



Gerry L. Guthrie
Vice-President
Finance & C.F.O.
Tel: (519) 745-4771
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May 5, 2009

By Email and Courier

Ms. Kirsten Walli, Board Secretary
Ontario Energy Board
2300 Yonge Street, 26th Floor, P.O. Box 2319
TORONTO ON M4P 1E4

**Re: Application for Approval for an Exemption from
Section 2.4.6.2 of the Distribution System Code
to Mitigate Non-Payment Risk**

Dear Ms. Walli:

The purpose of this letter is to request Ontario Energy Board approval for an exemption from Section 2.4.6.2 of the Distribution System Code which reads:

2.4.6.2 In managing customer non-payment risk, a distributor shall not discriminate among customers with similar risk profiles or risk factors except where expressly permitted under this Code.

Specifically, Kitchener-Wilmot Hydro Inc. is requesting approval to impose weekly payments for large commercial customers in managing customer non-payment risk where the risk of default is likely.

Background

On April 23, 2009, Kitchener-Wilmot Hydro Inc. wrote to the Ontario Energy Board's Market Operations Hotline expressing concern over the financial stability of one of our larger commercial customers and requested guidance on how to enforce a weekly payment plan for this customer in an effort to mitigate the risk of non-payment. A copy of our letter (Exhibit A) is attached.

continued . . .

On April 28, 2009, Paul Gasparatto, Regulatory Policy and Compliance, responded and made two (2) suggestions for Kitchener-Wilmot Hydro Inc.'s consideration. A copy of Mr. Gasparatto's letter is attached (Exhibit B).

1. File an application before the Board for an exemption to Section 2.4.9 of the Distribution System Code (DSC) to provide Kitchener-Wilmot Hydro Inc. the right to require a security deposit from a specific customer even though the customer has a good payment history;
2. File an application before the Board for an exemption to Section 2.4.6.2 of the DSC to provide Kitchener-Wilmot Hydro Inc. the right to enforce weekly payments for this specific customer.

Supporting Facts

- ✓ This customer's kW load averages 2 MW with an average monthly bill of approximately \$80,000.
- ✓ This is a long term customer (over 35 years) demonstrating "good payment history" and therefore no security against payment default is held by Kitchener-Wilmot Hydro Inc.
- ✓ Customer's production is highly dependent on the automotive industry (high risk profile given the current economic recession).
- ✓ Customer was insured under Kitchener-Wilmot Hydro Inc.'s Accounts Receivable Credit Insurance Policy for the past two (2) years.
- ✓ Credit Insurance coverage for this customer was cancelled by our insurance company effective April 10, 2009 citing high risk of imminent failure (Risk Grade fell from "6" to "9" where 10 reflects bankruptcy).
- ✓ Public record (local newspaper article of March 19, 2009) of the company's admission of financial instability. Copy attached as Exhibit "D".
- ✓ Customer denied our request for either a security deposit or to make weekly payments, citing they satisfy the OEB's definition of "Good Payment History". Copy of our letter of April 7, 2009 and the customer's reply letter of April 17, 2009 is attached as Exhibit "E" and Exhibit "F" respectively.
- ✓ High risk exposure of a potential payment default which exceeds our current materiality threshold for rate recovery.
- ✓ Kitchener-Wilmot Hydro Inc. has acted prudently and diligently in managing customer non-payment and risk mitigation.

continued . . .

Kitchener-Wilmot Hydro Inc. appreciates the Board's response to LDC's continuing concerns regarding the payment risk associated with larger commercial and industrial customers by launching the "Electricity Distributors and Management of Customer Commodity Payment Default Risk (EB-2007-0635) initiative which has since been incorporated into the Board's Customer Service, Rate Classification and Non-Payment proceeding (EB-2007-0722). However, finalization of any proposed amendments to the DSC relating to non-payment risk as a result of this proceeding does not appear to be imminent.

Given the risk of a highly potential unrecoverable bad debt to our Corporation, we therefore urge the Board to immediately consider approval of an exemption from Section 2.4.6.2 of the DSC which will permit Kitchener-Wilmot Hydro Inc. to enforce a weekly payment plan in situations where the on-going creditworthiness of a particular commercial account has deteriorated to the point where the risk of default is likely. Evidence to support such assessment is the withdrawal of credit insurance coverage by our credit insurance provider, on our customer account.

This matter is of an urgent nature. We appreciate your high priority to this issue.

Respectfully submitted,



G. L. Guthrie, C.G.A.
Vice-President Finance & C.F.O.

cb

attachments



EXHIBIT A

Gerry L. Guthrie
Vice-President
Finance & C.F.O.
Tel: (519) 745-4771
Fax: (519) 745-2360

April 23, 2009

Ontario Energy Board
Via Email marketoperations@oeb.gov.ca

Dear Sir/Madam:

Kitchener-Wilmot Hydro Inc. is seeking direction regarding one of our largest industrial customers. The customer's kW load averages 2 megawatts with an average monthly billing of \$80,000.00. This customer has operated their business in our service area since 1973 demonstrating, by Ontario Energy Board's definition, "Good Payment History" and thus no security against payment default is held by our company. All production in this company is directly linked to the automotive industry.

Approximately two years ago, Kitchener-Wilmot Inc. purchased Account Receivable Credit Insurance for our larger commercial and industrial customers. We were recently notified by our insurance company they would no longer insure this customer as Moody's rating agency cited with the rapid deterioration in the business it was likely to cause covenant breeches prompting the company to seek amendments and waivers from its bank group. Citing similar rationale, S & P rating agency also downgraded the company rating noting a negative outlook for 2009. The decision to cancel insurance coverage, results from significant and prolonged industry deterioration, lower production volumes and compliance issues surrounding customer's credit facility covenants. Attached is an article that appeared in our local newspaper March 19, 2009 detailing the financial adversity experienced by the company. Please note, the company states "it may eventually be forced to file for Chapter 11 bankruptcy protection unless it's able to work out a long-term agreement with its lenders."

Given our insurance company's assessment and subsequent cancellation of insurance coverage, as well as the customer's public acknowledgement of their weakened financial state, Kitchener-Wilmot Hydro Inc. wrote to the company's head office to arrange payment of a security deposit or to implement weekly payments. The company denied our request citing they satisfy the Ontario Energy Board's definition of 'Good Payment History' and furthermore requested we retract our written request for a security deposit or weekly payments.

Kitchener-Wilmot Hydro Inc. is seeking to mitigate the risk of a highly potential unrecoverable bad debt to our Corporation. **We are looking to the Ontario Energy Board to determine how we can, as a minimum, enforce a weekly payment plan for this customer in an effort to mitigate this risk.**

The potential default amount exceeds our current materiality threshold for rate recovery, as defined by Ontario Energy Board guidelines. Given that Kitchener-Wilmot Hydro Inc. is acting in a prudent and due diligent manner, failure to enforce any risk mitigation efforts, should result in full recovery of this potential debt through rates, if required.

This matter is of an urgent nature. We appreciate your high priority to this issue.

Yours very truly,

Gerry L. Guthrie, C.G.A.
Vice-President & C.F.O.

GG:jd

Ontario Energy
Board
P.O. Box 2319
2300 Yonge Street
Suite 2700
Toronto ON M4P 1E4
Telephone: 416- 481-1967
Facsimile: 416- 440-7656
Toll free: 1-888-632-6273

Commission de l'énergie
de l'Ontario
C.P. 2319
2300, rue Yonge
Suite 2700
Toronto ON M4P 1E4
Téléphone: 416- 481-1967
Télécopieur: 416- 440-7656
Numéro sans frais: 1-888-632-6273



Compliance Office

April 28, 2009

Via E-Mail (gerryguthrie@kwhydro.on.ca)

Mr. Gerry L. Guthrie, C.G.A.
Vice-President and C.F.O.
Kitchener-Wilmot Hydro
P.O. Box 9010
301 Victoria Street South
Kitchener, ON N2G 4L2

Re: Response to Enquiry on the Mitigation of Non-Payment Risk

Dear Mr. Guthrie:

I am writing in reply to the letter you sent to the Ontario Energy Board's Market Operations Hotline on April 23, 2009. In this letter you expressed concern over the financial stability of one of your large use customers and requested guidance on how to enforce a weekly payment plan for this customer in an effort to mitigate risk.

The Board addressed the issue of increased billing frequency in its 2004 Unpaid Electricity Charges proceeding (RP-2004-0166). From that initiative, it was understood that if a customer does not agree to increased payment frequency, a distributor cannot unilaterally impose a more frequent payment schedule on the customer without bringing the matter before the Board.

Specifically, in its December 2004 Summary Report on unpaid electricity charges, the Board concluded that:

The Board is sensitive to the concern that there be an appropriate mechanism to assess the reasonableness of requiring more frequent billing, and cautions that the distributor must apply

consistent criteria in a responsible and non-discriminatory manner. In the event that a distributor becomes concerned regarding the ongoing creditworthiness of a customer, which nevertheless maintains a good payment record, and wishes to institute more frequent billing, the distributor is entitled to bring the matter to the Board if it is not able to reach agreement with the customer. The Board does not believe it is necessary at this time to propose Code amendments to address this issue specifically.

In response to continuing concerns regarding the payment risk associated with large use customers, in June 2007, Board staff launched the Electricity Distributors and Management of Customer Commodity Payment Default Risk (EB-2007-0635) initiative. The objective of this proceeding was to explore options relating to mitigation tools for large customer default risk. In the staff discussion paper, which can be found at the following link¹, staff set out risk mitigation options that included the treatment of bad debt in electricity rates; the treatment of bad debt losses in financial accounts; deferral accounts for large unexpected losses; termination of service; and legal remedies.

This commodity payment risk initiative has since been incorporated into the Board's Customer Service, Rate Classification and Non-Payment Risk proceeding (EB-2007-0722). On March 10, 2009, the Board issued a number of proposed amendments in that proceeding that can be found at the following link². Among these amendments were changes to the Distribution System Code that would allow a distributor to unilaterally increase a customer's billing frequency in certain circumstances. (See Attachment C of the proposed amendments) However, I note that the progress of these proposed amendments is linked to the Board's initiative for low income energy consumers. As a result, the finalization of these amendments may not occur by the time needed to address the concern you have identified.

While I can provide no insight into whether the Board would consider or approve such applications, there may be two code exemptions you could request that may help address your concerns. You may consider requesting an exemption from section 2.4.9 of the Distribution System Code. It is this section that states that a distributor may not request a security deposit from a customer who has a good payment history. An exemption from this section, depending on the terms it was granted, would appear to provide a distributor with the right to require a security deposit even from those customers with a good payment history.

1 <http://www.oeb.gov.on.ca/OEB/Industry+Relations/OEB+Key+Initiatives/Archived+OEB+Key+Initiatives/Electricity+Distributors+-+Customer+Commodity>

2 <http://www.oeb.gov.on.ca/OEB/Industry+Relations/OEB+Key+Initiatives/Electricity+Distributors+-+Customer+Service>

You may also consider requesting an exemption from section 2.4.6.2 of the Distribution System Code. This section states that a distributor must manage customer non-payment risk in a non-discriminating manner. An exemption from this section, depending on the terms it was granted, may provide a distributor with the right to impose more frequent billing on a specific customer.

Formal application for either of these two code exemptions should be sent to the OEB's Board Secretary's Office. I hope this letter helps to clarify your options relating to credit risk management for your large user class.

Sincerely,

Paul Gasparatto
Project Advisor
Regulatory Policy and Compliance


<http://news.therecord.com/News/CanadaWorld/article/505856>
[\[Close\]](#)

Job hopes crushed

Company fails to win contract that required 200 workers

BY SE SIMONE
STAFF WRITER

KITCHENER

Hopes of bringing 200 jobs back to the struggling Lear Corp. auto parts plant have been dashed after the failure of negotiations to cut costs or to win new work from Chrysler.

Bob Moxey, plant chair for the Canadian Auto Workers Local 1524, the union that represents workers in the Kitchener plant, said negotiations broke off without an agreement at the end of last week.

Workers at Lear, which makes metal components for automotive seats, voted 78 per cent earlier this year in favour of reopening their union contract in order to bring more work into the Manitou Drive plant.

Slumping vehicle sales, particularly for the General Motors trucks that the plant makes parts for, have decimated the company's workforce. About 150 people currently work in the plant, down from 700 two years ago.

The current union contract, which runs to the end of 2010, was reopened in hopes of cutting costs to secure a contract from Chrysler that initially would have allowed the company to bring back 200 laid-off workers, Moxey said.

"We bid on that contract at a certain price range and they were trying to generate enough savings to meet that price range," he said.

After a number of meetings between the company and the union, negotiations broke off without an agreement, he said. Moxey said he is unable to go into details about why the negotiations failed and what the stumbling block was.

CAW has a "no concessions" policy for wages and benefits and has always maintained that it will stand by that policy.

Mitchell, president of the union local, said that "I can tell you that from a union perspective we were very creative and inventive," in trying to cut the costs.

"They had a cost model that they were telling us we had to meet and we were unable to do so," he said.

A spokesperson for Michigan-based Lear Corp. was not available for comment yesterday.

Moxey and Mitchell said the company told the union it does not have immediate plans to shut down the plant.

"We plan to run it with approximately 150 people for the rest of this year," Moxey said.

The failure of the negotiations came a day after Lear said it had reached a deal with its lenders to temporarily waive defaults on its line of credit.

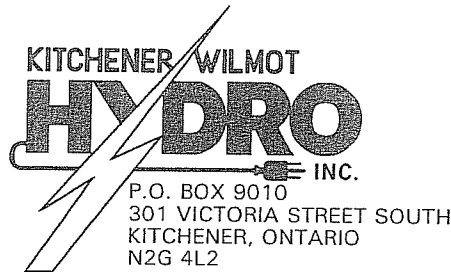
The company also warned in its annual report filed Tuesday that it may eventually be forced to file for Chapter 11 bankruptcy protection unless it's able to work out a long-term agreement with its lenders.

Lear said it reached an agreement with the lenders under its primary lending facility to waive the defaults through May 15. It said it has hired financial advisers and is in discussions with the lenders and others in hopes of restructuring its finances.

If a deal can't be reached by May 16, the company would be considered in default and lenders would have the right to speed up its debt payments, which could force it to file for Chapter 11 bankruptcy protection, Lear said.

The company, which employs 80,000 people in 210 plants around the world, said it continues to restructure its global operations and slash costs and production in an effort to ride out the tough economic conditions.

EXHIBIT E



KITCHENER-WILMOT
HYDRO INC.
Item # Z(15)

Rhonda T. Moreau
MANAGER
CUSTOMER SERVICES

TEL: (519) 745-4771
FAX: (519) 745-3631

April 7, 2009

Via Email and Mail

Lear Seating Canada Ltd.
Att: Mr. Keith Drimmie, Controller
PO Box 9758
KITCHENER ON N2G 4C2

Without Prejudice

Dear Mr. Drimmie:

Further to our earlier telephone conversation, Kitchener-Wilmot Hydro Inc. has been made aware of Lear Corporation's downgrade of their credit rating to CAA2. Additionally, recent media articles indicate the company potentially could be forced to file for Chapter 11 bankruptcy protection.

For these reasons, and to mitigate potential risk to our shareholders, Kitchener-Wilmot Hydro Inc. requires a Security Deposit on this account in the amount of \$225,000.00. Security deposits may be in the form of cash/cheque, a guaranteed letter of credit from the customer's bank or a power bond from their insurance company. All guaranteed letters of credit must be "irrevocable" and "automatically renewing". Receipt of this form of security deposit must be received no later than April 24, 2009.

As an alternative to a security deposit, we will offer the option of weekly payments. Your account has currently been billed to usage of March 11, 2009. To bring the account current to April 8, 2009 we require an additional \$64,800.00 with a weekly payment of \$16,200.00 commencing on April 15, 2009 and each week thereafter. The account will be reviewed periodically to ensure adequate coverage is maintained.

Should you have any further questions regarding this matter please do not hesitate to contact me at 519-749-6181.

Yours very truly,

Rhonda T. Moreau
Manager of Customer Services

RTM:pt

cc: Gerry Guthrie, Vice President Finance & Chief Financial Officer
Michael Oates, Senior Buyer, Lear Corporation

EXHIBIT F



Lear Corporation
World Headquarters
21557 Telegraph Road
Southfield, MI 48033
USA

Phone (248) 447-1500

April 17, 2009

Rhonda T. Moreau
Kitchener-Wilmot Hydro
301 Victoria Street South
Kitchener, Ontario, N2G 4L2

Re: April 7, 2009 Letter Requiring a Security Deposit

Dear Ms. Moreau:

In your letter to Kitchener Facility Controller, Keith Drimmie dated April 7, 2009; Kitchener-Wilmot Hydro (K-W Hydro) is citing a downgrade of Lear Corporation's credit rating as a reason to require a Security Deposit, or alternatively, weekly payments.

Section 2.4.3 on page 35 of K-W Hydro's Conditions of Service document references that a customer is required to pay a deposit unless they can demonstrate "Good Payment History" OR a "satisfactory credit check" from a major credit reporting agency. Page 87 defines Good Payment History (as it applies to Lear's Kitchener facility) as:

"good payment history" Where a non-residential customer in a >50 kW demand, or >5,000 kW demand rate class has been serviced by an electricity or gas distributor in Canada for 7 years, and has not received more than 1 disconnection notice, has not had more than 1 pre-authorized payment, or cheque returned due to insufficient funds, or, a "Disconnect/Collection Trip" has not occurred. For all rate classes, some of the service must have been within the last 24 consecutive months;

Lear Kitchener meets every one of these requirements. I therefore respectfully request that K-W Hydro retract its April 7, 2009 letter.

Lear has, and will continue, to perform its obligations to K-W Hydro. With respect to Lear's financial position, I reiterate that Lear entered 2009 with approximately \$1.6 billion in cash and cash equivalents in order to hedge against market conditions, which is more than adequate for Lear to meet its current contractual commitments to vendors under agreed upon payment terms.

Thank you for your consideration. I await your response.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael Oates'.

Michael Oates
Senior Buyer
Lear Corporation