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2 **IN THE MATTER OF** the *Ontario Energy Board Act, 1998*,
3 S.O. 1998, c. 15, (Schedule B);

4 **AND IN THE MATTER OF** an application by Horizon Utilities
5 Corporation for an order approving the recovery of certain
6 amounts related to an unforeseen loss of revenue to be
7 effective January 1, 2010.

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9 **HORIZON UTILITIES CORPORATION (“HORIZON UTILITIES”) RESPONSES TO**
10 **CONSUMERS COUNCIL OF CANADA INTERROGATORIES**

11 **DELIVERED DECEMBER 1, 2009**

12
13 **1. Question Reference** (P. 3, Manager's Summary)

14 The evidence states that Horizon Utilities provided notice to the OEB on December 23,
15 2008, expressing its ongoing concerns regarding the announced shut-downs of three
16 Large User Customers and its intent to make a Z-factor claim. In addition, the evidence
17 indicates that the Subject Customer began to reduce its load in November 2008. Please
18 explain why Horizon did not file its application for a Z-factor until September 3, 2009.
19 Why was the Z-factor application not included in Horizon's 2009 or 2010 3rd GIRM
20 application?

21 **Response:**

22 There are several reasons for Horizon Utilities' decisions with respect to the timing and
23 filing of its application for a Z-Factor adjustment:

- 24
- 25 • At the time of filing the 2009 3rd GIRM application, it was unclear to Horizon
26 Utilities whether the reduction in the Subject Customer's load and associated loss
27 of distribution revenue would only be temporary. If the loss was for a relatively
28 short time period, it was also unclear as to whether the event would meet the strict
criteria of a Z-factor, and most significantly, the materiality criteria.
- 29
- Horizon Utilities' 2010 3rd GIRM application was filed on November 4, 2009 for a

1 change in rates effective May 1, 2010. Given the magnitude of the lost distribution
2 revenues related to the Subject Customer, Horizon Utilities was not in a position to
3 wait until May 2010 to begin to recover the lost distribution revenues.

4 • This Z-factor Application before the Board proposes that the recovery of lost
5 revenues begin in January 2010. With a recovery that begins sooner, rather than
6 later, the end result is a lower rate rider than otherwise would be the case.

7 • This approach would also avoid delays and additional complexity in the IRM
8 proceedings, which are intended to be streamlined and mechanistic.

9 Horizon Utilities considered it reasonable and beneficial for all parties to file this Z-factor
10 Application independent of any other application.

1 **2. Question Reference (P.4, MS)**

2 The evidence states that the circumstances that give rise to this Application are
3 "genuinely external to the regulatory regime".

4 a) Please explain how the loss of load is "external to the regulatory regime".

5 b) In Horizon's view would a significant increase in load also be "external to the
6 regulatory regime"? If an increase in Horizon's load exceeded the materiality
7 threshold would Horizon bring forward a Z-factor application? If not, why not?

8 **Response:**

9 (a) Horizon Utilities submitted a forward test year cost of service rate application for
10 2008 (EB-2007-0697) using projected load data for the 2008 Test Year. The Board
11 established an approved rate base and revenue requirement for Horizon Utilities.
12 Through no fault of its own, and based on unforeseen circumstances, the loads for
13 Horizon Utilities' Large Use customers, and especially the Subject Customer, decreased
14 significantly, causing a substantial drop in distribution revenue from the forecast revenue
15 that formed the basis for Horizon Utilities' Board-approved distribution rates.

16 The loss of revenue resulting from the significant reduction in the Subject Customer's
17 load was an unforeseen event outside of Horizon Utilities' management's control. The
18 loss of revenue meets the materiality threshold and the other eligibility criteria established
19 by the Board in its July 14, 2008 Report on 3rd Generation Incentive Regulation for
20 Ontario's Electricity Distributors (the "3GIRM Report"). At page 35 of the 3GIRM Report,
21 the Board states that:

22 *The Board has determined that the eligibility criteria are sufficient to limit Z-*
23 *factors to events genuinely external to the regulatory regime and beyond the*
24 *control of management and the Board.*

25 Having met the Board's eligibility criteria, Horizon Utilities has established that the event
26 giving rise to this Application is genuinely external to the regulatory regime and beyond
27 the control of management and the Board.

1 (b) Please see Horizon Utilities' response to VECC interrogatory #7(c). While this
2 question is beyond the scope of this proceeding, Horizon Utilities believes that the Board
3 has established other mechanisms for the treatment of unanticipated gains, and that the
4 3GIRM Report speaks to Z-factor events in the context of adverse impacts on the
5 distributor.

1 **3. Question Reference**

2 Horizon is seeking recovery for lost load from May 1, 2008 to April 30, 2010. The rates
3 for the period from May 1, 2008 to April 30, 2009 were determined through a cost of
4 service proceeding. Horizon cites the Report of the Board on 3rd Generation Incentive
5 Regulation for Ontario's Electricity Distributors and the Supplemental Report as the guide
6 for its application. Why should Horizon get relief for the period May 1, 2008 to April 20,
7 2009, if the Z-factor provisions were developed in the context of 3rd Generation IRM
8 applications?

9 **Response:**

10 Horizon Utilities notes that the Application covers the period from May 1, 2008 through
11 April 30, 2011, and not April 30, 2010 as stated in the question above.

12 The concept of a Z-Factor has been in place since the Board's initial (2000) Electricity
13 Distribution Rate Handbook. Since then, Z-Factor claims have been provided for in the
14 Board's 2006 Electricity Distribution Rate Handbook, and in 2nd and 3rd Generation IRM.
15 The concept is not new, and it is not exclusive to 3rd Generation IRM applications. The
16 Board has not restricted the making of Z-Factor claims to cost of service or IRM
17 applications. The process is intended to provide for an unexpected material event that is
18 not within the distributor's control and that has a significant influence on the operation of
19 the distributor. Horizon Utilities meets all of the Board's criteria for eligibility for a Z-
20 Factor claim, and thus has proceeded accordingly.

21 Z-Factor claims are often made after the event giving rise to the claim (in this case, the
22 significant reduction in the Subject Customer's load). Accordingly, it is reasonable that
23 losses incurred during the May 1, 2008 to April 30, 2009 period would be the subject of a
24 Z-Factor application commenced after that period.

1 **4. Question Reference** (p. 7, MS)

2 The evidence states that Horizon will lose an additional revenue of \$2,105,662 for the
3 period May 1, 2009 to April 30, 2010. Please provide an updated number which
4 incorporates actual revenue to date.

5 **Response:**

6 Horizon Utilities notes that the correct period with respect to the loss set out in this
7 question is May 1, 2009 through April 30, 2011, and not April 30, 2010 as stated in the
8 question above. Please refer to Horizon Utilities' response to Board Staff interrogatory
9 #6 for the updated number, including actuals to October 2009.

1 **5. Question Reference** (P. 11, MS)

2 Horizon indicates that the costs of providing distribution service to the Subject Customer
3 were supported in Horizon's Cost Allocation Informational Filing. What are those costs
4 on an annual basis?

5 **Response:**

6 Please refer to Horizon Utilities' response to Board Staff interrogatory #2(a).

1 **6. Question Reference:**

2 The evidence states that for the fourteenth month period from May 2008 to June 2009,
3 Horizon's distribution revenue, from its large user class has decreased by \$1.823 million.
4 Horizon indicates that it is only seeking a rate rider related to the reduction in revenue
5 from the Subject Customer. Please explain what differentiates revenue loss from the
6 Subject Customer and revenue loss from other Large Users. Why is Horizon only
7 seeking relief related to the reduction in revenue from the Subject Customer?

8 **Response:**

9 (a) Horizon Utilities does not have sufficient evidence to demonstrate that revenue
10 losses attributable to other Large Users meet the criteria of a Z-factor. More specifically,
11 only the losses attributable to the Subject Customer meet the Board's materiality
12 threshold.

13 (b) Horizon Utilities is only seeking relief related to the reduction in revenue from the
14 Subject Customer because only the losses attributable to the Subject Customer meet all
15 of the criteria to qualify as a Z-factor claim.

1 **7. Question Reference:**

2 Please provide all materials provided to Horizon's Board of Directors when it sought
3 approval of the Z-factor application. Please explain the process Horizon went through in
4 seeking approval of its Board for the Z-factor application.

5 **Response:**

6 Horizon Utilities' response to this Interrogatory is being provided in confidence.

1 **8. Question Reference:**

2 Please explain, in greater detail, why Horizon is seeking to recover the revenue
3 deficiency related to the loss of load of the Subject Customer from all customer classes
4 and not restricting recovery to the Large User Class.

5 **Response:**

6 Horizon Utilities is seeking to recover the revenue deficiency from all customer classes
7 because this is the same basis upon which rates are designed in a Cost of Service rate
8 application. In Horizon Utilities' 2008 Cost of Service Rate Application, Horizon Utilities
9 provided load forecast data to be used in setting the 2008 Rates. If the load forecast
10 data had been adjusted downward to reflect the information that is now available, all
11 customer classes would have been affected to varying degrees. Since all customers
12 would have been affected under that scenario, Horizon believes that the most equitable
13 and consistent manner in which to apply the Z-factor impact is across all customer
14 classes.

15 Further, please refer to Horizon Utilities' response to Board Staff interrogatory #8.

1 **9. Question Reference:**

2 Please explain how Horizon intends to communicate to its customers regarding the rate
3 rider and the fact that they will all be required to fund the shortfall in revenue related to
4 the Subject Customer's load reduction. Have communication materials been developed?
5 If, so please provide copies of them.

6 **Response:**

7 As is Horizon Utilities' normal practice, following the approval of the rate rider, a message
8 will be included on all bills informing customers of the new rate rider. Horizon Utilities'
9 website will also be updated to show the rider as part of its Board-approved rates and
10 charges. Horizon Utilities recognizes that the Board may provide direction in this regard
11 in its Decision and Order in this proceeding.

12 For this proceeding, Horizon Utilities has followed the Board's requirements with respect
13 to notice to its customers as set out in the Board's Letter of Direction dated September
14 29, 2009. Horizon Utilities carried out the following actions in accordance with the Letter
15 of Direction:

- 16 • In October 2009, copies of the Board's Notice of Application were published in the
17 three newspapers that have the highest paid circulation in Horizon Utilities' service
18 area – the Hamilton Spectator; the Standard (St. Catharines); and Le Regionale
19 (the Francophone newspaper);
- 20 • Letters were sent to all of Horizon Utilities' Large Use customers on October 6th,
21 2009 informing them of the Z-Factor Application, and enclosed with each letter
22 were copies of the Application and the Notice of Application; and
- 23 • Copies of the Application were made available to customers via the Board's
24 website or, upon request, at Horizon Utilities' offices.

25 No further communications are contemplated at this time, pending the disposition of this
26 Application by the Board.

1 **10. Question Reference:**

2 Please explain why the impacts of load reduction does not constitute normal utility
3 business risk.

4 **Response:**

5 Please refer to Horizon Utilities' response to Board Staff interrogatory #7.

1 **11. Question Reference:**

2 Horizon is effectively asking the Board to adjust final rates that were established for the
3 period May 1, 2008 to April 30, 2009. Why, from Horizon's perspective, does this not
4 constitute retroactive rate-making?

5 **Response:**

6 Horizon Utilities disagrees with the premise of this question.

7 Horizon Utilities is requesting relief with respect to certain Distribution Revenue losses
8 that meet the criteria for Z-factor treatment. In its evidence and interrogatory responses,
9 Horizon Utilities has provided the reasons why the Board should grant its request.

10 Horizon Utilities is proposing that the amount eligible for Z-factor treatment be recovered
11 by way of a rate rider which would be in effect between January 1, 2010 and April 30,
12 2011. The rates in place between May 1, 2008 and April 30, 2009 remain unaffected.

13 As discussed in Horizon Utilities' response to CCC Question #3, Z-factor claims are
14 usually made after the event(s) giving rise to the claim (in this case, the significant
15 reduction in the Subject Customer's load). Accordingly, it is reasonable that losses
16 incurred during the May 1, 2008 to April 30, 2009 period would be the subject of a Z-
17 factor application commenced after that period.