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February 18, 2010

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
Suite 2700
Toronto, Ontario, M4P 1E4

Dear Ms. Walli:

Re: EB-2009-0423 – Alignment of Rate Year with Fiscal Year for Electricity Distributors – Comments of the London Property Management Association

Please find attached the comments of the London Property Management Association in the above noted proceeding.

Sincerely,

Randy Aiken

Randy Aiken
Aiken & Associates

ALIGNMENT OF THE RATE YEAR WITH FISCL YEAR FOR ELECTRICITY DISTRIBUTORS

EB-2009-0423

COMMENTS OF THE

LONDON PROPERTY MANAGEMENT ASSOCIATION

A - INTRODUCTION

These are the comments of the London Property Management Association ("LPMA") related to the Invitation to Comment on the Alignment of Rate Year with Fiscal Year for Electricity Distributors dated January 21, 2010.

Currently there is a difference, or a disconnect, between the fiscal year and the rate year for electricity distributors. The fiscal year for all electricity distributors is from January 1 to December 31 while the rate year starts May 1 and ends April 30.

A number of electricity distributors have applied over the past few years to change their rate year to match their fiscal year. The Board has initiated a consultative process to review the need for the implications arising out of a potential alignment of the rate year with the fiscal year for electricity distributors.

B - COMMENTS ON BOARD QUESTIONS

In its January 21, 2010 letter the Board specifically sought comments on the questions that follow.

1. What are the benefits, if any, of changing the rate year to match the fiscal year for electricity distributors? Would these benefits be relevant for all distributors or only those that access the capital markets (i.e., those that report to the investment community)?

LPMA submits that there may be some limited benefits for distributors that access the capital markets of aligning the fiscal year with the rate year. Currently, the fiscal year financial results are somewhat skewed because revenues are based on one set of rates from January through April and on a second set of rates from May through December. However, LPMA believes that in most cases the capital markets are sophisticated enough to realize this and take this into account.

This benefit would only be relevant to those distributors that access the capital markets directly. Many distributors access capital through their parent companies or other affiliates. It is not clear to LPMA that any of the benefits that may flow to distributors that access capital markets directly would be available to those distributors that access capital markets indirectly.

There are also limited benefits to intervenors and the Board if some, but not all, of the distributors were to change their rate year to match their fiscal year. These benefits include a staggering of cost of service applications that would provide for less overlap in terms of timing of the applications. Currently all cost of service applications are to be filed in August to allow rate changes on May 1. Intervenors and Board staff are often hard pressed to deal with all of the applications simultaneously during this period. If some of the cost of service applications were filed in March to allow rate changes on January 1 there would be less overlap in simultaneous applications. This would allow intervenors and Board Staff more time and opportunity to review the cost of service applications.

An additional benefit of aligning the rate year with the fiscal year is that it allows a direct comparison of the operating results with previous Board approved figures. For example, a comparison today of the actual normalized return on equity is not completely comparable to the Board approved return on equity from the last cost of service Decision. This is because the actual normalized return on equity will be based on two sets of rates whereas the approved return on equity assumes revenues based on only one set of rates for the entire year. If the rate year and the fiscal year were one and the same, a direct comparison would be possible.

2. What would be the implications, if any, of such a change from a ratepayers' perspective? For example, is it a concern that electricity consumers would see more frequent rate changes?

There are many implications of such a change from a ratepayers' perspective. Some are positive, some are negative.

As noted above, the potential staggering of cost of service applications over two distinct periods would allow intervenors (ratepayer representatives) and Board Staff more time to fully scrutinize applications. This may result in additional adjustments to the proposed revenue requirement in favour of ratepayers

A significant concern of ratepayers would be the increase in the frequency of rate changes. As outlined in the Board letter of January 21, 2010, the implementation of the Regulated Price Plan in 2005, the effective date of distribution charges was changed to May 1 to coincide with the annual RPP changes. This change was driven by the desire to reduce the frequency of rate changes. The RPP has been subject to review and potential change twice a year since 2006 on May 1 and November 1.

Adding a third rate change each year as of January 1 would be contrary to the desire to reduce the frequency of rate changes and may lead to more ratepayer confusion and anger. A partial solution to this problem is provided below in Section C – OTHER COMMENTS.

Ratepayers would also be adversely affected if the change in the rate year to match the fiscal year resulted in rate changes earlier than under the status quo. In other words, the advancement of rate changes from May 1 to January 1 when a distributor changes the rate year to match the fiscal year would have a negative impact on ratepayers assuming there was an increase in rates. LPMA submits that most of the rate changes result in rate increases to customers, whether under cost of service or the IRM rate adjustment mechanism. It is unlikely that a distributor would bring forward a proposal to align the rate year with the fiscal year if it believes that this could result in a reduction in rates for the January through April period from what they would otherwise be. They would most likely wait until the following year or a year when the change in the rate year would result in higher rates over the January through April period. LPMA proposes a solution to this particular issue in Section C – OTHER COMMENTS below.

LPMA submits that regardless of what is ultimately determined by the Board, the impact on both distributors and ratepayers should be revenue neutral. In other words, distributors should not receive more revenue when they transition to a rate year that equals the fiscal year and ratepayers should not end up paying more as a result of the transition either.

Another negative impact on ratepayers is the timing of the rate change itself. Ratepayers will tend to have higher electricity bills in January than they do in May. In May there is minimal hearing and air conditioning loads, while in January there will be heating loads. For distributors with a large component of heating loads, ratepayers will see the change in the distribution rates being applies when their loads are the highest in the year. This is likely to result in more customer complaints and hardship than if the rate changes were to take place in a lower consumption month.

3. Were the Board to accept the merits of changing the rate year to match the fiscal year, should this change be applicable to all electricity distributors or should the Board consider effecting such a change by application only? If by application only, what may be the issues and concerns related to the fact that some distributors would be on a January 1st rate year while others are on a May 1st rate year? Also, would it be appropriate to change the rate year while the distributor is under a performance based mechanism for rate-setting or should it be part of a cost of service filing?

LPMA submits that if the Board were to accept the merits of changing the rate year to match the fiscal year, then this change should <u>NOT</u> be applicable to all electricity distributors. Such a policy would negate one of the potential benefits of having some, but not all, distributors on a different rate year than others. In particular, it would negate the potential benefits provided by having cost of service applications staggered over two periods rather than all running simultaneously.

The Board should consider effecting such a change by application only. The distributors should be required to provide evidence of the benefits to their shareholders and to their ratepayers of changing the rate year to match their fiscal year. In the absence of any such clear benefits, the Board should deny the request.
There may be a number of issues and concerns related to the fact that some distributors would have a January 1 rate year while others would continue to have a May 1 rate year.

First, there would be different inflation estimates used for the IRM rate adjustment. For the May 1 rate change, the Board uses the average change in the GDPIPIFDD inflation index for the first through fourth quarters of the previous year. For those distributors with a January rate change, this information would not be available for the same period. For these distributors, the inflation index could be based on the average of the change in the first and second quarters of the previous year, along with the figures from the third and fourth quarters of the year before that. This is the timeframe used by the Board for Union Gas and Enbridge Gas Distribution under the natural gas IRM adjustment mechanism. Both of these distributors change their rates as of January 1 each year. For example, the January 1, 2010 rate change for Union Gas was based on the changes in the GDPIPIFDD price index for the third and fourth quarters of 2008 and the first and second quarters of 2009.

LPMA notes that the GDPIPIFDD information from Statistics Canada for the third quarter of a year (July – September) is usually available in the first week of December, so the inflation index could be based on the first three quarters of the current year and the fourth quarter of the previous year. However, to be consistent with the approach used for the gas distributors and to allow adequate time to adjust rates and provide draft rate orders, etc., LPMA submits that use of the third through second quarter information, as is done for the gas distributors, would be more appropriate.

The second issue related to different rate years is that there would be different cost of capital parameters (return on equity, deemed long-term debt rate and deemed short-term debt rate) set for the different periods. Based on the Board`s recent EB-2009-0084 Report, these cost of capital parameters are to be updated based on information available three months in advance of the implementation date for rates. For a May 1 implementation date this means information for the month of January is to be used. For a January 1 implementation date this means information for the month of September would be used.

LPMA does not believe this is a major concern. It should be noted that not all the regulated gas distributors in Ontario have the same fiscal year. As a result at any point in time these distributors can have different cost of capital parameters embedded in their revenue requirement.

A third issue for the Board to consider is the availability of audited information from the previous fiscal year when a distributor files for a January 1 rate change. Currently, a distributor is required to file in August to have rates in place for the following May 1. By this time, the audited financial statements and audited deferral and variance account balances are available for the end of the previous fiscal year.

This would not be the case for a timetable needed to change rates effective January 1. This timetable would require the distributors to file their evidence in April. Distributors may not have the final audited figures to file as part of their evidence at this time. This would result in the distributors having to file updated evidence and could lead to a longer regulatory process.

It should also be noted that by moving the rate year to match the fiscal year, the staff of the distributors may run into more problems completing the application and evidence in time for an April filing since many of the key individuals may be involved in the audit process of the previous year results. This could create a bottleneck in the flow of information and the preparation of the application and evidence in a timely and efficient manner.

A fourth concern is that distributors that adjust their distribution rates on January 1 rather than May 1 will have three rate changes that need to be communicated to customers each year, rather than two. This may not be an issue for customers within a distributor, but it could cause confusion for customers that have accounts across distributors or for customers of neighbouring distributors that have different rate years. As an example, customers of Waterloo North Hydro may not understand why their rates are changed three times a year while customers in the neighbouring distributor of Kitchener Wilmot Hydro have only two changes a year.

LPMA submits that it is not appropriate to change the rate year while the distributor is under a performance based mechanism for rate-setting. It would more appropriate for this change to take place as part of a cost of service filing.
In cost of service applications a number of costs and/or revenues have been normalized over the cost of service year and the following three years under the IRM mechanism. Changing the timing of the rate change will result in a period under IRM that is different from the total of four years used for the normalization. If the rate change date is brought forward from May 1, the IRM period will be shorter than expected, while if the rate change date is delayed from May 1, the IRM period will be longer than expected. In either case the net result is an imbalance in the recovery of the normalized costs.

LPMA also notes that bringing forward, or accelerating, the date for a rate change effectively reduces the term of the IRM period. LPMA does not believe this is appropriate.

A change in the rate year during the IRM period would not be a simple mechanical exercise. The distributor should be required to file evidence to support the benefit of changing the rate year to match the fiscal year. This evidence would then be the subject of review by interveners and the Board through the normal regulatory process (i.e.

interrogatories, cross-examination). If the evidence supports the benefits of moving to a rate year that is the same as the fiscal year, then a prorated adjustment noted below in the response to Question 5 would be applied. This process would mean that the IRM adjustment would not be a simple mechanical exercise.

A cost of service application is the logical place to deal with a change in the rate year. More comments are provided under the response to Question 4 below.

4. Under a cost of service mechanism, what are the specific issues from a ratemaking perspective of transitioning to a rate year that would be aligned with the fiscal year, and how should these issues be specifically addressed?

The main issue from a ratemaking perspective of transitioning to a rate year under a cost of service mechanism is how do you calculate a revenue requirement for a period of less than 12 months? This "stub" period would typically be 8 months in length and would be for the period May 1 to the end of the following December.

Calculation of a `revenue requirement` for this period would have added complexities from the calculation of a normal revenue requirement based on a twelve month period. While the calculation of some components of the revenue requirement could be accomplished using the same approach as for a normal period (for example rate base would still be the average of the opening and closing balances) there would need to be special rules or calculations for such things as the depreciation expense, capital cost allowance and income taxes. While revenues and OM&A costs could be forecast for an eight month period with a minimum of difficulty, there is an issue of whether or not this would be appropriate. Most distributors have some level of seasonality in both their revenues and expenses, and perhaps even in their capital expenditures.

The period from May 1 to the end of December may result in lower rates than on an annual basis for a distributor that has a summer peaking load, while higher rates may be the result for a distributor that has a winter peaking load. If tree trimming costs, as an example, are primarily incurred in the May through December period, then this would lead to higher rates than those on an annualized basis.

Any rates that came out of a cost of service application for a stub period should not be considered as base rates for application of a performance based mechanism going forward. Another cost of service application, or an addition to the stub filing, would be required to set base rates based on a normal twelve month period revenue requirement calculated under a cost of service application. In essence, two cost of service periods would need to be provided before the return to performance based rates.

An alternative recommended by LPMA in place of the above is the following. The cost of service application would continue to done as it is currently. That is, there would continue to be an application and evidence based on a twelve month period equal to the calendar year. Instead of the rates being implemented on May 1 they would be implemented on January 1.

There would be three main differences in this cost of service application from that currently filed. First, it would need to include evidence of the benefits to the distributor to justify the change in the rate year to match the fiscal year. Second, in order for rates to be implemented on January 1 rather than May 1, the application and evidence would need to be filed earlier than is the current schedule. Rather than filing the evidence in August, it would need to be filed in April.

The third difference between a normal cost of service application and one that includes a proposed change in the rate year is that there may be a need for an adjustment to the revenue requirement to reflect that the distributor is effectively asking for a change in rates four months earlier than if they did not propose to change the rate year. If the revenue requirement that comes out of the cost of service application results in a revenue deficiency at current rates, then customers are being asked to pay higher rates effective January 1, rather than May 1. In other words, there is an additional cost to ratepayers in order to provide the benefits to the distributor of aligning their rate year to their fiscal year. LPMA does not believe that ratepayers should pay for this benefit to the distributor.

LPMA submits that any revenue deficiency that may result from the cost of service application should be reduced by one-third to reflect the four month advancement in the effective change in the rate date. This would mean that ratepayers would experience a rate increase faster than they normally would, but it would lower than if the increase did not take place until May 1 of the year. For example, instead of a 3% increase in rates on May 1, ratepayers would see a 2% increase in January. Over the calendar year, on average, the impact on ratepayers would be the same. This approach, therefore, leaves ratepayers indifferent to the impact in the transition year.

Rates for the first IRM year following this cost of service transition year would be based on the rates that would have been in place if the full deficiency had been recoverable in the test year.

In the rare instances where the cost of service application showed a revenue sufficiency rather than a deficiency in the transition year, rates would be set so that the benefits flowed fully to the ratepayers in the test year.

5. Under an incentive regulation mechanism, what are the specific issues from a ratemaking perspective of transitioning to a rate year that would be aligned with the fiscal year, and how should these issues be specifically addressed?

One of the key issues to be addressed under an incentive regulation mechanism is how the price cap would be calculated for a period of less than twelve months.

If a distributor accelerates the change in rates from May 1 to January 1, then some downward adjustment should be reflected in the price cap. This is because the distributor is effectively increasing rates four months in advance of when it was scheduled to do so.

Similar to the proposal related to the recovery of a revenue deficiency under a cost of service application, LPMA submits that the price cap should be adjusted by a factor of two-thirds under the IRM adjustment mechanism. This would account for the four month period over which rates would be higher. As noted at earlier in this submission, the impact on both the distributor and ratepayers should be neutral. There should be no increase in revenue to the distributor and no increase in costs paid by ratepayers of changing the rate year to match the fiscal year.

6. What would be the specific issues relating to the timeliness of existing filing requirements such as bridge year information, audited financial statements, tax returns, and review and disposition of deferral and variance account balances, and how should these be specifically addressed?

Under the current timetable there is a gap between the end of the fiscal year and the implementation of new rates (i.e. from the end of December to May 1). However, this does not allow for information related to the most currently completed fiscal year to be available during a proceeding. For example, for those distributors that are rebasing in 2010, audited financial statements and audited deferral and variance account balances are generally available only for 2008, not for 2009.

Under an accelerated timeline where the distributor needs to file in April for January rates this issue may be more of a problem. The audited information may not be available when the application and evidence is filed. However, it will likely be available as an update to the evidence before interrogatories are filed. As a result, the impact on the timelines may be minimal.

LPMA notes that a benefit of the accelerated filing and rate change date is that the audited balances in the deferral and variance accounts would begin to be cleared to customers four months earlier than under the current schedule.

There may be a similar issue related to the filing of actual tax returns for the most recent historical year. This information may not be available to be included in the original evidence and may need to be filed as an update to the evidence at some point. Again, as long as this information is available well in advance of when interrogatories are to be filed, the impact should be minimal.

These timeline issues would appear to be only concerns related to cost of service applications which require earlier filing than do the IRM filings. In both cases, clearance of the deferral and variance account balances would be four months closer to when those balances were incurred.

LPMA does not believe there should be any issues related to the bridge year information under the April filing, as compared to the August filing since in most cases there was already limited actual information provided as part of the bridge year evidence. However, there may be an issue with the most recent year of actual information filed.

Distributors may have a problem incorporating final audited information in an April filing. For example, a filing for a rate change on January 1, 2011 would require actual data for the 2009 historical year. This information may not be available until February, March, or even later. Incorporating this information into a filing that must be made in April may be problematic and may result in updates to the evidence being filed to reflect actual 2009 information when it becomes available.

7. Are there other key issues that should be considered if the Board were to change the rate year to match the fiscal year for electricity distributors?

A key issue for the Board to consider is whether they should change the rate year to match the fiscal year of a distributor, or whether the distributor should change their fiscal year to match the rate year.

LPMA submits that there would be no transition issues from a rates perspective or a ratepayer perspective if a distributor changed their fiscal year to match the current rate year that begins on May 1 of each year.

Rates would continue to be adjusted twice per year on November 1 and May 1. There would be no need for a third rate change per year. From the ratepayer point of view the transition to matching the rate year with the fiscal year would be a non issue since the rate year would not be changed.

LPMA strongly submits that the Board direct any distributor that wants to align the fiscal and rate years to change their fiscal year rather than have the Board change the rate year for the distributor. This would allow the Board to maintain a uniform approach to all distributors.

C - OTHER COMMENTS

1. Fiscal Year

LPMA notes that the Board has indicated that the fiscal year for all electricity distributors is from January 1 to December 31. LPMA submits that the Board should not make any determination on the alignment of the rate year with the fiscal year under the assumption that all distributors will maintain a fiscal year that begins January 1.

2. November 1 vs. January 1

As noted above in the response to Question 2, LPMA notes that one of the negative impacts on ratepayers of moving to a January 1 distribution rate change is that it would result in three rate changes per year, as the January 1 date would be in addition to the changes on May 1 and November 1 related to the RPP price changes.

LPMA submits that an option that would more closely match the rate year with the fiscal year would be allow a distributor to change the effective date for distribution rate changes from May 1 of each year to November 1. Currently there is an 8 month overlap between the fiscal year and the rate year. Moving to a November 1 rate year would increase this overlap to 10 months. While still different from the fiscal year, this approach reduces the difference in the two periods from 4 months to 2 months, while continuing to allow for only 2 rate changes per year, continuing at May 1 and November 1.

While not a complete solution to the mismatch between the fiscal and rate years, this approach would effectively reduce the difference between the two years from four months to two.

3 – Deferred to January 1 (or November 1), not Accelerated

As noted in the response to Question 2, one of the adverse impacts on ratepayers of a distributor moving from a rate year to one that begins on January 1 (or November 1 as suggested above) is that a rate change (usually an increase) would come earlier when the distributor transitions to the new rate year.

LPMA suggests that this problem would be resolved if the change in the rate year to January 1 to match the fiscal year or to November 1 to more closely match the fiscal year if the Board determined that the change in the rate year would be deferred from May 1 to the following November 1 or January 1 rather than accelerated from May 1 to the previous November 1 or January 1.

LPMA submits that rates should remain unchanged from May 1 to the new effective date of the distribution rates (either November 1 or January 1). This would mean that distributors would have to advise the Board and other parties of their intention to change their rate year prior to the May 1 rate change that may have applied for.

The deferral of the effective date of the rate change ensures that ratepayers are not adversely impacted by the change and provides them with a benefit of no rate change from May 1 to the new effective date. This benefit for ratepayers should be considered appropriate given that there is expected to be a benefit to distributors of the change.