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BY EMAIL and RESS

November 16, 2015
Our File No. EB-2015-0075

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
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Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2015-0075 – Horizon 2016 Rates

We are counsel for the School Energy Coalition. Pursuant to Procedural Orders #1 and #3 in this proceeding, this letter contains SEC's final argument on the issues.

Two issues remain of concern to SEC in this matter, one substantive and one procedural. The procedural issue is the lack of a proper record to allow the Board to adjudicate. The substantive issue is the reallocation of costs away from the Streetlighting class, and into other classes, notably GS>50, and related rate design proposals.

Procedural Concerns

In Procedural Order #1, the Board did not order any written discovery, whether by way of interrogatories or transcribed technical conference. Instead, the Board ordered that there be a non-transcribed technical conference. The effect of this is that the only evidence before the Board is entirely controlled by the Applicant, and is entirely in the words of the Applicant. There was no provision even for questions by other parties, and no provision for the fuller discovery that would normally take place at a transcribed technical conference.

SEC is aware that the Board has a broad discretion to determine process, and further has the right to determine matters with an oral hearing, a written hearing, or no hearing at all. However, we note that the Board's discretion as to process is limited by the Statutory Powers Procedure

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Act, and by the fact that the Board is an adjudicative body that must comply with the rules of natural justice. There is only one exceptional circumstance where the Board can decide just and reasonable rates without so complying (i.e. without a hearing), and that is pursuant to s. 21(4), which doesn't apply here.

The problem here is that, in order to have any hearing in which there is an adjudication based on evidence, there must be a proper evidentiary record. In this case, the Board in its Procedural Order #1 has determined that there will not be a proper evidentiary record, because the Board decided that the Applicant would have complete control over all evidentiary filings in the proceeding. This may well be fine in a non-adjudicative situation. It is not, in our submission, consistent with the Statutory Powers Procedure Act and the rules of natural justice.

This is not merely a matter of form. Because the technical conference was not transcribed, there is no record of the questions from Board Staff and the intervenors. The Board, in making its decision, will have only the Applicant's description of the additional information it was to provide, not the actual questions and discussions that took place.

By way of example, SEC's notes from the technical conference say (verbatim) "U/T compare treatment of SL CDM with treatment of CDM by other large customers". This is, of course, a summary of a larger discussion between the parties, none of which the Board will ever see. Further, anything the Applicant said during that discussion, including admissions and analysis of the issue being discussed, and anything the other parties said in response, is not on the public record. It is, instead, a discussion behind closed doors between the parties, none of which will be seen by either the Board or the public.

It has been a longstanding practice of the Board that every contested proceeding has an oral component, either by way of a transcribed technical conference, or an oral hearing before the adjudicative panel. This allows the parties to engage the issues, and allows the adjudicator to see and understand the discussion between the parties about those issues. This gives the adjudicator perspective, and provides transparency to the public. Both are key elements of the Board's value as an independent tribunal.

SEC therefore submits that the Board's procedure in this case was inappropriate, and should not be repeated.

Streetlighting Cost Allocation and Rate Design

There are three elements to the proposed changes to cost allocation and rate design for the streetlighting class:

- Policy changes announced by the Board in its letter of June 12, 2015 (the "New Streetlighting Policy"), including setting rates at a 120% revenue to cost ratio;
- Shifting the streetlighting revenue to cost ratio further, from 120% to 100%; and
- Implementing the impact of Hamilton's LED conversion program through a change to the load profile for the streetlighting class.

Each of these changes impacts not only the streetlighting class, but other classes as well, particularly GS< 50 and GS>50. The effect on those two classes is a rate increase of almost 7%, substantially in excess of the 4% rate increase those customers expected out of the Board's decision in EB-2014-0002.

The following table sets out the impacts of the proposed changes on the three classes most affected:

Step	*GS<50*	*GS>50*	*Streetlighting*	*Source*
Service Revenue Requirement before S/L Changes	$15,926,047	$22,218,469	$2,806,945	*JTC26, column "2016 incl. WC inc."*
New Streetlighting Policy, at 120% RTC ratio	$214,152	$284,870	-$654,956	*JTC26, column "Policy Change (SLAF)", adjusted for diff. btwn JTC9(a) Tables 1 & 2*
Additional Shift from 120% RTC to 100% RTC	$144,262	$200,999	-$358,665	
Revised Load Profile for SL Class to implement CDM	$63,453	$104,582	-$182,358	*JTC26, column "SL Load Profile Change"*
Service Revenue Requirement after S/L Changes	$16,347,914	$22,808,920	$1,610,966	*JTC26, column "2016 incl SLAF/LP"*
Rate Impact	2.65%	2.66%	-42.61%	*Calculated*

The first component of the change, which is the Applicant's response to the Board's letter of June 12, 2015, does not appear to be controversial. Whether or not all parties agree with the Board's new streetlighting policy, the Applicant appears to have implemented it correctly, at least at the 120% RTC level. The effect is to decrease streetlighting rates by 23.3%. This is seen by most parties as correction of a problem in the previous approach to cost allocation and rate design for this class. While it also increases GS<50 and GS>50 rates by about 1.3% each, this does not appear to be avoidable given the new policy.

The Applicant decided, however, to take an additional step, setting rates for streetlighting based on a 100% revenue to cost ratio, rather than 120% in keeping with the Board's policy range. This decreases the streetlighting rates by a further 12.8%, and increases rates for each of GS<50 and GS>50 by a further 0.9%.

This second change appears to be directly contrary to the Board's policy guidance, and there is no evidence on the record supporting this change, or any exception to the Board's policy. Three other classes are proposed to remain above the 100% revenue to cost ratio, making this proposal for streetlighting appear to be selective. This is doubly unfortunate because the main beneficiaries of the proposal to go to 100% are the shareholders of the Applicant.

The third change is a little more difficult. The City of Hamilton has replaced its streetlights with more energy-efficient LEDs. Horizon, contrary to the EB-2014-0002 settlement agreement and decision, decided on its own initiative to revise the load profile for the streetlighting class, thus

decreasing the costs allocated to that class by a further $182,358. This results in a further rate decrease for streetlighting of 6.5%, and a further increase for each of GS<50 and GS>50 of 0.5%.

Normally, when a customer implements a CDM program (as is the case with many schools served by Horizon, for example), the customer benefits in three ways. Immediately, the customer's kwh. will decline, and with that the customer's commodity costs. This is the biggest benefit, by a substantial margin. Also immediately, the customer's kwh. or kW. will decline, and with that the volumetric component of the customer's distribution and transmission costs to the extent that they are metered. In addition, the combined actions of all customers in the class will affect the distribution costs allocated to the class. This, usually the smallest of the impacts, will show up the next time the distributor does a new cost allocation, normally on rebasing.

In this case, the City of Hamilton will receive the benefit of the first reduction. As an unmetered customer, it would normally get no immediate benefit from the second reduction, which in any case is very small, nor the third reduction, which in the case of streetlighting is larger, but still a fraction of the commodity savings. Both would take effect at the next rebasing. In this case, Horizon proposes to implement both immediately. No other customer gets similar treatment, and Horizon has provided no coherent justification for preferential treatment for its majority shareholder.

SEC therefore submits that the first of the three changes - the policy change with a 120% revenue to cost ratio - should be approved by the Board. The two remaining changes should not be approved at this time. In both cases, they should be implemented at a time, and in a manner, that provides consistent treatment for all customers and customer classes.

Conclusion

SEC submits that it has participated responsibly in this proceeding with a view to maximizing its assistance to the Board, and therefore requests that it be reimbursed its reasonably incurred costs to do so.

All of which is respectfully submitted.

Yours very truly,
JAY SHEPHERD P. C.

Jay Shepherd

cc: Wayne McNally, SEC (email)
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Interested Parties