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VIA MAIL and E-MAIL

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge St.
Toronto, ON
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Dear Ms. Walli:

Re: Alignment of Rate Year with Fiscal Year for Electricity Distributors
Board File Number: EB-2009-0423

Vulnerable Energy Consumers Coalition Comments

As Counsel to the Vulnerable Energy Consumers Coalition (VECC), I am writing, per the Board's Letter of January 21st to provide VECC's comments on the above matter. The comments are organized according to the specific issues identified by the Board.

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)?*

VECC participated actively during the recent EB-2009-0193 proceeding wherein Enersource requested a January 1, 2010 implementation date for its 2010 rates. In that proceeding, Enersource claimed that the current rate change timing of May 1st created problems for it, as a reporting issuer, with the investment community. However, as noted in VECC's final submissions[1] to that proceeding, Enersource was unable to provide any real evidence that the misalignment of its

[1] EB-2009-0193, VECC's Final Submissions, pages 4-5

rate year and its fiscal year were causing any problems with the investment community. Overall, VECC submits that there is no compelling evidence to suggest that electricity distributors who are “reporting issuers” are having any real difficulty in explaining their final performance to the investment community. Indeed, given the sophistication of the investment community, it is hard to see how such an issue would be too complex to understand and account for. To this end, VECC submits that unsubstantiated claims that such problems do exist should not be accepted by the Board until they have been formally tested.

Having said this, VECC acknowledges that (apart from the claimed problems experienced by reporting issuers) there may be some practical benefits in aligning the rate year with the period used to forecast the revenue requirement underlying the rates in that it makes comparisons of forecast vs. actual results more straight forward. Such benefits would accrue to all distributors whether they are “reporting issuers” or not. However, such benefits would need to be weighed against any disadvantages – as discussed below under points #2 and #6.

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?*

In VECC's view there are a number of implications for ratepayers if the Board changes the implementation date for distribution rates to January 1st. First, as suggested by the question, the number of rate changes a customer experiences during the year is a concern. Frequent rate adjustments make it difficult for consumers to budget and anticipate what their bills will be.

A second concern is the fact that a January 1st rate change will be taking place during what for many customers (i.e. those with electric heat) is a period of higher consumption. The result is that any bill impact (more likely than not an increase) will be higher in January then in May.

Rate changes give rise to customer queries and increased call center activity for electric distributors. Furthermore, the higher bill impacts (due to higher winter consumption levels) could also be expected to increase call volumes. More calls could lead to increased costs which consumers will be expected to pay for in their rates.

Finally, from customer perspective, if the change simply means that distributors get to determine their revenue requirement as in the past but implement their rates four months earlier, consumers are being asked to pay more with no benefit but with all the drawbacks identified above. Compounding this concern is that at the same time consumers are struggling to manage during a recessionary recovery wherein electricity bills are already seeing increases due to the Board's new cost of capital policy, the added costs to distributor's and transmitters arising

from the *GEGEA* and the fact the harmonized HST will apply to electricity bills starting July 1, 2010.

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 an 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?*

In VECC's view, if the Board accepts the merits of changing the rate year to match the fiscal year, then it should be done by application only. As discussed above, the benefits of such a change are questionable and there will be implications for consumers. Before being permitted to make such a change, distributors should be required to address these issues as part of an Application and, specifically, a cost of service based application.

VECC acknowledges that this could result in some distributors being on a January 1st rate year while others are on a May 1st rate year. VECC does not consider this to be particularly problematic. Currently, different methodologies (e.g. 2GIRM vs 3GIRM vs Cost of Service) are used to set various distributors' rates in a given year. Furthermore, the actual implementation date for such rates varies depending upon the timing of the distributor's rate application filing and the review process.

VECC submits that it would not be appropriate to change the rate year while a distributor is under IRM. Decisions on regarding the normalized costs to include in the base year were predicated on a four-year IRM period (i.e., a cost of service year plus three IRM years). To adjust the rate year mid-way would change the overall IRM period. Similarly, proposals for the refund/recovery plans for regulatory account balances frequently take into account the bill impacts that will occur when the expiry of the associated rate riders is integrated with the annual IRM adjustments. Changing the rate year during an IRM period could confound such considerations. Also, as the recovery period for the current regulatory rate adders is based on the current rate year definition, May 1st adjustments to distribution rates could still be required after the adoption of the January 1st rate year. This would further confuse customers who would still be seeing <u>multiple</u> distribution rate adjustments in a single year.

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?*

If warranted, such a transition would best be effected by a distributor making a "cost of service based" application for rates effective January 1st. In VECC's view the specific issues that would need to be addressed are:

a) The earlier filing date that would be required to support a January 1st implementation date and the impact this would have on the information available/required to support the Application. For 2010, electricity distributors were expected to file their cost of service application before the end of August 2009 in order to meet a May 1st, 2010 date. Using a similar timeline, a January 1st date would require that Applications be filed before the end of April of preceding year.

   One critical outcome of this timeline is that distributors are unlikely to have their audited financial results for the preceding year available in time to fully incorporate into their application. VECC notes that recent audited results are a key component of any Application as they serve as a benchmark for future OM&A and capital spending. In addition, the Board's policy has been to deal with audited balances when considering the disposition of regulatory accounts.

   Any regulatory schedule for managing January 1st rate years will need to specifically address this issue and provide for updates during the process and an opportunity for further discovery based on those updates. While the process for such updates can be managed, VECC notes that it will likely further complicate the regulatory process.

b) The impact on revenues that would arise from the earlier implementation date. As noted earlier, an application seeking to change to a January 1st rate year should specifically address the fact that the utility will be changing (typically increasing) rates four months earlier and thereby collecting incremental revenues from consumers earlier. One way to address this issue would be to estimate the incremental revenues and implement a rate rider that would return the incremental revenues to consumers over the rate year.

c) Possible need to realign recovery periods for existing rate riders with new rate year definition. Finally, in order to fully align all rate changes in the future it would be necessary to adjust the levels for any existing rate riders so that the required refund/recovery is aligned with a December 31st termination date.

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?*

As noted above, VECC does not support electricity distributors transitioning to a January 1st rate year while under an incentive regulation mechanism. However,

should the Board decide to permit such changes, the specific issues that would need to be addressed are:

a) The development a revised price cap adjustment to recognize that only 8 months (as opposed to 12) have passed since the prior adjustment. The objective in such an exercise should be to use a variation of the current historical GDP-IPI-FDD inflation index calibrated such that both the distributor and the consumers are held harmless over the IRM period as a result of the shift in rate year.

b) The need to realign the recovery period for existing rate riders as discussed under point c) above.

c) The need to realign the treatment of any one-time costs (e.g. regulatory costs) or other costs that were "normalized" in the base cost of service year. For all distributors the approved (one time) costs of the rebasing application were normalized over the four year IRM period. In many cases, other one-time costs and sometimes even future benefits of base year spending[2] were also normalized over the four year IRM period. Changing the rate year changes the duration of the IRM period such that this "normalization" would have to be revisited and realigned with the new IRM period's duration.

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?*

As discussed under Issue #4, shifting the rate year to January 1st would likely mean that audited statements for the year preceding the bridge year would not be available in time to factor the results into the development (or even file as part) of Application. This would also likely be the case for that year's tax returns. In order to address this issue, the timetable for the regulatory review of the Application would have to specifically provide for the filing of such information. Furthermore, such information could have profound impacts on the Application such as altering the continuity schedules underlying the determination of the Distributor's rate base. Thus the regulatory schedule would have to recognize that the Distributor may wish to revise its Application based on this information and/or other parties to the proceeding may require an opportunity for further discovery. Also, the Filing Requirements would likely need to be adjusted so as to provide for a later filing (e.g. June) of the Distributor's proposals regarding the disposition of its (audited) regulatory account balances.

A related issue is the fact that at the point in time when the Application is initially filed there will be virtually no "actual" information available regarding the bridge

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[2] For an example, see Horizon's 2008 Rate Decision (EB-2007-0697, pages 8-10)

year. Consideration should be given to requiring the Distributor to provide an update during the regulatory review process on its actual financial results (e.g., OM&A and capital spending) for the first six months of the bridge year and along with any proposed revisions to its initial Application.

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?*

In VECC's view, another key issue the Board needs to consider in making any change in the rate year is the matter of timing. As noted earlier, 2010 is a particularly trying year for consumers struggling with recovery from the recession, facing the impacts of the Board's new cost of capital policy and having to pay the PST on their electricity bills for the first time as of July 1, 2010. Advancing any 2011 rate adjustments to January 1st, 2011 would compound these impacts. As a result, should the Board determine that such a change has merit, it may wish to delay implementation.

Thank you for the opportunity to comment.

Yours truly,

Michael Buonaguro
Counsel for VECC