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June 20, 2011

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, Suite 2700
Toronto ON M4P 1E4

Dear Ms. Walli:

**Re: Midland Power Utility Corporation – Extension to Mandated Time-of-Use
Pricing Date for Certain Regulated Price Plan Consumers
Board File No.: EB-2011-0133**

Please find enclosed Board Staff's submission respecting the above application.

Please forward the submission along with this cover letter to the applicant in this proceeding.

Yours truly,

Original signed by

George Dimitropoulos
Advisor, Licence Applications

Attachment

ONTARIO ENERGY BOARD

BOARD STAFF SUBMISSION

**Application for Extension to Mandated Time
of Use Pricing Date for Certain Regulated
Price Plan Consumers**

Midland Power Utility Corporation

EB-2011-0133

June 20, 2011

BACKGROUND

Midland Power Utility Corporation (“Midland”) filed an application dated May 4, 2011 with the Ontario Energy Board for a licence amendment granting an extension in relation to the mandated date for the implementation of time-of-use (“TOU”) pricing rates for certain Regulated Price Plan consumers.

Under cover of a letter to all Ontario electricity distributors dated August 4, 2010, the Ontario Energy Board provided its determination of mandatory dates by which each distributor must bill those of its RPP customers that have eligible TOU meters using TOU pricing. The determination stated that the Board “acknowledges that distributors may encounter extraordinary and unanticipated circumstances during the implementation of TOU pricing. The Board requests that any distributor encountering such circumstances bring these matters to the Board’s attention without delay in order that the Board can assess the impact on the distributor’s mandatory TOU date and assess whether any adjustment in that date is warranted.”

Midland PUC has applied for an extension to its mandated June 2011 TOU pricing date for eligible General Service under 50 kW customers and requested a new date of February 1, 2012. Midland PUC states the extension is necessary to due to concerns it has over the potential bill increases affecting these customers and to provide time to implement and educate these customers on the Ontario Power Authority’s conservation programs. The extension would affect approximately 720 customers.

The Board issued a Notice of Application and Hearing on May 12, 2011. The Canadian Federation of Independent Business (“CFIB”) filed interrogatories on the application on May 30, 2011. Board staff filed interrogatories on the application on May 30, 2011. Midland responded to these interrogatories on June 13, 2011.

This submission is being provided by Board staff following a review of the application and evidence filed in this proceeding.

STAFF SUBMISSION

Board staff is of the view that Midland's application for a TOU implementation extension should be denied. Board staff is of the view that the rationale given by Midland is neither unique nor specific to Midland and does not represent an unanticipated and extraordinary circumstance to justify any extension to Midland's mandated TOU pricing date.

Staff notes that Midland faces no barriers to TOU implementation. Midland stated in its application that "systems are set up to implement TOU rates for these customers." Further, in its response to interrogatories from the CFIB, Midland states that "Midland PUC completed installation of all GS<50 customers in January, 2011. Midland PUC is able to invoice these customers using available consumption information on TOU rates."

Midland's reason for requesting an extension is a wholly discretionary choice by Midland to delay its mandated TOU pricing date because of "concerns about potential bill increases." Midland's application illustrates that the requested TOU extension is not as a result of extraordinary or unanticipated circumstances that hindered Midland's implementation of TOU pricing. As stated in Midland's response to staff interrogatories:

Midland PUC determined the potential bill impacts for the majority of these customers was much higher than the average bill impact. One of the main contributing factors to this increase is the inability of this customer class to shift their consumption to non-peak periods as the hours of operating their businesses co-insides with the peak period pricing.

Recognizing this customer base would require specialized education with respect to TOU rates and OPA conservation programs, Midland PUC requested the extension to enable the LDC to provide this information to customers.

Midland's request to delay its mandated TOU pricing date is as a result of a business decision to attempt to inform customers and mitigate bill impacts. Board staff is of the view that anticipated bill impacts and average total bill increases do not represent extraordinary or unanticipated circumstances related to TOU implementation in that these matters have no influence on PowerStream's technical ability to bill its customers on a TOU basis. Board staff cannot identify any TOU implementation related issue in Midland's application that would delay Midland's TOU pricing.

Further, in its responses to interrogatories from the CFIB, Midland states that:

Midland PUC has approximately 720 GS<50 customers. The analysis showed that 87% of these customers would experience bill increases with the average increase being \$6.49 or 6.8%. In addition, 44% of customers would see an increase of more than 10% with the average increase being \$6.81 or 15.5%. The analysis also showed 13% of customers would see a decrease on average of \$7.40 or 2.7% and 14% of customers will receive an increase greater than 20%.

Staff notes, the analysis reveals that some customers will be made worse off if a delay to TOU implementation is granted. Staff is of the view that a TOU extension should not unfairly disadvantage a certain segment of customers that will benefit from TOU pricing, even if this portion of customers is less than the majority.

Further, staff notes that Midland's application would suggest that rate mitigation supersedes Board policy. While the Board's policy on mitigation is currently under review, previous Board decisions have used judgement on whether mitigation was warranted when implementing Board policy. For example, in its Decision on Peterborough Distribution Inc.'s application for 2009 distribution rates the Board determined that mitigation was not required for several non-residential classes since the rate increase was a result of bringing revenue-to-cost ratios more in line with the Board's target range to reduce inter-class cross-subsidization.¹ The Board made similar conclusions in the context of an application by Tillsonburg Hydro Inc. for distribution rates for the 2009 rate year², where the bill impacts resulted from revisions to cost allocation and rate design to reflect the Board's guidelines in relation to those matters.

Staff also notes that Midland provides no evidence that customers experiencing a bill increase from TOU pricing will change their behaviour in response to additional communications or CDM programs. With respect to the delivery of conservation programs, Midland states in its responses to the CFIB that "Midland PUC cannot predict the uptake of these programs within our service territory over

¹ Ontario Energy Board. EB-2008-0241. Decision, in the Matter of an application by Peterborough Distribution Inc. for an order approving or fixing just and reasonable rates and other charges for the distribution of electricity to be effective May 1, 2009. June 1, 2009.

² Ontario Energy Board. EB-2008-0246. Decision, in the matter of an application by Tillsonburg Hydro Inc. For an order approving or fixing just and reasonable rates and other charges for the distribution of electricity to be effective May 1, 2009. July 10, 2009.

the next several months, but will be actively marketing and promoting the programs to GS<50 customers.”

In closing, staff submits that bill mitigation is not an example of an extraordinary or unanticipated circumstance that hinders an applicant in TOU implementation. Staff sees no compelling reason for Midland's GS<50kW customers to receive special treatment regarding TOU implementation. Staff submits that it is not unexpected for major policy initiatives such as TOU pricing to bring about disparate financial impacts on specific customers or customer groups in the short term. As a result, staff is of the view that providing special treatment to a specific class of customers, even on a temporary basis, is not in the public interest in this case.

Therefore, for the reasons stated in this submission, staff is of the view that this application should be denied.

All which is respectfully submitted.