



EB-2009-0158
EB-2009-0192

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 or orders approving recovery of
amounts related to Conservation and Demand Management
activities and smart meters.

BEFORE: Cynthia Chaplin
Presiding Member

DECISION AND ORDER

Horizon Utilities Corporation ("Horizon") filed two distribution rate applications with the Ontario Energy Board ("the Board") dated May 21, 2009 and June 25, 2009 under the Ontario Energy Board Act, 1998, S.O. 1998, c.15, Schedule B. In one application Horizon has requested an increase to its utility-specific smart meter funding adder. This application was given file number EB-2009-0158. In the other application, Horizon requested the recovery of Lost Revenue Adjustment Mechanism ("LRAM") and Shared Savings Mechanism ("SSM") amounts related to its third tranche and Ontario Power Authority's ("OPA") Conservation and Demand Management ("CDM") activities for the 2007 and 2008 calendar years. This application was given file number EB-2009-0192.

On July 30, 2009, the Board issued a Notice of Application and Written Hearing. The Board determined that it would consider the two applications in one proceeding. The Vulnerable Energy Consumers Coalition ("VECC") was approved as an intervenor.

VECC and Board staff filed interrogatories and made submissions. Horizon's reply submission was filed on October 1, 2009. The full record is available at the Board's offices.

Utility Specific Smart Meter Funding Adder

Horizon requested an increase to its current smart meter funding adder from \$0.82 per metered customer per month to \$1.56. Horizon forecasted that it will install 86,525 meters in 2009. These will consist of smart meters and interval meters for approximately 80,000 residential, 4,525 General Service ("GS") < 50 kW, and approximately 2,000 GS > 50 kW customers. Horizon estimates that, by December 31, 2009, approximately 99% of all residential and small general service customers will have smart meters.

Horizon calculated the smart meter recovery to the end of August 2009 on the assumption that the application was approved for implementation on September 1, 2009.

Horizon is authorized, explicitly by name, in O. Reg. 427/06 to engage in smart metering activities. Horizon has previously had smart meter costs to April 30, 2007 reviewed and approved by the Board in the combined Smart Meter proceeding (EB-2007-0063). In this application, Horizon has filed with the Board a model that, using more recent data, demonstrates the derivation of the proposed smart meter funding adder. The model methodology is analogous to what the Board has considered for Horizon and for other distributors in the combined Smart Meter proceeding and in subsequent rate applications.

Board staff identified no issues with Horizon's proposal to amend its Smart Meter funding adder. Staff noted that Horizon's proposal complies with *Guideline G-2008-0002: Smart Meter Funding and Cost Recovery*.

VECC submitted that Horizon's residential class smart meter costs should be segregated and presented for review separately from other classes. VECC noted that if the funding adder calculations were done based on its approach, residential customers would only be subject to a rate rider of \$1.52 per metered customer per month. However, VECC stated that since the difference is small, it is not asking for an adjustment to the funding adder.

Board findings

The Board finds that Horizon's application is consistent with *Guideline G-2008-0002: Smart Meter Funding and Cost Recovery* and approves the smart meter funding adder of \$1.56 per metered customer per month.

Recovery of LRAM/SSM Amounts

Horizon requested disposition of LRAM and SSM amounts totaling \$1,211,657 related to its third tranche and OPA funded CDM activities for the 2007 and 2008 calendar years. The LRAM and SSM amounts requested are \$1,197,075 and \$14,582 respectively. Horizon submitted a third party review conducted by the SeeLine Group Ltd. ("SeeLine Group") to evaluate its LRAM and SSM claims.

Horizon proposed to recover these amounts by way of a combined volumetric rate rider commencing October 1, 2009, for a 7 month period. As well, Horizon requested a true-up and proposed that the recoveries associated with any approved LRAM and SSM amounts be tracked in a variance account for disposition at a later date.

VECC submitted that Horizon's LRAM claim for 2007 and 2008 related to its Third Tranche 2005 and 2006 programs are overstated for the Residential and GS<50 kW classes because Horizon used outdated input assumptions. VECC stated that the revised OPA Input assumptions, that were endorsed by the Board on January 27, 2009, were applied to 2007 Third Tranche programs (carried forward into 2007 and 2008) and OPA 2007 programs but not to the 2005 and 2006 Third Tranche programs carried forward into 2007. VECC identified that when this application was prepared, Horizon and the SeeLine Group were aware of the Board's endorsement of the revised OPA input assumptions list. VECC noted that the most critical revised assumption relates to CFL 14/15 W bulbs. In the revised set of OPA input assumptions, annual savings are reduced from 104 kWh/year to 44.3 kWh/year. In addition, the free-ridership rate was increased from 10% to 30%.

VECC requested that the Board adjust Horizon's LRAM claim by applying the revised OPA Input assumptions for Mass Market Measures to the Third Tranche 2005 and 2006 programs for the calculation of the 2007 and 2008 LRAM amounts for the residential and GS<50 kW classes. If applied, Horizon's request would be reduced by approximately \$330,000 plus carrying charges.

In its reply submission, Horizon disagreed with VECC and submitted that it acted in accordance with Board guidelines. Horizon stated that it understood section 7.5 of the CDM Guidelines to apply to LRAM and SSM claims related to CDM activity funded through distribution rates in 2007 and beyond only. For this reason, Horizon directed the SeeLine Group to focus its review on CDM activities initiated in 2007 and not those implemented in 2005 and 2006. Horizon further noted 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.

Horizon also submitted that the Board, in a 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 CDM measures implemented in 2005 and 2006 which have carried forward into 2007.

Horizon noted 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.

Board findings

Horizon seeks a total LRAM recovery of \$1,197,045 comprised of:

- Carry-over from Third Tranche 2005/2006 programs of \$909,395;
- Third Tranche 2007 initiatives of \$51,448;
- OPA 2007 Programs of \$146,940; and
- Combined carrying charges of \$89,292.

As well, Horizon seeks a total SSM recovery of \$14,582.

The Board agrees with VECC's position that it is appropriate to adjust the LRAM amounts associated with the Third Tranche 2005/2006 programs and associated carrying charges to reflect the use of the updated input assumptions. While SeeLine prepared the third party review of the 2005/2006 Third Tranche programs as part of an earlier proceeding, that approval did not establish the complete calculation of the LRAM going forward.

Horizon takes the position that the Guidelines support its position. The Board notes that the filing guidelines do not address this particular situation directly. However, the filing

guidelines cannot reasonably be expected to address every possible scenario that may be faced by Ontario's 80 regulated distributors. What is clear is the underlying principle of LRAM, which is that distributors are to be kept whole for revenue that they have forgone as a direct consequence of implementing CDM programs. Accordingly, in the absence of clear direction from the filing guidelines to the contrary, utilities should always use the most current input assumptions which have been adopted by the Board when preparing their applications because these assumptions represent the best estimate of the impact of the programs.

In this particular case, the evidence is that the updated assumptions were adopted by the Board before Horizon made the latest LRAM calculations as part of the preparation of the subject application. If the Board were to approve Horizon's application as filed, Horizon would be earning above and beyond what is needed to keep the utility whole based on the best available estimates of program impacts. This would be clearly contrary to the principle underlying the LRAM and therefore inappropriate.

Horizon also points to a Toronto Hydro decision (EB-2008-0401). However, the Board adopted the OPA's Measures and Assumptions list on January 27, 2009, after Toronto Hydro filed its application (December 15, 2008) for recovery of LRAM and SSM in relation to CDM programs and subjected it to a third party assessment. Horizon's LRAM application was received by the Board on June 25, 2009, five months after the Board's endorsement of the revised OPA measures and assumptions list.

Horizon also requested a variance account to track the recovery of the LRAM and SSM amounts. The Board will not approve the establishment of a variance account under the electricity Uniform System of Accounts (USoA). This approach has not been used in other LRAM and SSM recovery applications and no reason or evidence has been presented as to why Horizon should have different treatment.

IMPLEMENTATION

The Board has made findings in this Decision which will change Horizon's LRAM amount and associated carrying charges, and therefore the proposed LRAM/SSM rate riders. These changes are to be reflected in a Draft Rate Order prepared by Horizon.

In its application, Horizon noted implementation dates for its smart meter adder and LRAM/SSM rate rider of September 1, 2009 and October 1, 2009 respectively.

Given the date of this decision, the Board has determined that an effective date of November 1, 2009 for the smart meter rate adder and LRAM/SSM rate riders is appropriate. In developing its Draft Rate Order, Horizon is directed to establish LRAM/SSM rate riders based on a six month recovery period.

COST AWARDS

The Board may grant cost awards to eligible stakeholders pursuant to its power under section 30 of the Ontario Energy Board Act, 1998. The Board has determined that for the subject proceeding, VECC is eligible for costs in accordance with its Practice Direction on Cost Awards. When determining the amount of the cost awards, the Board will apply the principles set out in section 5 of the Board's Practice Direction on Cost Awards. The maximum hourly rates set out in the Board's Cost Awards Tariff will also be applied.

All filings with the Board must quote the file number EB-2009-0158/EB-2009-0192, and be made through the Board's web portal at www.errr.oeb.gov.on.ca, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must be received by the Board by 4:45 p.m. on the stated date. Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.oeb.gov.on.ca. If the web portal is not available you may e-mail your documents to the attention of the Board Secretary at BoardSec@oeb.gov.on.ca. All other filings not filed via the Board's web portal should be filed in accordance with the Board's Practice Directions on Cost Awards.

THE BOARD THEREFORE ORDERS THAT:

1. Horizon shall file with the Board, and shall also forward to VECC, a Draft Rate Order, attaching a proposed Tariff of Rates and Charges, reflecting the Board's findings in this Decision within 7 days of the date of this Decision. The Draft Rate Order shall also include customer rate impacts and detailed supporting information showing the calculation of the final rate riders.
2. VECC and Board staff shall file any comments on the Draft Rate Order with the Board and forward to Horizon within 3 days of the filing of the Draft Rate Order.
3. Horizon shall file with the Board and forward to VECC responses to any comments on its Draft Rate Order within 3 days of the date of receipt of the submissions.

4. VECC shall file with the Board, and forward to Horizon, its cost claim within 20 days from the date of this Decision.
5. Horizon shall file with the Board and forward to VECC any objections to the claimed costs within 34 days from the date of this Decision.
6. VECC shall file with the Board and forward to Horizon any response to any objection to its cost claim within 41 days of the date of this Decision.
7. Horizon shall pay the Board's costs incidental to this proceeding upon receipt of the Board's invoice.

ISSUED at Toronto October 8, 2009.

ONTARIO ENERGY BOARD

Original Signed By

John Pickernell
Assistant Board Secretary