

ONTARIO ENERGY BOARD

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 or Orders approving or fixing just and reasonable rates and other service charges for the distribution of electricity as of January 1, 2016;

AND IN THE MATTER OF a Decision and Order of the Ontario Energy Board in EB-2015-0075 dated December 10, 2015;

AND IN THE MATTER OF Part VII in the Rules of Practice and Procedure of the Ontario Energy Board.

**NOTICE OF MOTION
(MOTION REQUESTING A REVIEW)**

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AND TO: **All Parties**

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NOTICE OF MOTION

THE CITY OF HAMILTON (the “City”) will make a motion to the Ontario Energy Board (“OEB”) on a date and at a time to be fixed by the OEB at the OEB’s Chambers at 2300 Yonge Street, Toronto, Ontario.

PROPOSED METHOD OF HEARING: the City proposes that the motion be heard orally.

THE MOTION IS FOR:

1. An order to review that part of the Decision and Order dated December 10, 2015 (“**Decision and Order**”) dealing with the load profile used for the street lighting class of Horizon Utilities Corporation (“**Horizon**”);
2. An order varying that part of the Decision and Order to update the load profile used for the street lighting class in Horizon’s cost allocation model to reflect the impact of the City’s LED conversion program;
3. Such further and other orders as the Board deems appropriate.

THE GROUNDS FOR THE MOTION ARE:

1. Horizon applied for approval of its proposed distribution rates and other charges, effective January 1, 2016.

2. Included in the application was a request to update the load profile for the street lighting class to reflect a reduction in load for the City, based on the City's conversion to LED for the street lighting.
3. The City's LED conversion program would result in a reduction in demand amounting to 1600 kW, which would, in turn, reduce the rates paid by the street lighting class. In its prefiled evidence, Horizon asserted that the update "was important as it allows the City to realize the benefits of its conversion program on a timely basis". Horizon further asserted that, in the absence of this update, "the City would not realize the associated cost allocation benefits of its investment in LED lighting, a significant conservation initiative, until Horizon Utilities' next rebasing year, which is scheduled for 2020".
4. In its Decision and Order the OEB rejected Horizon's request to update the street lighting class load profile to reflect the effects of the City's LED conversion on the ground that "there is no advantage to selective updating" and that "until data that is more accurate is available for all classes, Horizon must continue to use the existing load profiles for the purpose of its cost allocation model."
5. The Decision and Order does not 1) refer to the policies of the provincial government on conservation or 2) indicate, directly or by implication, why those policies should not be applied, or at least considered, in disposing of Horizon's request to have the effects of the City's LED conversion reflected in the rates for the street lighting class.
6. The result of the OEB's Decision and Order is that the City, and its residents, will not realize the benefits of the City's LED conversion program until some indeterminate date in the future.
7. The City, and its residents, should get the benefit of the City's LED conversion program now, regardless of what other rate classes may do with respect to conservation and demand management.
8. The City, and its residents, should not be disadvantaged by the failure of other rate classes to either implement conservation measures or, having implemented such measures, failing to ask Horizon to update their load profiles to reflect those measures.
9. The provincial government's policy on conservation is set out in, among other places, the Long-Term Energy Plan. That Plan states that the government's agencies are to put conservation first in their planning, approval and procurement processes.
10. The OEB erred by failing to implement provincial government policies on conservation and, in particular, the Province's "Conservation First" policy and its Long-Term Energy Plan.
11. The OEB erred in failing to comply with directives issued to it by the Minister of Energy with respect to the Province's conservation and demand management policies.
12. The OEB erred in failing to provide reasons explaining, among other things, its failure to implement provincial government policies on conservation and demand management.

13. The Decision and Order raises important issues of the relationship between the OEB's obligation to set just and reasonable rates and its obligation to implement provincial government policies. For this reason alone the Decision and Order should be reviewed.
14. This motion for review raises questions as to the correctness of the Decision and Order.
15. The errors in the Decision and Order are material and, if corrected, would change, in a material part, the outcome of the Decision and Order.
16. Such further and other grounds as Counsel may advise.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The record of the proceeding herein. ;
2. Such further and other material as counsel may advise and the OEB permits.

December 22, 2015

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