EB-2009-0423

COMMENTS OF THECONSUMERS COUNCIL OF CANADA

RE:ALIGNMENT OF THE RATE YEAR WITH FISCAL YEAR FOR ELECTRICITY DISTRIBUTORS

INTRODUCTION:

On January 21, 2010, the Ontario Energy Board ("Board") 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.

Currently, the effective date for Ontario's electricity distribution rates is May 1. This date coincides with a change to the regulated price plan ("RPP") initiated in 2005. RPP changes are also made on November 1 giving electricity consumers rate changes twice a year. The fiscal year for all electricity distributors is from January 1 to December 31.

Recently, a number of distributors have applied to have their rate years changed to match their fiscal year. In a recent proceeding the Board considered a specific application by Enersource Hydro Mississauga Inc. ("Enersource") to change its rate year to coincide with its fiscal year (EB-2009-0193). The Board did not grant the relief, but indicated that the implications of such a change would needed to be examined in a Board policy context.

In its notice to stakeholders initiating this process the Board set out of number of issues on which it was seeking input. These are the comments of the Consumers Council of Canada on each of those issues. Ultimately, if the Board is of the view that an alignment is justified, the Council urges the Board to ensure that the transition allows for the change to be implemented on a revenue neutral basis. Neither ratepayers, nor shareholders should be negatively impacted by the change.

ISSUES:

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 Council submits that there may be some benefits to distributors in aligning the fiscal year with the rate year. The obvious benefit would be to allow for the forecast period

(forecasts undertaken on a fiscal year basis) to be the same period underlying rates. The current system has a misalignment meaning the forecast period is not the same as the one embedded in rates. Annual revenues are based on a three-month period with one set of rates and a nine-month period with another set of rates. There has been a misalignment since the Board began to formally regulate the Ontario LDCs in 2000. To date, the Council is unaware of any substantive problem with that approach. Having said that ultimately, it makes sense to have the two aligned. Rates should be based on the most accurate forecast available. The Board needs to assess whether there could be problems with a transition, and if so could those problems be managed effectively and efficiently.

Enersource proposed the alignment in order to simplify its financial reporting. It argued that given its actual rate of return and approved rate of return are based on different periods, it is complicated to explain this outcome to the investment community. Enersource did not, however, produce any evidence that its ability to raise capital was severely impacted by the misalignment.

The Council is not aware of whether approving the alignment would bring any significant benefits to the distributors. For those that do not access capital except through their parent companies the benefits may be negligible. For those that do access the capital markets directly distributors may provide in their submissions examples of how they are negatively impacted by the current framework. Until those examples, if any, are brought forward the Council is not in a position to determine whether the change can be justified.

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?

The Council submits that there would be many implications if the alignment was approved by the Board. Those changes could positively and negatively impact an LDC's customers.

Given rates are now increasing year to year (relative to periods where rates would go up and down), if the implementation of rates was moved to January 1 instead of May1 ratepayers would see an increase in rates earlier. This would be a direct impact on ratepayers. In effect, they would experience bill increases three months sooner than they do now. The other side to that is the LDCs would see an increase in their revenues sooner.

Another implication for ratepayers is that they would experience an additional rate change over the course of the year. Currently rates are changed on May 1 to reflect a distribution rate change as well as an RPP change. In addition, there is a further change on November 1 to reflect another RPP change. The move to a January 1 implementation date for rates would add a third rate change for ratepayers. From the Council's perspective this could create confusion for ratepayers that have become accustomed to rate changes twice a year. The whole point of the move to May 1 from March 1 one was to reduce the frequency of changes. A change in policy may create customer backlash

especially in light of all of the changes coming that will impact bills. This includes the introduction of the harmonized sales tax in July 2010 and the introduction of time of use rates for a large number of Ontario customers in 2010.

If the Board is convinced that a change can be justified, a considerable amount of customer outreach and education should be undertaken first. It may be very difficult to explain that a rate increase on January 1 is necessary, especially if that increase is significant. If the ultimate reason is to facilitate better financial reporting, explaining that rationale to ratepayers will be definitely be a challenge. Clear benefits to ratepayers must be articulated.

Overall, the change could result in rate increases being implemented sooner, which would not be revenue neutral to customers. This would be especially true for customers with electric space heating. In addition, before any changes are made the Board should test potential customer acceptance before agreeing to the change. More rate changes at higher rates would likely be adversely perceived by customers. The Council recognizes that the gas industry has quarterly adjustments, but the electricity customers have not yet been subject to such frequent changes. Just because it works for the gas industry does not mean customer acceptance will be readily obtained.

Another implication is that the timing of the Board's current rate-setting process would have to be changed. Rate applications would have to be filed earlier, and in order to minimize retroactivity, rate proceedings would have to be scheduled predominantly in the summer and early Fall. Given many stakeholders including the Board and its staff, intervenor representatives, and LDC staff take holidays in the summer scheduling may be difficult and meeting deadlines may be challenging. Although this is a practical consideration the Board should recognize the potential implications.

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 the issues and concerns related to the fact that some distributors would be on a January 1 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?

If the Board were to approve the change the Council supports implementing the change by application only. The Board would have to be assured that, for each distributor making the change is justified and all potential implications could be considered. Some distributors may have reasons to continue with the current approach, so mandating the change should not be required. Each LDC should come forward with an application and evidence to justify why the change is required.

A benefit to having different rate years would be to stagger rate applications. This would allow for the Board to spread its workload over a longer period of time. This would assist intervernors and would allow for more Board resources to be available.

The Council submits that LDCs who are requesting the change should only be permitted to do so upon rebasing under a cost of service approach. This will ensure that all of the implications can be considered an the evidence tested in a proper forum. It will also ensure that the Board take it time in moving forward with a change. The Council submits that it is unclear at this point what benefit there is to mandating the approach for all LDCs at this time. To stagger the Board's consideration of the issues involved in making this change would be a prudent approach.

The Board may also want to consider the fact that the alignment could take place by having LDCs change their fiscal years. The Council sees no reason why, in some cases, this could be the preferred approach. The Council is not aware of any significant implications for the LDCs in doing this an encourages the Board to consider this approach. The Council would be assisted by the submissions of LDCs as to why this option would not be satisfactory.

One other issue for consideration is to what extent allowing different rate years will have impact any comparative benchmarking the Board may be undertaking. The facilitation of comparisons, which is a valuable regulatory tool, may be compromised if data amongst the LDCs is no longer comparable.

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 Council has set out above its concerns with making this policy change. To the extent LDCs identify other issues through this process the Council would like an opportunity to comment on those issues. For example, from a financial reporting perspective the Council is not aware of all of the concerns of the LDCs. A second round of comments in this proceeding would be welcomed and, in our submission, useful 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?

The Council does not support making this change during an incentive regulation mechanism term. LDCs that want to move to a January 1 rate year should be required to support an application to make the change with evidence that can be tested by the Board and intervenors. There should be a clear demonstration that the change is justified and that there is no negative impact on the LDCs ratepayers. This should be done when they come to the Board for a cost of service rebasing.

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?

It may be more challenging for LDCs to file an application in April rather than in August given the fact that audited financial statements for the previous year would not be available. With respect to other issues the Council expects LDCs to identify any potential problems and solutions.

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?

Ontario is unique in that it has over 80 electric LDCs that are subject to regulation by the Board. The Council sees the logic in aligning rate years with fiscal years. It means forecast periods and rate periods are consistent. If we had two or three LDCs a transition might be easy, and justified.

Since the Board has been regulating the Ontario LDCs a great deal of work has gone into creating a regulatory framework that attempts to balance the interests of ratepayers and shareholders. The framework has also been established recognizing the challenges associated with regulating over 80 LDCs.

Although the Council sees merit, in principle, of aligning the rate year and the fiscal year, we are not yet convinced the benefits of making that transition outweigh the costs. The LDCs have not established that they have difficulty raising capital under the current scheme, not have they established how the alignment would benefit, or at a minimum not negatively impact, its ratepayers. If that is the case it is questionable whether the current framework should be changed.

The Council is concerned that under a changed regime ratepayers may see rate increases before they otherwise would if implementation dates were moved ahead. In addition, the Council is concerned that ratepayers will be subject to another rate change during the year, likely an increase. Comprehensive communication to customers would have to be undertaken if a change were to occur. From the Council's perspective, the Board must in the coming months focus a great deal of effort on customer education and communication. Significant changes are coming with the introduction of the HST and TOU pricing. To add in another change at this time may be problematic and simply add to the confusion.

The Council would benefit from another round of submissions in this proceeding in order for parties to consider and comment on the submissions of others. We could benefit from a better understanding as to why LDCs feel this change is required and what the full gamut of implications might be.