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BY EMAIL

February 4, 2010

Ontario Energy Board
P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto ON M4P 1E4

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: Board Staff Submission on Bluewater Power Distribution Corporation 2010 Electricity Distribution Rates Application Board File Number EB-2009-0213

Please see attached Board staff's submission for the above proceeding. Please forward the attached to Bluewater Power Distribution Corporation and any intervenors in this proceeding.

Bluewater Power Distribution Corporation reply to submissions is due February 26, 2010.

Yours truly,

Original Signed By

Martin Benum
Advisor, Applications and Regulatory Audit

Ontario

ONTARIO ENERGY BOARD

STAFF SUBMISSION

2010 ELECTRICITY DISTRIBUTION RATES

Bluewater Power Distribution Corporation

EB-2009-0213

February 4, 2010

Board Staff Submission
Bluewater Power Distribution Corporation
2010 IRM3 Rate Application
EB-2009-0213

Introduction

Bluewater Power Distribution Corporation ("Bluewater") filed an application with the Ontario Energy Board (the "Board"), received on October 21, 2009, under section 78 of the Ontario Energy Board Act, 1998, seeking approval for changes to the distribution rates that Bluewater charges for electricity distribution, to be effective May 1, 2010. The application is based on the 2010 3rd Generation Incentive Regulation Mechanism.

The purpose of this document is to provide the Board with the submissions of Board staff based on its review of the evidence submitted by Bluewater.

Board staff makes submissions on the following matters:

- Potential Tax Sharing Rate Rider;
- Effect of a Wholesale Market Participant on the Disposition of Variance Accounts 1580 and 1588;
- Disposition of Deferral and Variance Accounts as per the Electricity Distributors' Deferral and Variance Account Review Report (the "EDDVAR Report");
- Treatment of Smart Meter Funding Adder;
- Adjustments to the Revenue to Cost Ratios;
- Adjustments to the Retail Transmission Service Rates; and
- Accounting for the implementation of the Harmonized Sales Tax ("HST").

POTENTIAL TAX SHARING RATE RIDER

General Background

The Supplemental Report of the Board on 3rd generation incentive regulation issued on September 17, 2008 determined that a 50/50 sharing of the impact of currently known legislated tax changes, as applied to the tax level reflected in the Board-approved base rates for a distributor, is appropriate. The calculated annual tax changes over the plan term are to be allocated to customer rate classes on the basis of the Board-approved base-year distribution revenue. These amounts will be collected from or refunded to customers each year of the plan term, over a 12-month period, through an explicit volumetric rate rider derived using annualized consumption by customer class underlying the Board-approved base rates.

Bluewater Specific Background

Using the Board's Supplemental Filing module Bluewater's Tax Sharing amount is a refund of $54,424. This amount when unitized using Bluewater's volumetric billing determinants results in energy-based kWh rate riders less than four decimal places and demand-based kW rate riders less than two decimal places.

Submission

Board staff notes that as a result of having kWh Tax Sharing rate adders of $(0.0000) when rounded to the fourth decimal place and kW Tax Sharing rate adders of $(0.00) when rounded to the second decimal place, the refund amount of $$54,424 will not be returned to ratepayers, which defeats the intent of tax sharing process. Board staff submits that the Board may wish to consider directing Bluewater to record the Tax Sharing refund amount of $54,424 in the variance account 1595 for disposition in a future rate application.

EFFECT OF A WHOLESALE MARKET PARTICIPANT ON THE DISPOSITION OF VARIANCE ACCOUNTS 1580 and 1588

Background

A Wholesale Market Participant ("WMP") has a contractually negotiated alternate energy arrangement with the IESO. Like any distributor, a WMP is billed directly by the IESO for energy consumption, wholesale market service rates ("WMSR"), and rural rate protection ("RRRP").

Submission

If a WMP is located in a distributor service area and is connected to a transmitter, Board staff submits that it follows that the WMP should not be attributed any variances in accounts 1580 and 1588 since it is billed directly from the IESO and is not taking any service from the distributor.

If a WMP is connected to the distribution grid (i.e. using the distributor's wires to receive electricity) Board staff suggests that variances included in accounts 1580 and 1588 should not be attributable to the WMP (i.e. energy consumption, WMSR, and rural rate protection) since the WMP would have settled directly with IESO. Board staff is unclear on whether Bluewater's WMP falls into this category. Board staff submits that it would be useful to the Board were Bluewater to provide information on; (i) whether the WMP in its service area is connected to its distribution assets, and if so, to explain the nature of the services provided to the WMP (ii) Bluewater's view as to whether the WMP should share in the disposition of 1580, and 1588 (i.e. the difference between the actual and approved energy loss) account balances; and (iii) whether the annual kWh used for the allocation of balances in accounts 1580 and 1588 include the WMP's kWh.

DISPOSITION OF DEFERRAL AND VARIANCE ACCOUNTS AS PER THE EDDVAR REPORT

General Background

For purposes of 2010 IRM applications, the EDDVAR Report requires a distributor to determine the value of its December 31, 2008 Group 1 Deferral and Variance account balance and determine whether the balance exceeded the preset disposition threshold of $0.001 per kWh using the 2008 annual kWh consumption reported to the Board. When the preset disposition threshold is exceeded, a distributor is required to file a proposal for the disposition of Group 1 account balances (including carrying charges) and include the associated rate riders in its 2010 IRM Rate Generator for the disposition of the balances in these accounts. The onus is on the distributor to justify why any account balance in excess of the threshold should not be cleared.

Any distributor exceeding the preset disposition threshold was required to file a Deferral and Variance Account Workform.

Bluewater Specific Background

Annual Disposition

Bluewater has requested the disposition of its Group 1 account balance over a four year period. Board staff interrogatory #8 requested that Bluewater complete and submit an updated version 4 of the Deferral Variance Account Workform. Bluewater has complied with this request.

Global Adjustment

In response to Board staff interrogatory #4a, Bluewater stated it had reviewed the Regulatory Audit & Accounting Bulletin 200901 and confirmed that it had accounted for its Account 1588 RSVA power and global adjustment sub-account in accordance with this Bulletin. In response to Board staff interrogatory #4b, Bluewater confirmed that it made adjustments subsequent to its initial application to comply with the Regulatory

Audit & Accounting Bulletin 200901 with respect to account 1588 and the global adjustment sub-account.

In response to Board staff interrogatory #5a, Bluewater disagreed that a separate rate rider be prospectively applied to non-RPP customers to dispose of the global adjustment sub-account balance would be appropriate. Bluewater noted that:

> The Board Staff proposal for a separate rate rider for non-RPP customers in respect of Account 1588 - Global Adjustment represents a departure from "normal" regulatory practice (as reflected in the Report of the Board entitled Electricity Distributors" Deferral and Variance Account Review Initiative, July 31, 2009). Regulating on a class basis inevitably leads to inequities for some members of any given class; in order to accept that result the regulator ought to be prepared to act when material inequities are identified through the regulatory process. Board Staff obviously feel a material inequity has been identified and should be addressed, but we do not support that conclusion for three reasons (i) the inequity is not material in the sense that the Board Staff Proposal does not result in the reallocation of a material quantity of costs, (ii) we believe the issue requires a more thorough analysis before the Board can appropriately take action, and (iii) there are significant technical obstacles to implementation of a solution."

In response to Board staff interrogatories #5b, Bluewater stated that it did not currently have the billing capability to have a separate rate rider applicable to non-RPP customers to dispose of the global adjustment sub-account balance. Bluewater noted that:

> "Bluewater Power would not be in a position to bill multiple rate riders that differentiate between customers within the same rate class for the billing period commencing May 1, 2010. There is a practical concern that we would not have

> approval until April and it would not be possible in any year to turn-around a redesign of a rate structure in that period of time."

As of November 1, 2009 the MUSH sector (Municipalities, Universities, Schools and Hospitals) and other designated institutional customers that remained as RPP customers were required to switch to non-RPP customer status as per O. Reg. 95/05 of the Ontario Energy Board Act, 1998. In response to Board staff interrogatories #7d, Bluewater indicated that:

> "Bluewater Power does not support treating MUSH sector differently, but we must reiterate that we also do not support the Board Staff Proposal outlined in Staff IR#5. It is a practical reality that rate making on a class basis creates inequities. This follow-up question to Staff IR#5 highlights the futility of trying to solve inequities one at a time, which is one of the grounds to our opposition of the Board Staff Proposal. It may seem clear that MUSH sector would be harmed unfairly by the Board Staff Proposal because they have only recently left RPP. However, the only difference between MUSH and other customers who might have left RPP at the exact same time is that the MUSH customers did not chose to leave. We ask two rhetorical questions: "Is that a valid basis to treat MUSH differently than other customers who recently left RPP" and "If not, would the Board propose a cut-off date that creates optimal fairness for anyone leaving RPP to be included in the RPP rate rider?"
>
> The main ground to our opposition of the Board Staff Proposal is that regulatory simplicity and the cost involved in implementing the proposal must always be compared to the quantity of inequity attempted to be solved. The complication introduced by this further attempt to solve an unintended impact on the MUSH sector adds to that argument. We believe the solution for the MUSH sector would require a manual work-around, at least in the short-term. We would suggest that a manual work around should be avoided in every instance possible because they lead to inefficiencies and the potential for errors."

Bluewater has requested that the Board review and approve the disposition of the December 31, 2008 balances of other Group 1 Deferral and Variance accounts as defined by the EDDVAR Report. The total balance of the Group 1 accounts, excluding the 1588 global adjustment sub-account is a credit of $3,197,613. The balance in the 1588 global adjustment sub-account is a debit of $271,696. Bluewater has included interest, using the Board's prescribed interest rates, on these account balances up to April 30, 2010. Debit balances are amounts recoverable from customers.

Submission

Board staff suggests that as a matter of principle, the global adjustment sub-account balance should be recovered by means of a separate rate rider that would apply prospectively to non-RPP customers, and would exclude the MUSH sector and other designated customers that were on RPP. This approach would be more reflective of cost causality since it was that group of customers that were undercharged by the distributor in the first place.

Board staff however notes that Bluewater current billing system could not readily accommodate that change. Board staff suggests that it would be useful to the Board were Bluewater to review the Board's EB-2009-0405 Decision dated January 29, 2010 and provide comments in its reply submission as to whether the approach for the disposition of the global adjustment contained in that Decision (i.e. implementation through an adjustment to the Provincial Benefit item on thee bill) could be readily implemented by Bluewater.

Alternatively, the Board may wish to consider, as proposed by Bluewater, the recovery of the allocated global adjustment sub-account balance from all customers in each class. This approach would recognize the customer migration that occurs both away from the non-RPP customer group and into the non-RPP customer group.

In addition to the decision on whether a separate rate rider should be established for the disposition of the global adjustment sub-account, the Board must decide on the time period over which the rate riders should apply. As previously noted, customer migration might occur in the low volume group. For this group of customers, there would be a benefit to dispose of the global adjustment sub-account balance over a relatively short period of time in order to reduce inter-generational inequities. Board staff submits that a disposition period no longer than one year would be appropriate. These balances have been accumulating over the last four year period and to delay immediate action is not in the customer's best interest. Board staff recognizes that some volatility in electricity bills may result. That aside, Board staff believes that a one year disposition period would be in the interest of all parties.

In order to reduce inter-generational inequities, Board staff submits that the disposition period for all Group 1 accounts should not exceed one year.

Board staff notes that the final proposed balances for disposition may no longer reconcile with previously audited balances nor with Bluewater's RRR filings. Board staff has reviewed the balances and notes that the changes do not result in material differences. Board staff notes that Bluewater stated in response to staff's interrogatory #8d that Bluewater has complied with the Board's accounting policies and procedures. Board staff is mindful of the importance of a timely disposition of deferral and variance account balances and does not believe that the disposition should be delayed. Board staff suggests that the Board consider approving the proposed deferral and variance account balance disposition rate riders on a final basis.

TREATMENT OF SMART METER FUNDING ADDER

Background

Bluewater has a current Board-approved smart meter funding adder of $0.26 per month per metered customer. In its application, Bluewater is requesting an increase in its rate adder to $1.00 per month per metered customer. Bluewater filed evidence in accordance with section 1.4 of the Guideline G-2008-0002: Smart Meter Funding and Cost Recovery (the "Smart Meter Guideline"), issued October 22, 2008. Bluewater is authorized for smart meter deployment under the amended Regulation pursuant to and in compliance with the London Hydro RFP process.

In its application, Bluewater filed supporting documentation in accordance with section 1.4 of the Smart Meter Guideline.

Bluewater is not seeking approval for capital and operating costs incurred to date or in 2010 in this application, but will track actual costs, and revenues received from the funding adder, in the established deferral accounts for review and disposition in a subsequent application.

Submission

Board staff submits that Bluewater has complied with the policies and filing requirements of the Smart Meter Guideline. Actual smart meter expenditures will be subject to review when Bluewater makes an application for disposition of the account balances in a subsequent proceeding. Hence, Board staff takes no issue with Bluewater's proposal to increase its smart meter funding adder to $1.00 per month per metered customer.

ADJUSTMENTS TO THE REVENUE TO COST RATIOS

Background

The Board's Decision (EB-2008-0221) for Bluewater's 2009 cost of service rate application prescribed a phase-in period to adjust revenue to cost ratios. The 2010 Supplemental Filing Module included schedules for Bluewater to complete to address this matter. The process adjusts base distribution rates before the application of the price cap adjustment.

Submission

Board staff submits that Bluewater has complied with the filing requirements of the 2010 Supplemental Filing Module. Board staff takes no issue with Bluewater's revenue to cost ratio adjustments.

ADJUSTMENTS TO THE RETAIL TRANSMISSION SERVICE RATES (RTSR)

General Background

Electricity transmitters in Ontario charge Uniform Transmission Rates (UTR) to their transmission connected customers. These UTRs are charges for network, line connection and transformation connection services. Based on the Decision and Rate Order of the Board in the EB-2008-0272 proceeding, the new UTRs effective July 1, 2009 were as follows:

- Network Service Rate was increased from $2.57 to $2.66 per kW per month, a 3.5% increase;
- Line Connection Service Rate remained unchanged at $0.70 per kW per month; and
- Transformation Connection Service Rate was decreased from $1.62 to $1.57 per kW per month, for a combined Line and Transformation Connection Service Rates reduction of 2.2%.

On July 22, 2009 the Board issued an amended "Guideline for *Electricity Distribution Retail Transmission Service Rates*" ("RTSR Guideline"), which provided electricity distributors with instructions on the evidence needed, and the process to be used, to adjust Retail Transmission Service Rates ("RTSRs") to reflect the changes in the UTRs effective July 1, 2009. The Board set as a proxy at that time an increase of 3.5% for the Network Service Rate and reduction of 2.2% for the combined Line and Transformation

Connection Service Rates. The Board also noted that there would be further changes to the UTRs in January 2010.

Based on the Decision and Rate Order of the Board in the EB-2008-0272 proceeding, a Rate Order issued January 21, 2010 revised the UTRs effective January 1, 2010 as follows:

- Network Service Rate has increased from $2.66 to $2.97 per kW per month, an 11.7% increase over the July 1, 2009 level or 15.6% over the rate in effect prior to July 1, 2009;
- Line Connection Service Rate has increased from $0.70 to $0.73 per kW per month; and
- Transformation Connection Service Rate has increased from $1.57 to $1.71 per kW per month, for a combined Line and Transformation Connection Service Rates increase of 7.5% over the July 1, 2009 level or 5.2% over the rate in effect prior to July 1, 2009.

Bluewater Specific Background

Bluewater has applied for an adjustment to its RTSR rates based on the July 22, 2009 RTSR Guideline proxy rate adjustments.

Submission

Board staff notes that very few distributors, including Bluewater, included in their 2009 rates the July 1, 2009 level of UTRs since for most of them, distribution rates would have been implemented on May 1, 2009. Therefore, in accordance with the July 22, 2009 RTSR Guideline, Board staff submits that the revisions to the RTSRs ought to reflect the changes from the current level to the January 1, 2010 level, that is an increase of about 15.6% to the RTSR Network Service rate, and an increase of about 5.2% to the RTSR Line and Transformation Connection Service Rate.

Board staff has reviewed the evidence provided by the applicant and submits that the proposal by Bluewater may no longer be reasonable, based on the January 1, 2010 level of the UTRs. Board staff submits that the applicant's proposed rates be revised to reflect the January 1, 2010 values.

ACCOUNTING FOR THE IMPLEMENTATION OF THE HARMONIZED SALES TAX

General Background

The Ontario provincial sales tax ("PST") (currently at 8%) and the Federal goods and services tax ("GST") (currently at 5%) will be harmonized effective July 1, 2010, at 13%, pursuant to Ontario Bill 218 which received Royal Assent on December 15, 2009.

The PST is currently an incremental cost applied to the price of goods purchased by an electricity distributor and is included in a distributor's OM&A expenses and capital expenditures. The PST is therefore included in the distributor's revenue requirement and is recovered from ratepayers through the application of distribution rates.

When the PST and GST are harmonized, distributors will pay the HST on purchased goods and service but will now claim an input tax credit for the PST portion. The mechanics of HST as a value added tax means that the distributor will no longer incur that portion of the tax that was formerly applied as PST (i.e. the 8%) on goods purchased. However, the current rates as applied will continue to effect cost recovery as if the PST was still in place. If no action is taken, the distributor will realize a savings in the cost of goods purchased while applying rates which do not reflect those savings.

Bluewater Specific Background

In response to Board staff interrogatory #10a which asked if Bluewater agrees that a deferral account should be established to capture the reductions in OM&A and capital expenditures, Bluewater stated that:

“Our position with respect to capital expenditures is that there is no need for a variance account for a potential reduction in capital expenditures. An IRM application is not intended to update actual capital expenditures, so any reduction to capital expenditures after July 1, 2010 due to the HST conversion does not impact rates. Capital expenditures influence rates through Rate Base and the reduction in Capital Expenditures due to the introduction of HST will impact Bluewater Power’s 2013 Rebasing Application. There is no need to record any reduction in Capital Expenditures because they will be recorded at the appropriate time, which is rebasing. Our position with respect to potential reductions in OM&A due to HST is that establishing a variance account would not be appropriate for an IRM cycle. A reduction in OM&A due to HST is no different than any other variance on an expense item embedded in our forecast. This would be a significant departure from “normal” regulatory practice. While the conversion of PST to HST leads to a reduction in OM&A there are other costs incurred by the utility that are higher than forecast and which are not proposed to be updated.

The Board may believe that it should respond to these potential savings if the impact on OM&A is material. However, we can advise the Board that the potential savings in OM&A are not projected to be material. We have not performed a full audit of those OM&A items currently subject to PST, but we have estimated the potential savings as part of our 2010 Budget Process and this Interrogatory. As a result, we have estimated the 12 month OM&A savings due to the recoverability of the PST portion of HST to be $100,000. Even if we assume a level of accuracy of plus or minus twenty-percent in that estimate, we are below our materiality threshold of approximately $135,000. Finally, we wish to highlight for the Board the challenge associated with creating a deferral account in respect of this issue. It is difficult to speculate on the structure of the order that would be issued by the Board to create that deferral account. For example, it certainly could not say that 61% of all HST recovered (i.e. 8% attributable to PST and 5% to GST) by the utility be put into the deferral account for two reasons:

i. As noted above, you would have to exclude any refund on HST attributable to capital projects.
ii. There will be new types of costs subject to HST that are not currently subject to PST (such as legal, audit, consulting and services such as tree trimming and insulator washing) and those types of costs would also have to be excluded.

If the Board were to devise an order to capture the intent of this Interrogatory, we would suggest the exercise of recording costs to the deferral account would require a manual process and that represents an incremental cost to this utility. Those costs should be recorded to the same deferral account. Moreover that manual process will require some level of interpretation and, therefore, at the time of disposition it would require the OEB to undertake an audit process. In conclusion, we do not agree to capture savings in OM&A attributable to the HST conversion as that is not appropriate in an IRM cycle, particularly where the impact is not material."

Submission

Board staff notes that many distributors' comments on the administrative burden and costs of sales tax harmonization are at odds with the provincial and Federal governments' pronouncements regarding the stimulative and competitive results of harmonization. Because the costs and savings are not clear at this point, Board staff submits that tracking of these is warranted at this point to quantify, per government pronouncements, that the potential savings for corporations could be significant.

Accordingly, Board staff submits that the Board may wish to consider establishing a deferral account to record the amounts, after July 1, 2010 and until Bluewater's next cost-of-service rebasing application, that were formerly incorporated as the 8% PST on capital expenditures and expenses incurred, but which will now be eligible for an HST Input Tax Credit ("ITC"). The intention of this account would be to track the incremental change due to the introduction of the HST that incorporates an ITC from the 5% to the 13% level. To qualify for this treatment, the cost of the subject items must be in the category of distribution revenue requirement. Tracking of these amounts would continue in the deferral account until Bluewater's next cost of service application is determined by the Board or until the Board provides guidance on this matter, whichever occurs first.

Bluewater would apply to clear the balance in the account as a credit to customers at the next opportunity for a rate change after the account balance information becomes available and is supported by audited financial statements.

All of which is respectfully submitted