Ontario Energy Board
P.O. Box 2319
27th. Floor
2300 Yonge Street
Toronto ON M4P 1E4
Telephone: 416-481-1967
Facsimile: 416-440-7656
Toll free: 1-888-632-6273

Commission de l'énergie de l'Ontario
C.P. 2319
27e étage
2300, rue Yonge
Toronto ON M4P 1E4
Téléphone; 416-481-1967
Télécopieur: 416-440-7656
Numéro sans frais: 1-888-632-6273

Ontario

BY EMAIL

February 10, 2010

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

Dear Ms. Walli:

Re: Board Staff Submission on Canadian Niagara Power Inc. – Port Colborne 2010 Electricity Distribution Rates Application Board File Number EB-2009-0215

Please see attached Board staff's submission for the above proceeding. Please forward the attached to Canadian Niagara Power Inc. – Port Colborne and any intervenors in this proceeding.

Canadian Niagara Power Inc. reply to submissions is due February 26, 2010.

Yours truly,

Original signed by

Martin Benum
Advisor, Applications and Regulatory Audit

ONTARIO ENERGY BOARD

STAFF SUBMISSION

2010 ELECTRICITY DISTRIBUTION RATES

Canadian Niagara Power Inc.
Port Colbourne

EB-2009-0215

February 10, 2010

Board Staff Submission

Canadian Niagara Power Inc.

Port Colborne

2010 IRM3 Rate Application

EB-2009-0215

Introduction

Canadian Niagara Power Inc. - Port Colborne ("CNPI") filed an application with the Ontario Energy Board (the "Board"), received on November 10, 2009, under section 78 of the Ontario Energy Board Act, 1998, seeking approval for changes to the distribution rates that CNPI 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 CNPI.

Board staff makes submissions on the following matters:

- Calculation Error in Existing Foregone Revenue Rate Rider;
- 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").

CALCULATION ERROR IN EXISTING FOREGONE REVENUE RATE RIDER

CNPI Specific Background

In its EB-2008-0224 Amended Decision and Rate Order, the Board approved a Foregone Revenue Rate Rider to allow the recovery of the revenue shortfall between the effective date of the rate change (May 1, 2009) and the implementation date of the rate change (November 1, 2009). CNPI stated in this application that it made a calculation error in the determination of the fixed and volumetric rate riders associated with the General Service 50 to 4,999 kW, Sentinel and Street Lighting rate classes. CNPI has requested that the calculation be corrected. The error resulted in an understatement of the foregone revenue by approximately $96,000. CNPI proposed to prospectively adjust the Foregone Revenue Rate Rider for the applicable rate classes over the May 1, 2010 and April 30, 2011 period.

Submission

Board staff has reviewed the evidence provided by CNPI and agrees with the calculation of the corrected rate riders. Board staff submits that the Board might consider to approve CNPI's corrected Foregone Revenue Rate Riders as this would more accurately reflect the intent of the Board's Amended Decision and Order in the EB-2008-0224 proceeding.

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.

CNPI Specific Background

Annual Disposition

CNPI has requested the disposition of its Group 1 account balance over a one year period. Board staff interrogatory #7 requested that CNPI complete and submit an updated version 4 of the Deferral Variance Account Workform. CNPI has complied with this request.

Global Adjustment

In response to Board staff interrogatory # 3a, CNPI 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 # 3b, CNPI 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 # 4a, CNPI 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 on the basis of cost causality. CNPI noted that:

> “Disposition of account 1588 – Global Adjustment through a separate rate rider applied prospectively to Non-RPP customers pre-supposes that the entirety of this account is attributable solely to the Non-RPP customers. This may not be a totally accurate assumption.
>
> Conceptually, it is a valid assumption but a number of factors come into play. The determination of the Global Adjustment variant is subject to estimation processes involving IESO billing to the LDC and LDC billing to the customer classes and subclasses, all of which is interrelated. All customers, either RPP or Non-RPP have contributed, in some manner, to the total 1588 Power Variant Account including the Global Adjustment sub-account.
>
> While not totally fair to each individual customer, it may be more appropriate at this time to clear the variance over all customers.”

In response to Board staff interrogatories # 4b, CNPI stated that it would be able to bill a separate rate rider applicable to non-RPP customers to dispose of the global adjustment sub-account balance. CNPI however indicated that system configuration modifications are required. These system configurations will require some time and resources to implement.

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 # 6d, CNPI indicated that:

> "Should the Board choose to establish a separate rate rider for Non- RPP customers, the MUSH sector customers should likely be excluded. CNPI's billing system has the capacity to exclude the MUSH sector customers but it will require system configuration modifications involving both internal and external resources."

CNPI 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 debit of $872,701. The balance in the 1588 global adjustment sub-account is a debit of $ 501,189. CNPI 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

As a matter of principle, Board staff would suggest that the Board may wish to consider establishing a separate rate rider for the disposition of the global adjustment sub-account balance. The rate rider 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 CNPI's current billing system could not readily accommodate that change. Board staff suggests that it would be useful to the Board were CNPI 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 CNPI.

The Board may wish to consider, as proposed by CNPI, to recover the allocated global adjustment sub-account balance from all customers in each class. This approach would recognize the customer migration that might occur 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. Board staff hence agrees with CNPI's proposal.

In order to reduce inter-generational inequities, Board staff submits that the disposition period for all Group 1 accounts should not exceed one year. This is also consistent with CNPI's proposal.

The EDDVAR Report includes filing guidelines for the disposition of deferral and variance account balances. With respect to the reliability of account balances, the EDDVAR Report at page 27 states"…The Board believes that …additional audit certification is not necessary. The Board however will require a distributor to file a reconciliation of the regulatory trial balance that is reported to the Board as part of RRR and the audited financial statements."

Board staff notes the original balances proposed for disposition (and supported by audited financial statements) might have been adjusted to account for events subsequent to the release of the EDDVAR Report. They include, but are not exclusive to the following:

1. The Regulatory Audit & Accounting Bulletin 200901 ("accounting bulletin") dated October 15, 2009 and accounting frequently asked questions issued in October 2009 clarified the accounting rules for account 1588 RSVA power and global adjustment sub-account. The accounting bulletin required electricity distributors to review and correct misstatements since January 1, 2005 or since the last time Account 1588 RSVA power and global adjustment sub-account were cleared by the Board on a final basis. Due to the changes to account balances arising from the accounting bulletin Board staff asked distributors to confirm their compliance to the accounting requirements specified in the bulletin.

2. Applicants retroactively reviewing, and correcting Group 1 account balances over the January 1, 2005 to December 31, 2008 period.

Board staff notes that the final proposed balances for disposition may no longer reconcile with previously audited balances nor with CNPI's RRR filings. Board staff has reviewed the balances and notes that the changes do result in material differences. Board staff notes that CNPI stated in response to staff's interrogatory # 7d that CNPI 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.

Were the Board to have any concerns about these adjustments, Board staff proposes that the Board might consider declaring the rate riders interim until the revised balances can be brought forward in a future application and supported by a third party audit.

TREATMENT OF SMART METER FUNDING ADDER

Background

CNPI has a current Board-approved smart meter funding adder of $0.27 per month per metered customer. In its applications CNPI is requesting an increase in its rate adder to $1.00 per month per metered customer. CNPI 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. CNPI is authorized for smart meter deployment under the amended Regulation pursuant to and in compliance with the London Hydro RFP process.

CNPI 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 CNPI has complied with the policies and filing requirements of the Smart Meter Guideline. Actual smart meter expenditures will be subject to review when CNPI makes application for disposition of the account balances in a subsequent proceeding. Hence, Board staff takes no issue with CNPI'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-2008-0224) for CNPI'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 CNPI 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 CNPI has complied with the filing requirements of the 2010 Supplemental Filing Module. Board staff takes no issue with CNPI'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.

CNPI Specific Background

CNPI 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 CNPI, 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 CNPI 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.

CNPI Specific Background

In response to Board staff interrogatory # 9a, CNPI stated that it would comply were the Board to direct CNPI to establish a variance account to capture the reductions in OM&A and capital expenditures. CNPI further added that any variance account should recognize the marginal costs incurred by CNPI to track the costs related to changes in taxation.

CNPI further noted that it may be possible to reasonably estimate the cost reductions based on the most recent financial records or rebasing application as opposed to introducing additional record keeping burdens.

Submission

The Board may wish to consider establishing a deferral account to record the amounts, after July 1, 2010 and until CNPI'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 CNPI's next cost of service application is determined by the Board or until the Board provides guidance on this matter, whichever occurs first.

CNPI 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