



EB-2014-0002

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B);

AND IN THE MATTER OF an application by Horizon Utilities Corporation for an order approving just and reasonable rates and other charges for electricity distribution to be effective January 1, 2015, and for each following year through to December 31, 2019.

PROCEDURAL ORDER NO. 1

June 9, 2014

Horizon Utilities Corporation (“Horizon” or the “Applicant”) filed a Custom Incentive Rate (“CIR”) application (the “Application”) with the Ontario Energy Board (the “Board”) on April 17, 2014 under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B), seeking approval for changes to the rates that Horizon charges for electricity distribution, to be effective January 1, 2015 and each year thereafter until December 31, 2019. The Board has assigned the application file number EB-2014-0002.

Intervenors

The Board issued a Notice of Application and Hearing on May 9, 2014. The following parties applied for intervenor status and cost eligibility:

- Association of Major Power Consumers of Ontario (“AMPCO”);
- Building Owners and Managers Association (“BOMA”);
- City of Hamilton (“Hamilton”);
- Consumers Council of Canada (CCC);
- Energy Probe (“EP”);

School Energy Coalition (“SEC”);
Sustainable Infrastructure Alliance of Ontario (“SIA”); and
Vulnerable Energy Consumers Coalition (“VECC”)

The Board approves all applications for intervenor status. The list of parties in this proceeding is attached as Appendix “A” to this Procedural Order.

The Board has also determined that AMPCO, BOMA, CCC, EP, SEC, SIA, and VECC are eligible to apply for an award of costs under the Board’s *Practice Direction on Cost Awards* (“Cost Direction”).

The Board disallows Hamilton’s request for costs. In its request for cost eligibility, Hamilton submits that its submission is consistent with the Board’s finding in EB-2013-0416 in which case the City was found to be eligible for costs. The Board notes that the facts of that case are different in that Hamilton was not a shareholder of the applicant, Hydro One Networks Inc.

The evidence in this case is that Hamilton owns 78.9% of the common shares of Horizon Holdings Inc., which in turn is the sole owner of Horizon. Section 3.05 (i) of the Cost Direction states that a municipality in Ontario is not eligible for a cost award and Section 3.05 (l) states that a person that owns or has a controlling interest in an applicant is not eligible for a cost award. Section 3.06 of the Cost Direction provides that, notwithstanding Section 3.05, a customer of the applicant may be eligible for costs. Hamilton receives street lighting services from the applicant and is therefore a customer. Section 3.07 of the Cost Direction also permits the Board to make exceptions to classes excluded from cost awards in special circumstances. The Board has considered Hamilton’s request for costs after considering all the relevant sections in the Cost Direction. While the Board acknowledges that Hamilton is a customer of the applicant, the Board is not prepared to allow Hamilton to receive costs for its participation in this proceeding.

The Board notes that municipalities have been specifically excluded from eligibility for costs because they have access to a revenue stream from their own constituent taxpayers to whom they are responsible and should therefore not be funded by ratepayers, and also because, in some circumstances, the municipalities are owners of regulated distributors who are ineligible for costs. For these reasons, the Board revised the Cost Direction in March 2012 to specifically exclude municipalities.

In this case, the City of Hamilton, while a customer of Horizon, is also a shareholder and therefore, the Board has determined that it is not eligible for costs.

Furthermore, the Board does not find that the case put forward by Hamilton constitutes unique or special circumstances. The Board in exercising its discretion has determined that Hamilton will not be eligible for costs in respect of its interest in this application.

Confidentiality

Horizon filed a redacted Application and an un-redacted version in confidence. Horizon requested that the un-redacted information be maintained in confidence pursuant to Rules 10.01 and 10.02 of the Board's *Rules of Practice and Procedure* and Sections 5.1.1 and 5.1.2 of the Board's *Practice Direction on Confidential Filings* for the reasons set out below:

- Assumed Unionized Staff Wage Increases
- Physical Security;
- Personal Information - Corporate Tax Returns; and
- Personal Information – Customer Names.

The Board has reviewed this information and notes that in its Decision regarding Horizon's last cost of service application, the Board stated that it was concerned that much of the material that was filed in confidence was not relevant to the Application and complicated the record.¹ The Board notes that it has found again that it had to review a large number of redactions which in the end were not considered confidential. The Board sees no merit in asking for submissions on confidentiality and enumerates its findings below.

Assumed Unionized Staff Wage Increases

Horizon's current collective agreement with the International Brotherhood of Electrical Workers (the "IBEW") expires on May 31, 2015, and as such, negotiations will be taking place in the months prior to that expiry date. Horizon claims that any reference to, or inclusion of, unionized staff compensation information provided in this Application could prejudice the 2015 collective bargaining process.

¹ *Decision and Order Horizon Utilities Corporation, EB-2010-0131, July 7, 2011*

The Board notes that Horizon has redacted historical compensation information as well as its estimates for the CIR period. Historical compensation information is part of an application for new rates. The Board's review of an application takes into consideration trends in the components of the compensation package. Horizon is to make available for public review its historical compensation data. The compensation estimates for the CIR period related to IBEW amounts are to remain redacted; however, to properly assess the proposed costs in the forecast test years, the Board and parties must know the compensation costs in totality, which the Applicant has provided.

Physical Security

Horizon has redacted information pertaining to the physical security of its facilities stating that the compromising of Horizon's physical facilities could reasonably be expected to result in unauthorized access to, and release of, personal information with respect to Horizon Utilities' customers and employees; the creation of risks to the safety of customers and staff of Horizon Utilities; and unauthorized access to and interference with Horizon's electricity distribution system. The Board recognizes that security of Horizon's facilities is an important aspect in maintaining safe and reliable electricity service, and for the privacy of its customers and employees. The security information is to remain confidential.

Personal Information - Corporate Tax Returns

Horizon has made a number of redactions of personal information from the corporate income tax documents. The Board has reviewed the redactions and finds that not all redactions are necessary. For Part 21 of the return, the Apprenticeship Job Creation information Contract numbers are not considered confidential, and information in Column 602 is not considered confidential if it includes the position rather than the incumbent's name. For Part 7 Director/Officer information, the Board notes that this is information already on the public record, and therefore the names and addresses are not to be redacted. In Part 4, calculation of the Ontario co-operative education tax-credit, names are to be redacted; however, Dates, Trade Code, and Agreement Numbers are not confidential.

Personal Information – Customer Names

Regarding Appendix H, the Distribution System Plan, the Board finds that some of the descriptions of Horizon's system contain names of customers. Horizon claims that it

does not have their permission to disclose such information. The Board finds that the applicant is to re-file Appendix H, either un-redacted or re-written in such a way as to avoid disclosure of customer specific information while retaining sufficient detail to be informative.

Issues List

By way of procedure, the Board has decided to refrain from establishing an issues list until the evidence has been tested through discovery. The Board intends that an issues list will be developed prior to the settlement conference, at a time when parties have had the opportunity to identify the issues which are most germane to the CIR application and which best suit focussed deliberation.

The Board at this time will make the following provisions:

THE BOARD ORDERS THAT:

1. The Intervenors listed in Appendix "A" are approved for the purposes of the Application. With the exclusion of the City of Hamilton, the remaining intervenors are eligible for costs;
2. Horizon shall file on the record the information found to be non-confidential in un-redacted form by **June 13, 2014**;
3. Intervenors and Board staff shall request any relevant information and documentation from Horizon that is in addition to the evidence already filed by written interrogatories filed with the Board and served on all parties on or before **July 4, 2014**;
4. Horizon shall file with the Board complete written responses to all interrogatories and serve them on all Intervenors and Board staff on or before **August 1, 2014**;
5. A transcribed Technical Conference will be held **August 19, 2014** starting at 9:30 in the Board's Offices at 2300 Yonge Street, 25th floor, Toronto, Ontario to clarify any matters arising from the interrogatories only. If required, the Technical Conference will continue on **August 20, 2014**. Parties intending to participate are to provide Horizon in advance with written questions by **August 14, 2014**;
6. An Issues Hearing will be held **August 21, 2014** at 9:30 in the Board's Offices at 2300 Yonge Street, 25th floor, Toronto, Ontario starting at 9:30 to define and set

an issues list. The Board may, at its discretion, choose to reserve certain issues for oral hearing rather than settlement ;

7. A Settlement Conference among the parties will be convened **on August 27, 2014** starting at 9:30 a.m., at 2300 Yonge Street, 25th floor, Toronto. If necessary, the Settlement Conference will continue on **August 28, 2014**;
8. Any settlement proposal arising from the Settlement Conference shall be filed with the Board on or before **September 11, 2014**. In addition to outlining the terms of any settlement, the settlement proposal should contain a list of any unsettled issues. Unsettled issues will be dealt with by way of an oral hearing. Board staff is to file its submission on the settlement proposal by **September 18, 2014**.

All filings to the Board must quote the file number, EB-2014-0002, and are to be made electronically through the Board's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>, in searchable / unrestricted PDF format. Two paper copies must also be filed at the Board's address provided below. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <http://www.ontarioenergyboard.ca/OEB/Industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Christie Clark at Christie.Clark@ontarioenergyboard.ca and Board Counsel, Maureen Helt at Maureen.Helt@ontarioenergyboard.ca.

ADDRESS

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto ON M4P 1E4
Attention: Board Secretary

E-mail: boardsec@ontarioenergyboard.ca
Tel: 1-888-632-6273 (Toll free)
Fax: 416-440-7656

DATED at Toronto, June 9, 2014

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

APPENDIX A

APPLICANT AND LIST OF INTERVENORS

EB-2014-0002

HORIZON UTILITIES CORPORATION

DATED: JUNE 9, 2014

Horizon Utilities Corporation
EB-2014-0002

APPLICANT & LIST OF INTERVENORS

June 09, 2014

APPLICANT

Rep. and Address for Service

Horizon Utilities Corporation

Indy Butany-DeSouza

Vice President
Horizon Utilities Corporation
55 John Street North
PO Box 2249 STN LCD 1
Hamilton ON L8N 3E4

Tel: 905-317-4765
Fax: 905-522-0119
indy.butany@horizonutilities.com

APPLICANT COUNSEL

James Sidlofsky

Partner
Borden Ladner Gervais LLP
40 King Street West
Suite 4100, Scotia Plaza
Toronto ON M5H 3Y4
Tel: 416-367-6277
Fax: 416-361-2751
jsidlofsky@blg.com

J. Mark Rodger

Counsel
Borden Ladner Gervais LLP
Scotia Plaza 40 King St. W
Toronto ON M5H 3Y4
Tel: 416-367-6190
Fax: 416-361-7088
mrodger@blg.com

Horizon Utilities Corporation
EB-2014-0002

APPLICANT & LIST OF INTERVENORS

June 09, 2014

INTERVENORS

Rep. and Address for Service

**Association of Major Power
Consumers in Ontario
(AMPCO)**

Wayne Clark
Consultant
SanZoe Consulting Inc.
25 Priest Avenue
Minesing ON LOL 1Y3
Tel: 705-728-3284
Fax: 705-721-0974
c.w.clark@sympatico.ca

Shelley Grice
Consultant
c/o AMPCO
65 Queen Street West
Suite 1510
Toronto ON M5C 2X8
Tel: 647-880-9942
Fax: 416-260-0442
shelley.grice@rogers.com

**Building Owners and
Managers Association
Toronto**

Thomas Brett
Partner
Fogler, Rubinoff LLP
77 King Street West
Suite 3000
Toronto ON M5K 1G8
Tel: 416-941-8861
Fax: 416-941-8852
tbrett@foglers.com

**Horizon Utilities Corporation
EB-2014-0002**

APPLICANT & LIST OF INTERVENORS

June 09, 2014

City of Hamilton

Gord McGuire

Manager, Survey & Technical Services
City of Hamilton
320 - 77 James Street North
Hamilton ON L8R 2K3
Tel: 905-546-2424
Fax: 905-546-2463
gord.mcguire@hamilton.ca

**Consumers Council of
Canada**

Julie Girvan

Consultant
Consumers Council of Canada
62 Hillsdale Ave. East
Toronto ON M4S 1T5
Tel: 416-322-7936
Fax: 416-322-9703
jgirvan@uniserve.com

**Energy Probe Research
Foundation**

Randy Aiken

Aiken & Associates
578 McNaughton Ave. W.
Chatham ON N7L 4J6
Tel: 519-351-8624
Fax: 519-351-4331
randy.aiken@sympatico.ca

David MacIntosh

Case Manager
Energy Probe Research Foundation
225 Brunswick Avenue
Toronto ON M5S 2M6
Tel: 416-964-9223 Ext: 235
Fax: 416-964-8239
DavidMacIntosh@nextcity.com

**Horizon Utilities Corporation
EB-2014-0002**

APPLICANT & LIST OF INTERVENORS

June 09, 2014

School Energy Coalition

Jay Shepherd

Jay Shepherd Professional Corporation
2300 Yonge St. Suite 806
P.O. Box 2305
Toronto ON M4P 1E4
Tel: 416-483-3300
Fax: 416-483-3305
jay.shepherd@canadianenergylawyers.com

Mark Rubenstein

Jay Shepherd Professional Corporation
2300 Yonge St. Suite 806
P.O. Box 2305
Toronto ON M4P 1E4
Tel: 416-483-3300
Fax: 416-483-3305
mark.rubenstein@canadianenergylawyers.com

**Sustainable Infrastructure
Alliance of Ontario**

Dionisio Rivera

Sustainable Infrastructure Alliance of Ontario
1013-15 Baif Blvd.
Richmond Hill ON L4C 5N7
Tel: 416-824-8073
Fax: Not Provided
dionisio.rivera@live.com

**Vulnerable Energy
Consumers Coalition**

Michael Janigan

Special Counsel
Public Interest Advocacy Centre
ONE Nicholas Street
Suite 1204
Ottawa ON K1N 7B7
Tel: 613-562-4002 Ext: 26
Fax: 613-562-0007
mjanigan@piac.ca

**Horizon Utilities Corporation
EB-2014-0002**

APPLICANT & LIST OF INTERVENORS

June 09, 2014

**Vulnerable Energy
Consumers Coalition**

Mark Garner
Project Manager
Econalysis Consulting Services
34 King Street East
Suite 630
Toronto ON M5C 2X8
Tel: 647-408-4501
Fax: 416-348-0641
mgarner@econalysis.ca

Bill Harper
Econalysis Consulting Services
34 King Street East
Suite 630
Toronto On M5C 2X8
Tel: 416-348 0193
Fax: Not Provided
bharper@econalysis.ca