

**IN THE MATTER OF the Ontario Energy Board
Act, 1998, S.O. 1998, c. 15, Sch. B, as amended;**

**AND IN THE MATTER OF an Application by
Canadian Niagara Power Inc. – Port Colborne
pursuant to section 78 of the *Ontario Energy Board
Act* for an Order or Orders approving just and
reasonable rates for the delivery and distribution
of electricity.**

**SUBMISSIONS OF THE
SCHOOL ENERGY COALITION**

General

1. The School Energy Coalition is a coalition established to represent the interests of all Ontario publicly-funded schools in matters relating to energy regulation, policy, and management. It is made up of all seven of the major school-related organizations, representing all of the school boards, and all levels of school management, and through them representing the approximately 5000 schools in Ontario.
2. SEC and its members have a significant interest in the activities of regulated electricity distributors and their affiliates in the province, including the applicant in this matter (the “Utility”) due to the severe financial implications those activities have on school boards, their students and the people of the province of Ontario.
3. SEC’s intervention in Canadian Niagara Power Inc. – Port Colborne’s 2007 Distribution Rate Application (Application) is focused on the utility’s proposal for recovery through rate riders beginning May 1, 2007 of costs incurred in connection with storm damage in October 2006. These submissions are identical to the submissions we have filed for Canadian Niagara Power Inc. – Fort Erie, which makes the same claim, but with different amounts.

Issues of Principle

4. The School Energy Coalition is concerned with the implications of this application for a Z factor on LDCs around the province. In our submission, there are two concerns that the Board should address: a) the extent to which storms are a normal part of a utility's operations, and b) what this application tells the Board about the existing materiality threshold of 0.2%.
5. With respect to storms, it is our submission that storms should *prima facie* be considered part of the normal management responsibility within a utility. While it is true that, in the case of the storm referred to in this application, it was unusually large and severe for the time of year, and cost 16% of annual revenue requirement for the two CNPI franchises to handle, it is also true that variable weather and severe storms are a normal part of doing business as a electricity distribution company in Ontario. We suspect one would be hard pressed to find any Ontario utility that had not, at some time during its existence, experienced one or more storms of the size of the one CNPI faced.
6. With that in mind, we think the Board should consider the following questions of principle in the context of this application:
 - a. Do utilities have access to commercially available storm insurance at reasonable rates, sufficient to insulate ratepayers from this long-term risk? If underwriting standards have become stricter, as we believe may be the case, does this create a market disjunct that is exposing ratepayers to unacceptable risks?
 - b. Should the Board encourage or require Ontario LDCs to create and manage a common storm damage risk pool, in effect allowing them to self-insure at a more reasonable cost, and spreading the risk of storm costs at any given time over the ratepayers of the entire province? If some form of self-insurance is established, how should this be integrated with commercially available storm insurance so that the cost and coverage is optimized?
 - c. To what extent, if any, should the Board encourage hedging of extreme weather risks by Ontario LDCs? The emergence of a more sophisticated weather derivatives market in North America has created the potential that hedging, perhaps co-ordinated with a self-insurance plan, could more effectively manage the risk of extreme weather events.
7. In regard to all of the above issues, we note that the current system of Z factor treatment is essentially unfair to both the utility and the ratepayers. The utility has to go through an expensive, time-consuming, and uncertain process, after the fact, to seek recovery. The ratepayers are faced with a sudden increase in rates because of an act of nature. Both of these impacts could be ameliorated if storm damage were made the subject of a more comprehensive risk management strategy, and the questions above are directed at that end. We therefore urge the Board to establish an appropriate process to consider those issues, with a view to managing extreme weather risk more effectively.

8. This leads to the second area, materiality threshold. Two issues arise:
- a. What is apparent to us from reviewing these and other applications is that Z-factor treatment of storm damage is sensitive, under the current rules, not just to the extent of the damage, but also to the size of the utility. The former makes some sense, subject to our comments above. However, making Z factor treatment sensitive to the size of the utility is not immediately intuitive. If a storm is a once-in-a-lifetime event, that is still the case whether the utility is large or small. Under the Board's current rules, damage caused by the same storm could qualify for Z factor treatment in one utility, but not in its immediate neighbour. In our submission, at least recovery of storm damage costs should not be driven by utility size.
 - b. The materiality threshold for CNPI – Fort Erie is \$11,803. In theory, storm damage of \$11,803 in a year would qualify for Z factor treatment. This is clearly not appropriate. If the rule were applied widely, it would mean that virtually every LDC in the province would have an annual Z factor for storms. It is submitted that such an obviously unacceptable result throws into question whether the Board's current Z factor materiality formula is a viable one. On the face of it, the current formula is likely wrong by at least one order of magnitude, perhaps much more.
9. It is submitted that the Board should reconsider its current materiality thresholds for Z factor treatment, with particular emphasis on how the threshold reflects recovery of storm damage.

Determination of Z-factor Costs

10. Z-factor costs related to a snow storm occurred in the area of Fort Erie and Port Colborne in October 2006 in the amount of \$1,965,825 are being claimed. This is composed of:

- Internal Labor, \$536K;
- Materials, \$269K;
- Payment to member LDCs and external contractors, \$1682K;
- Meals, Accommodations and Other of \$115K, and
- Projected interest costs of \$111K.

Reduced by:

- non-incremental regular labor costs of \$243K;
- Estimated insurance proceeds of \$500K, and
- Damage to transmission system of \$4.5K

11. The total claimed amount of \$1,965,825 has been allocated between the Fort Erie and Port Colborne service territories on the basis of time records kept during the restoration process. CNPI - Fort Erie's \$1,712,731 share has been allocated to its rate classes based on customer counts, and within each class using the respective volumetric billing determinants in each class

as recorded in the Applicant's 2006 EDR, to be recovered over a period of two years. The \$253,044 allocated to Port Colborne has been allocated to its customers using the same methodology, to be recovered over a one year period.

Labor Unit Cost

12. The Applicant has claimed \$292,830 total overtime labor charges (\$536K total internal labor deducted by \$243K non-incremental regular labor costs) to be recovered as Z-factor costs. \$255K was allocated to Fort Erie and \$38K was allocated to Port Colborne based on record of timesheets. 3744 overtime hours were incurred by Fort Erie labor (mix of both management and non-management, Ref: Responses to Interrogatories to SEC – Fort Erie, page 3) and 835 overtime hours were incurred by Port Colborne labor (mix of both management and non-management, Ref: Responses to Interrogatories to SEC – Port Colborne, page 3). This translates into a blended average of \$68 labor unit cost per hour for Fort Erie and \$46 labor unit cost per hour for Port Colborne. The Applicant has also identified that its overtime hours include double time hours.
13. SEC notes that the labor unit costs vary significantly across utilities. Labor unit costs are costs associated with an additional productive hour of work performed by an employee in a specific job function. When reviewing the valid invoices issued by member LDCs providing assistance to the Applicant, we note that the labor unit cost varies from \$50 (Horizon Utilities Corporation) to \$73 (Enersource Hydro Mississauga Inc.) per hour. We have in the past expressed our view that a labor unit cost study across all the utilities be conducted, using actual data from the latest full calendar year across the utilities. This is but further evidence that such a study is necessary.

Adjuster's Report

14. SEC has specifically asked the Applicant to file a copy of the property damage report prepared by the adjuster assigned to CNPI's case. The copy of the report was not provided.
15. The major role of an adjuster in a property damage claim is to investigate the claim, inspect property damage, determine whether the insurance policy covers the loss and recommend how much of the loss should be paid to the claimant. The adjuster also negotiates with the claimant and settles the claim if the claim is deemed to be legitimate.
16. It is submitted that filing of a proper adjuster's report should be a normal part of any Z factor claim for damage to an LDC's system. Without this report, the Board and the stakeholders are not in a position to assess the prudence of the expenditures claimed.

Cost Allocation

17. The Applicant has allocated the amount of Z-factor costs between Fort Erie and Port Colborne based on a summary of time records for both internal labor and external contractor invoices. All other categories of costs have been allocated using this summary allocation.

18. This is, in our view, not the logical method of allocating costs between the neighbouring utilities. For non-labour components, one would expect that allocation based on size of areas affected would be more appropriate. However, SEC understands the technical challenges in trying to pinpoint the correct cost drivers “in the midst of a major restoration effort”, and in these circumstances we do not propose that the Board adjust the allocation between the two utilities.
19. We have no submissions with respect to the allocation to specific rate classes using customer count, nor the allocation to customers within rate classes using volumetric billing determinants.

Conclusion

20. We appreciate the opportunity to provide our comments, and hope that our input is of value.

Respectfully submitted on behalf of the School Energy Coalition this 9th day of April, 2007.

SHIBLEY RIGHTON LLP

Per: _____
Jay Shepherd