



IN THE MATTER OF the *Ontario Energy Board Act*,
1998, S. O. 1998, c.15 Schedule B of 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 the recovery of amounts related to Conservation and Demand Management activities.

REPLY ARGUMENT OF HORIZON UTILITIES CORPORATION
EB-2009-0158
EB-2009-0192

Filed: October 1, 2009

A. INTRODUCTION

1. On June 23, 2009, Horizon Utilities Corporation (“Horizon Utilities”) filed an application (the “Application”) with the Ontario Energy Board (the “Board” or the “OEB”) for the approval and recovery of historical Lost Revenue Adjustment Mechanism (“LRAM”) and Shared Savings Mechanism (“SSM”) amounts related to its Third Tranche and Ontario Power Authority Conservation and Demand Management (“CDM”) activities for the years 2007 and 2008, together with a Utility-Specific Smart Meter Funding Adder. The combined Application was assigned OEB File Nos. EB-2009-0158 and EB-2009-0192.
2. More particularly, the LRAM-related portion of the Application pertains to Horizon Utilities’ 2007 and 2008 calendar year savings resulting from Third Tranche CDM programs implemented in 2005 and 2006; Third Tranche CDM programs implemented in 2007; and Ontario Power Authority (“OPA”) CDM programs implemented in 2007.
3. Horizon Utilities’ Third Tranche CDM plan was approved by the OEB in its Decision dated December 10, 2004 (RP-2004-0203).
4. In conjunction with its 2008 forward test year cost of service distribution rate application, Horizon Utilities requested, and was granted, authorization to recover \$332,702 in LRAM and \$535,374 in SSM related to its Third Tranche CDM activities.
5. In the Application, Horizon Utilities sought a total LRAM recovery of \$1,197,045, comprised of i) Third Tranche 2005/2006 programs of \$909,395; ii) Third Tranche 2007 initiatives of \$51,448; iii) OPA 2007 Programs of \$146,940; and iv) combined carrying charges of \$89,292. The total SSM amount sought in the Application was \$14,582 related to Third Tranche CDM activities carried out in 2007.
6. Horizon Utilities prepared the LRAM/SSM-related elements of its Application in compliance with the OEB’s March 28, 2008 *Guidelines for Electricity Distributor Conservation and Demand Management* (EB-2008-0037).

7. In the Application, Horizon Utilities requested recovery of these amounts by way of a rate rider effective September 1, 2009 for a period ending April 30, 2010.
8. On July 30, 2009, the OEB issued a Letter of Direction that provided for a written proceeding, including interrogatories; written submissions from Board Staff and intervenors; and a reply submission from Horizon Utilities. The Board received only one intervention from the Vulnerable Energy Consumers Coalition ("VECC").
9. Board staff and VECC posed interrogatories ("IRs") to Horizon Utilities on August 21, 2009. On September 4, 2009 and on September 8, 2009, Horizon filed with the OEB its responses to the written interrogatories from Board staff and from VECC. Horizon Utilities notes that subsequent to this response, Board staff provided its support of the Application on September 18, 2009 and took no issue with Horizon Utilities' interrogatory responses. Further, Board staff recommended an implementation date of November 1, 2009 for both the LRAM/SSM rate riders and the Smart Meter Funding Adder. Therefore, this submission is provided in response to the arguments put forth by VECC on September 18, 2009.
10. VECC has not opposed Horizon Utilities' SSM claim, nor has it opposed the requested Smart Meter Funding Adder. Horizon Utilities will not be making further comments on the SSM claim or the smart meter adder in this submission, and requests that the OEB approve them. The balance of this reply submission pertains to VECC's submissions regarding the LRAM-related portion of the Application.

B. 2007/2008 LRAM/SSM Recovery for 2005, 2006, 2007 CDM Activities

The VECC Submission:

11. As noted above, there are three aspects to the LRAM claim. While VECC has commented on all of them in its submission, it appears from Paragraph 27 of the VECC submission that VECC is concerned with only one – VECC wants the OEB to use the updated OPA inputs and assumptions that were used by SeeLine in its review of Horizon Utilities' 2007 CDM activities (both Third Tranche- and OPA-related) in calculating the LRAM claim applicable to the 2007 and 2008 calendar year

savings resulting from Third Tranche CDM programs implemented in 2005 and 2006. Notwithstanding the discussion, VECC does not oppose the calculations relating to 2007 Third Tranche and OPA-related CDM activities.

12. VECC's position, if accepted, would result in the elimination of \$575,257 plus applicable carrying charges from the Horizon Utilities LRAM claim.

Horizon Utilities' Submission:

13. Horizon Utilities respectfully disagrees with the VECC submission for the reasons that follow.
14. On page 2 of its letter of January 27th 2009, released to all Licensed Electricity Distributors (LDCs), the OEB confirmed its endorsement of the Ontario Power Authority's (the "OPA's") Measures and Assumptions List. More particularly, the OEB states that it "endorses the OPA list for use by distributors for the purposes of applications for new distribution rate-funded CDM programs, LRAM and SSM at this time."
15. Further to this, the Board stated that "input assumptions used for the calculation of LRAM should be the best available information at the time of the third party assessment referred to in section 7.5", of its Guidelines for Electrical Distributor Conservation and Demand Management (the "Guidelines").
16. Section 7.5 was established to provide both the Board and market participants with a level of confidence that CDM claims accurately reflect actual program results. It states that for any distributor making a claim for LRAM in relation to programs funded by the OPA, or where the distributor is making a claim for LRAM and/or SSM in relation to programs funded through distribution rates in 2007 and beyond, an independent third party review is required.
17. At the time of the preparation of the Application, Horizon Utilities understood the above guidelines to apply to LRAM and/or SSM claims relating to CDM activity funded through distribution rates in 2007 and beyond only. Horizon Utilities directed SeeLine Group Ltd., to focus its review on its 2007 CDM activity. Outlined on pages

4 and 5 of the SeeLine report, several required updates to Horizon Utilities' 2007 CDM reported results were identified. These updates were then applied by Horizon Utilities and included in its final LRAM and SSM claim.

18. Horizon Utilities notes that at the time of filing this Application, Board policy or guidelines relating to an independent third party review of previously approved 2005 and 2006 LRAM savings claims from CDM activity funded through Third Tranche did not exist.
19. It is important to note that, as discussed above, Horizon Utilities' 2005 and 2006 Third Tranche activities were the subject of reviews by the OEB in both 2004, in the context of the OEB's review and approval of Horizon Utilities' Third Tranche CDM Plan, and in 2008, in the context of the LRAM/SSM component of Horizon Utilities' 2008 EDR Application. Horizon Utilities submitted SeeLine's reports on its 2005 and 2006 LRAM savings in response to VECC Interrogatory #44 in Horizon Utilities 2008 EDR Application. Based on both its understanding of the existing Board guidelines and the absence of a specific Board policy in this regard, and having already subjected its Third Tranche programs to independent and Board reviews, Horizon Utilities submits that a second independent third party review of previously approved LRAM savings claims was not necessary. As such, Horizon Utilities disagrees with VECC's statement that "It is not appropriate for Horizon to rely on an audit of prior year LRAM claims for subsequent claims." In fact, and as stated in previous interrogatory responses to VECC, the extension of the partially effective LRAM savings for 2005 and 2006, as reviewed by SeeLine, to fully effective savings is simply a mathematical calculation.
20. Horizon Utilities submits that it has acted in accordance with the Board's guidelines and disagrees with VECC's suggestion "that it is disingenuous and incorrect for Horizon to de facto claim that CFLs installed in 2005 and 2006 for which kWh savings are claimed in 2007/2008 should save twice as much as those installed in 2007."
21. Horizon Utilities notes that even the OPA has used its previous assumptions in respect of 2005 and 2006 activity. After Horizon filed this Application, it received

notice from the OPA of its 2006 to 2008 CDM results, which specified Horizon's contribution to the Province-wide results. In that report, the OPA relied on previously approved assumptions for its 2006 CDM activity. It appears in this report that the OPA **did not** adopt updated measures and assumptions until 2007.

22. Horizon Utilities therefore submits that its use of the prior assumptions in the calculation of savings related to 2005 and 2006 activities is consistent with the OPA's practice. It would be unreasonable to expect Horizon Utilities and other LDCs filing future LRAM and/ or SSM claims to use a set of assumptions for its 2006 program activities that are different from those used by the OPA and other LDCs in earlier LRAM applications (i.e. those filed prior to the Board's endorsement of the OPA's measure and assumptions on January 27th 2009).
23. Furthermore, Horizon Utilities notes that the OEB, in its recent Decision in the matter of a similar LRAM/SSM claim by Toronto Hydro-Electric System Limited (EB-2008-0401), found that Toronto Hydro had properly used the prior assumptions for, among other elements of its claim, CDM measures implemented in 2005 and 2006 which have carried forward into 2007. At page 6 of that Decision, the OEB wrote:
- "The Board's CDM Guidelines clearly state the proper use of input assumptions by distributors when calculating both its LRAM and SSM claim. Section 7.3, page 26 of the CDM Guidelines, state:
- "The input assumptions used for the calculation of LRAM should be the best available at the time of the third party assessment referred to in section 7.5.
- For example, if any input assumptions change in 2007, those changes should apply for LRAM purposes from the beginning of 2007 onwards until changed again."
24. Horizon Utilities submits that it is reasonable to expect that an LRAM claim for 2005 and 2006 CDM activity made after the Board's adoption of updated assumptions (January 27th 2009) would carry similar weight with respect to the underlying assumptions, as a claim that was made just prior to January 27th, 2009.
25. Horizon Utilities submits that it has complied with the Board's guidelines by revising its measures and assumptions for all CDM activity funded through distribution rates and the OPA for 2007 and beyond.

26. VECC suggests that future Horizon Utilities' residential load forecasts will incorporate inflated CDM savings as a result of its refusal to update the savings associated with measures such as CFLs where the savings have been materially updated. Horizon Utilities disagrees with this statement. Future load forecasts are based on actual consumption over a period of years such that load forecast models will recognize declining load patterns and forecast accordingly.
27. Finally, Horizon Utilities submits that as it would not be appropriate to adjust its LRAM/SSM claim in the manner being requested by VECC, there is no basis for an adjustment to the carrying charges as calculated in the Application.

C. 2007/2008 LRAM/SSM RECOVERY – CONCLUSION

28. Horizon Utilities submits that a second independent review of the 2005 and 2006 LRAM savings, in addition to the initial review by SeeLine which was approved by the OEB in Horizon Utilities 2008 EDR Application, is not required. Horizon Utilities further submits that the 2005 and 2006 LRAM savings for 2007 and 2008 are calculated in a manner consistent with that used by Horizon Utilities and accepted by the OEB in Horizon Utilities' approved 2008 EDR Application and the methodology applied by the OPA in its report on Province-wide results.
29. Horizon Utilities acknowledges that the LRAM savings resulting from 2007 Third Tranche programs and the 2007 OPA programs are based on the OPA Assumptions and Measures List adopted by the OEB January 27, 2009, and this is reflected in the Application.
30. Horizon Utilities submits that it has complied with all the filing requirements included in the OEB Guidelines for Electricity Distribution Conservation and Demand Management EB-2008-0037 and no further adjustment is required. Horizon Utilities calculated the LRAM/ SSM rate rider for recovery over seven months commencing October 1, 2009.
31. Horizon Utilities calculated the Smart Meter Funding Adder for recovery commencing September 1, 2009.

32. OEB Staff have proposed an implementation date of November 1, 2009 for both the LRAM/ SSM rate rider and the Smart Meter funding adder and Horizon Utilities accepts the revised implementation date. Horizon Utilities acknowledges the Board staff comment that "since the amounts are tracked in established deferral/variance accounts and subject to true-up upon subsequent review and disposition, Horizon and its ratepayers will be held harmless in the long run."

All of which is respectfully submitted this 1st day of October, 2009.

Horizon Utilities Corporation

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