



February 18, 2010

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

Dear Ms. Walli:

**RE: CLD Submission
Alignment of Rate Year with Fiscal Year for Electricity Distributors
Board File No.: EB-2009-0423**

Introduction and Summary

On January 21, 2010, the Ontario Energy Board (the “Board” or the “OEB”) initiated a consultative process “to review the need for and the implications of a potential alignment of the rate year with the fiscal year for electricity distributors”. Specifically, the Board invited comments (the “Invitation to Comment”) on seven questions with multiple parts. The Coalition of Large Distributors provides here its submission, including responses to the Invitation to Comment.

The Coalition of Large Distributors (the “CLD”) is comprised of Enersource Hydro Mississauga Inc., Horizon Utilities Corporation, Hydro Ottawa, PowerStream Inc., Toronto Hydro-Electric System Limited, and Veridian Connections Inc., and appreciates this opportunity to provide input into this important consultation.

In summary, the CLD submits that the effective date of a rate order is an administrative matter that should recognize that utilities run commercial operations where simplicity of reporting to stakeholders on financial matters is inherently valuable. This reporting simplicity does not come at the expense of ratepayers. The Board has recognized that it should not set up unnecessary regulatory barriers in this regard and has limited the range of its concerns to issues related to the implementation of the change in the rate year, namely:

1. Preventing undue harm to ratepayers and shareholders resulting from transitioning to a new rate year; and
2. The efficient use of Board resources in managing the annual rate setting process, given the large number of electricity distributors.

Background

The Background section of the Invitation to Comment notes that there have been four different rate year dates for electricity distributors over the last several years. These are:

Time Frame	Rate Year Start Date
Pre – 2000	January 1
2000 - 2002	March 1
2003/2004 – 2005	April 1
2006 - Present	May 1

The Board has therefore adjusted electricity distribution rate years on several occasions. On none of these occasions has the Board indicated that the change would be so fundamental as to question the justness or reasonableness of the underlying rates. It has always been based on administrative convenience. The CLD is not aware of any ratepayer harm or backlash resulting from any of these changes.

Both major gas utilities, Enbridge Gas Distribution (“Enbridge”) and Union Gas have also had adjustments to their rate years.

Enbridge requested a change in its rate year from October 1 to January 1 so that it could align its fiscal year with its rate year. The Board stated:

“The Board does not see itself as having an approval role in the decision to change fiscal year ends, but it does recognize that Board approval is required to implement the transitional changes that result from the corporate decision to change the reporting period.”¹

The Board therefore addressed the transitional issues and Enbridge’s rate year was changed.

With respect to Union Gas, the Board allowed the change in rate year and did not consider it necessary to address this change in its reasons.²

Recent History

On the electricity distribution side, the only case in which the Board addressed the merits of a proposed rate year change is in the July 6, 2009 application by Enersource Hydro Mississauga Inc. (“Enersource”) for a rate order effective January 1, 2010 so that it could align its rate year with its fiscal year. This application contained a transition plan aimed at ensuring that neither ratepayers nor shareholders would be harmed during the transition period.

The Board held that Enersource’s request to align its rate year with its fiscal year has merit, but noted that the proposal raised issues relating to the timing of rate changes for other distributors as well:

“While the Board accepts Enersource’s argument that aligning its rate year with its financial year would simplify reporting to the investment community and thus sees merit in the request, the Board believes that other distributors, particularly those that are reporting issuers, may also be interested in a change in rate year

¹ RP-2003-0023 Enbridge Gas Distribution - p. 624.

² See: EBRO 493 (Union Gas), and EBRO 494 (Centra Gas).

to January 1. The implications of such a change need to be examined more fully, in a Board policy context.”³

Thus, the Board did not depart from its approach in the natural gas decisions – where the criterion for approval was to allow a change in date, provided that ratepayers and shareholders were kept whole through the transition process. Rather, it recognized an additional feature that had to be considered in the electricity context which is not present in the natural gas context: the large number of distributors who may seek a rate change could have administrative and management impacts across the sector. Thus, the Board said that it would “initiate a brief consultation process in this matter in the near future.”⁴

Hence, this “brief consultation process” was initiated to address the industry-wide implications of allowing one utility to change its rate year, so that rate year changes can be addressed in an orderly fashion. This process is not aimed at reviewing or setting aside the current Board approach to allowing rate year changes.

With respect to the administrative issues respecting rate year changes, Board staff stated in EB-2009-0193:

“As a final implementation matter, Board staff notes that in addition to having two values for the GDP-IPI that will need to be calculated (one for distributors on a January 1st year, the other for those on a May 1st rate year), there will also be a need to have two calculations for the Return on Equity and Deemed Debt Rates, corresponding to the two rate periods. This can, however, be accommodated.”⁵

Thus, Board staff is confident that the few issues identified can be addressed with current Board resources. There were no other concerns expressed by Board staff about its resources or ability to implement this change.

In addressing the issue of multiple rate changes in one year, Board staff said:

“...in the past the Board has had concerns about multiple rate changes in one year. If Enersource’s proposal is accepted, there could be three changes on the customer’s bill annually. Whether customer confusion can be mitigated through a communications effort by Enersource is unknown. Board staff does note, however, that natural gas customers typically see four changes on their bills annually, without apparent confusion or dissatisfaction.”⁶

Board staff identifies only one concern, i.e., customer confusion, but points out that natural gas customers are apparently neither confused nor dissatisfied by multiple rate changes. Thus, one may conclude that Board staff believes electricity customers will also experience neither confusion nor dissatisfaction by multiple rate changes.

Responses to Specific Questions

³ EB-2009-0193 Enersource Hydro Mississauga - Board Decision, dated December 15, 2009, at page 3.

⁴ *Ibid* at page 3

⁵ EB-2009-0193 Board Staff Submission dated November 13, 2009 at page 5.

⁶ *Ibid* at page 4.

The Board seeks comments on the following:

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)?

The first and foremost benefit would be the opportunity for a distributor to earn its Board-approved rate of return over the period of the distributor's fiscal year. This would eliminate the discrepancy between a distributor's regulated rate of return and actual fiscal year rate of return. As well, this would eliminate the need for a distributor to explain such discrepancies to its stakeholders including shareholders and creditors, a task which consumes significant distributor resources unproductively. These requirements for explanations to stakeholders exist for both types of distributors, i.e., those who report to the investment community and those who do not.

As per Sections 2.1.6 and 2.1.7 of the Electricity Reporting and Record Keeping Requirements, all electricity distribution reporting to the Board is provided on a calendar-year basis, and all data used for input into evidence filed for rate applications is based on the calendar year, that is, the Test Year. Thus, changing the rate year to a January 1st start would allow for consistency in the data collection and presentation by the distributor, and for easily comparing the application evidence to data from prior periods. Again, this benefit of consistency would apply to distributors whether they seek to access the capital markets or not.

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?

As indicated above, natural gas customers in Ontario experience commodity rate changes quarterly without apparent confusion or concern. On the electricity side, customers are subject to Board-approved rate riders for implementation on dates other than May 1, without apparent confusion or concern. It is routine for electricity distributors to communicate such rate changes to their customers via bill messages, bill inserts and other forms of notification in order to mitigate confusion. A distribution rate change for January 1 can be communicated in the same way.

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?

The CLD's philosophy is to maintain as much choice and flexibility in regulatory policy as is possible and reasonable. For that reason, the CLD submits that this change should not be imposed on all distributors. Such a change should be via a distributor's voluntary application.

As noted above, Board staff pointed out certain data input requirements if some distributors are on a January 1st rate year while others are on a May 1st rate year. That is, two values for the GDP-IPI will need to be calculated, and two calculations for the Return on Equity and Deemed Debt Rates will be required, corresponding to the two rate periods. Board staff noted, however, that this can be accommodated.

The issue with respect to changing a rate year while under a performance-based mechanism for rate-setting or under a cost-of-service application is the same: ensuring that neither rate payers nor shareholders are prejudiced by the transition. However, in the past, shareholders have been disadvantaged by postponements in recovery of their revenue requirements – the undoing of that disadvantage should not be considered prejudicial to customers.

In Enersource's most recent 3rd GIRM proceeding, EB-2009-0193, both the Board and Board staff found merit in the concept of changing the rate year, and yet neither expressed concern about the type of rate-making environment in which that change could or should be made.

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?

As provided in the answer to question 3 above, the CLD sees no difference for a distributor transitioning to a January 1st rate year via a cost of service mechanism versus under an incentive regulation mechanism. In both environments, the key is to ensure no undue harm for ratepayers or shareholders. As long as the implementation produces no undue harm to any party, then it should be acceptable to the Board.

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?

See the responses to questions number 3 and 4 above.

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?

For distributors filing a cost of service ("COS") application for 2011 with rates effective January 1, 2011, the existing proceeding timelines would likely be difficult for this transitional first year. The CLD recognizes that the current filing plans of most distributors anticipated an application filing date of August 2010. In this transitional first year, a Board decision on a distributor's rates may not be issued in time for a January 1, 2011 implementation. However, as in most cases when a proceeding goes beyond the requested implementation date, the Board could approve an effective date of January 1 with implementation at some later date, using a rate rider in order to collect the revenue requirement applicable to the period of delay.

In terms of the filing requirements, whether in the transition year, or on a going forward basis:

- Bridge year data would be based on actuals that are available at the time of filing and balance of the year as budgeted;
- Historical year audited financial statements would be included as is the current practice;
- Historical year actual tax returns would be available in June of the bridge year; and
- Balances in deferral and variance accounts as of December 31 of the historical year would be available, as is the current practice.

Regardless of the implementation date, there will always be some need to use prior year trends and budgeted/estimated data to support a distributor's COS application which will be tested in the process of the Interrogatory Requests and hearing.

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?

Some stakeholders have expressed a concern about the comparability of electricity distributors when some have a January 1st implementation date and others have a May 1st date. The benchmarking and current comparisons of distributors are based on actual costs and data for a calendar year and this would not change if the Board approves this policy change. Only if one is comparing the total bill for a certain type of customer (e.g., 800 kWh/month residential customer) will there be a disconnect at certain times between a distributor that has a rate change on January 1 versus a distributor which will not have a rate change until May 1. However, this is a situation which currently exists as there have been numerous instances when a distributor has had a rate rider or adder that starts on a date other than May 1. For example, Enersource's rate rider for recovery of its regulatory assets is effective February 1, 2010.

The CLD appreciates this opportunity to provide input into this important consultation and looks forward to the Board's conclusion of this examination.

Please contact the undersigned if you have any further questions on this submission.

Yours truly,

(Original signed on behalf of the CLD)

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