,710)	(11,142,115)
Total Group 1 Excluding Global Adjustment - Account 1589 and Sub-account CBR Class B		(12,087,034)	(179,468)	(12,266,503)
Total Group 1		(8,365,783)	(118,765)	(8,484,548)

5.2 Disposition of Group 1 DVA balance

Horizon proposed to dispose of the Group 1 DVA balances over a period of one year through rate riders.

Horizon had a specific disposition proposal for Account 1589 RSVA - Global Adjustment with a balance of \$2,657,566.

Most customers pay the Global Adjustment charge based on the amount of electricity they consume in a month (kWh); these customers are referred to as Class B. Customers who participate in the Industrial Conservation Initiative, are referred to as Class A. The costs for the Global Adjustment are recovered from Class A and Class B customers in different ways. Distributors settle with Class A customers based on the actual GA costs resulting in no variance. For Class B customers, distributors track any difference between the billed amounts and actual costs in the Global Adjustment variance account.

Under the general principle of cost causality, customer groups that cause variances in DVAs should be responsible for paying (or receiving credits) for their disposal. Horizon identified six formerly Class B customers who qualified as Class A customers effective July 1, 2015. Horizon proposed that these six customers be allocated only the portion of the Global Adjustment balance accrued prior to their classification as Class A customers based on their percentage of non-RPP Class B volume during the period they were Class B customers. Accordingly, Horizon proposed to allocate \$92,950 to these six customers through specific bill adjustments with recovery through 12 equal monthly payments.

OEB staff submitted that Horizon's disposition proposals were consistent with the methodology provided in the OEB's DVA work form for customer specific bill adjustments.

Findings

The OEB approves the proposed allocation of \$92,950 from Global Adjustment balance to the six customers reclassified from Class B to A as follows:

# of Former Class B customer(s)			
Customer	% of kWh	Customer specific GA allocation for the period prior to becoming Class A	
Customer 1	11.33%	\$	10,535
Customer 2	14.32%	\$	13,313
Customer 3	13.03%	\$	12,113
Customer 4	20.40%	\$	18,965
Customer 5	16.57%	\$	15,405
Customer 6	24.33%	\$	22,619
Total	100.00%	\$	92,950

The OEB does not approve Horizon's proposed disposition of the Group 1 DVA balances over one year or in 12 monthly installments. Given the approved implementation date for 2017 rates is February 1, 2017, the OEB approves disposition of the Group 1 DVA balances over an 11-month period from February 1, 2017 to December 31, 2017 to align with Horizon's rate year. The OEB directs Horizon to recalculate the DVA rate riders for inclusion in the draft rate order.

6 IMPLEMENTATION

Horizon proposed an effective date of January 1, 2017 for its new 2017 rates.

In Procedural Order No. 2, the OEB declared Horizon's current rates interim as of January 1, 2017 until such time as new rates were approved.

The OEB approves a January 1, 2017 effective date for Horizon's new 2017 rates with an implementation date of February 1, 2017. Horizon shall calculate the foregone revenue and rate riders to recover the difference between the effective date of January 1, 2017 and the implementation date of February 1, 2017 over the 11-month period to December 31, 2017.

Horizon is directed to file a draft rate order to reflect the findings of this Decision. The OEB expects Horizon to file detailed supporting material including, but not limited to, a completed version of the OEB's revenue requirement work form showing the impact of the Decision on its proposed revenue requirement, the allocation of the approved revenue requirement to the classes, and the determination of the final rates, including bill impacts.

The OEB will review the draft rate order and issue a final rate order.

7 ORDER

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Horizon Utilities Corporation's new 2017 distribution rates shall be effective January 1, 2017.
2. Horizon Utilities Corporation shall file with the OEB a draft rate order attaching a proposed Tariff of Rates and of Rates and Charges reflecting the OEB's findings in this Decision within 7 days of the date of this Decision. The draft rate order shall also include the customer rate impacts (including and excluding the impacts related to the rate riders) and detailed supporting information showing the calculation of final rates.

All filings to the Board must quote the file number, EB-2016-0077, be made through the Board's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <http://www.ontarioenergyboard.ca/OEB/Industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Donald Lau at Donald.Lau@ontarioenergyboard.ca and OEB Counsel, Maureen Helt at Maureen.Helt@ontarioenergyboard.ca.

DATED at Toronto January 12, 2017

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary