Ontario Energy Board File No. EB-2009-0193

FINAL SUBMISSIONS OF THE CONSUMERS COUNCIL OF CANADA REGARDING - ENERSOURCE HYDRO MISSISSAUGA INC. - 2010 RATES

INTRODUCTION:

By Application dated July 6, 2009, Enersource Hydro Mississauga inc. ("Enersource") applied to the Ontario Energy Board ("Board") for approval of rates effective January 1, 2010. In calculating its rates Enersource proposes to use the current Board practices and procedures which are relied upon in a Third Generation Incentive Regulation Mechanism ("3rd GIRM"). Through this Application, Enersource is seeking approval to change its rate year to align with is fiscal year. Currently all Ontario electric distribution companies ("LDCS) have rate years effective May 1.

In addition, Enersource applied for Board approval of the following:

- A 2010 Smart Meter Funding Adder of $2.17 to recover through rates costs associated with the continuation of its Smart Meter Integration Plan; and
- A 2010 Shared Tax Savings Rider comprised of (i) a return to ratepayers of $24, 235 which was part of the 2009 Shared Tax Savings of $72,705 which the Board approved in EB-2008-0171 for refunding to customers for the period May 1, 2009 to April 30, 2010; and (ii) a return of $603,008 which represents 50% of the 2010 Z-factor tax change of $1,206,159.

These are the final submissions of the Consumers Council of Canada regarding Enersource's application. The Council is confining its comments to the rate year issue. The Council is not taking issue with the Smart Meter Adder or the disposition of the tax savings.

SUBMISSIONS:

Enersource's current rates, effective May 1, 2009, were approved by the Board on March 16, 2009, using the 3rd GIRM approach developed by the Board in 2008. In 2008 Enersource had it rates rebased using a cost of service approach. With this application Enersource is applying for new rates effective January 1, 2010. Enersource's evidence is that with respect to its rates there is currently a misalignment between its fiscal year (commencing January 1) and the effective date of rate orders (May 1). The result of this misalignment is that Enersource's actual rate of return does not match the approved rate of return. Enersource has claimed that, as a reporting issuer, it is required to explain this "complicated outcome" to the investment community, including its bondholders. (Manager's Summary, p. 3)

Enersource has proposed a number of adjustments to the current 3rdGIRM approach in order to facilitate its request for a rate year change. Those adjustments include basing the inflation adjustment on 8/12ths of the annual rate calculated for the period October 2008 to September 2009, and using the stretch factor implicit in its 2009 rates of 0.4%. (Ex. I/1.2)

From the Council's perspective it would not be appropriate for the Board to grant Enersource's request to change its rate year from the current May 1-April 30 period to a rate year commencing January 1. The Council does not support the request for the following reasons:

1. The rate year issue is a generic issue and should not be determined through a stand-alone utility application. The Board established the 2006 Electricity Distribution Rate ("EDR") process in a way that would allow it to regulate, as effectively as possible, over 80 Ontario LDCs. The process has been largely effective and there have been consistent policies in place for all LDCs for a number of years. Given the number of LDCs, having consistent regulatory policies is important. To the extent the Board sees merit in making a fundamental change to that framework, that change should be considered in a generic context. The implications for the Board and its regulatory processes would have to be considered. In addition, a generic process would allow for a full consideration of the implications for all LDCs and their ratepayers. A process such as this one does not allow for an examination of those implications;

2. Enersource has not established that the current misalignment creates difficulties for the investor community nor has it demonstrated that the misalignment has impacted its ability to raise capital. When asked to provide relevant evidence the only document provided was a Sun Life Submission to the Board suggesting that an alignment of the rate year would make comparisons easier across jurisdictions. (Ex. I/6.1) This is by no means evidence of a serious problem. The investment community has been well aware,

for many years, that the LDCs operated under this type of construct. To the extent Enersource could demonstrate that its ability to raise capital was adversely impacted by the misalignment ,the application would be, in our view more credible;

3. To grant Enersource the relief requested would impact its allowed return on equity. The Board should consider the extent to which granting this type of relief for one LDCs would be inherently unfair to others. In addition, given the Board is currently in the process of reviewing its approach to determining cost of capital, it would be premature for the Board to change one component of its overall regulatory framework for one LDC.

The Council recognizes that in an ideal world it would make sense for the Board to have a system in place that aligns the fiscal year and rate year of the distributors it regulates. In effect, we are not opposed to the concept. However, the Board has established a regulatory framework for Ontario electric LDCs that incorporates a lag between the fiscal and rate year periods. Currently all LDCs have their rates determined within that framework. T o the extent the Board sees merit moving to a better alignment it should only do so after a careful consideration of all of the issues and the potential impacts on LDCs, their customers, and other stakeholders including the Board itself. Clearly, if the relief is granted to Enersource based on its stand-alone application, other utility applications will quickly follow. From the Council's perspective a generic consideration of these issue is required before moving off a fundamental component of the Board's regulatory framework. Accordingly ,we urge the Board to reject Enersource's request.