



BY EMAIL and RESS

Mark Rubenstein
mark@shepherd Rubenstein.com
Dir. 647-483-0113

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Our File: CO20180120

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
M4P 1E4

Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2018-0049 – Lakefront Utilities 2019 IRM – Notice of Intervention

We are counsel to the Northumberland Hills Hospital (“NHH”). We enclose their Notice of Intervention in this matter, including their request for costs eligibility.

NHH is one of the two general service customers identified by Lakefront Utilities Inc. (“LUI”) in the Application with whom it says it is in discussions regarding combined heat and power projects (“CHP”).¹ NHH is thus an existing customer of LUI that will be directly impacted by the proposed standby charge.² NHH’s CHP project is still in the planning stages.

As detailed below, NHH believes that the standby charge rate proposal, in addition to being premature, should not be considered as part of LUI’s IRM application.

Not Appropriate Issue for IRM. IRM applications are, with few exceptions, meant to mechanistic in nature.³ The Board’s Filing Requirements state that the “IRM process is not the appropriate way for a distributor to seek relief on issues which are specific to only one or a few distributors, more complicated relative to issues typical of an IRM application, or potentially contentious.”⁴ The proposal for a new rate, especially one which is specific to the distributor, is both complex and contentious. NHH is not aware, at least in the last few years, of the Board previously approving a standby charge proposal in the context of an IRM application.

By way of analogy, one of the examples provided in the Filing Requirements as a matter specifically excluded from consideration in an IRM application is loss of customer load.⁵ That is in essence what

¹ Lakefront Utilities Inc. Application [“LUI Application”], p.28

² For the purposes of this letter, NHH uses the term standby charge and rate interchangeably.

³ Those exceptions are specific in the Filing Requirements and include ICM and Z-Factor requests.

⁴ *Ontario Energy Board Filing Requirements For Electricity Distribution Rate Applications - 2018 Edition for 2019 Rate Applications*, Chapter 3, Incentive Rate-Setting Applications, p.30

⁵ *Ibid*, p.30-31:

LUI is seeking to deal with in this case, a shift in some peak customer load from the system to behind-the-meter generation. If LUI would not be allowed to seek relief from the Board during an IRM period caused by the shutdown of a significant customer, it should not be able to seek relief from customers who are considering building behind-the-meter generation to shift some of their load. This is especially true when one considers the system benefits, and government encouragement, of these projects.

Maintaining its revenues is not an appropriate basis for proposing such a rate during the IRM period. LUI has not provided any evidence that currently it has met, or will meet prior to rebasing, the Board's requirements for an off-ramp from its current rate plan.⁶

The appropriate forum to propose a new rate is during a cost of service application. That is where all aspects of the rate-setting process are considered, including cost allocation and rate design, both of which are fundamental to the consideration of any standby charge. Such an approach is consistent with requests for standby rates that are currently before the Board in the cost of service applications of Energy+ (EB-2018-0028)⁷, Niagara-on-the-Lake Hydro (EB-2018-0056)⁸, and Erie Thames Powerlines (EB-2017-0038)⁹.

The Energy+ proceeding is a good example of why a cost of service proceeding is the appropriate forum for such a proposal. The standby rate proposal has required significant interrogatories, follow up questions on the responses to those interrogatories¹⁰, and the filing of both company and expert evidence.¹¹ A proper review also often requires a detailed review of the underlying costs to serve customers who require standby power. This can really only be done in the context of a cost of service application, where the applicant provides detailed evidence on those costs and how, through the cost allocation model, they should be allocated.

It would be procedurally unfair to NHH to provide it with less of an opportunity to test the proposal since it is being presented in an IRM proceeding, compared to other affected self-generators, who have the chance to review proposed standby rates in a cost of service application.

Proposal is Premature. NHH also notes that the proposal itself appears to be premature. LUI's own evidence is that "has not initiated a consultation with respect to standby rates with the customers that have expressed interest or are exploring the feasibility of installing load displacement generation in the future".¹²

The Board has said that "[c]ustomer engagement is a foundation to the [Renewed Regulatory Framework]" and that doing so is a "now an explicit and important component of the regulatory framework."¹³ Considering that, based on its own evidence, there are two identifiable impacted

"The following are examples of specific exclusions from the IRM rate application process:

....

- Loss of Customer Load"

⁶ Report of the Ontario Energy Board, *Renewed Regulatory Framework for Electricity Distributors: A Performance-Based Approach*, October 18, 2012 p.13,:

"A regulatory review may be initiated if a distributor's annual reports show performance outside of the ± 300 basis points earnings dead band or if performance erodes to unacceptable levels"

⁷ EB-2017-0028, Exhibit 1, p.10

⁸ EB-2017-0056, Exhibit 1, p.6

⁹ EB-2017-0038, Exhibit 1, Tab 6, Schedule 1, p.11

¹⁰ EB-2018-0028, Procedural Order No.2, p.2

¹¹ EB-2018-0028, Procedural Order No.1, p.5-7

¹² LUI Application, p.29

¹³ *Handbook for Utility Rate Applications*, October 13 2016, p.2,11



customers, there is little excuse for LUI not to conduct customer engagement activities with respect to this proposal. NHH should be required to consult with its customers before filing any proposal with such a significant impact on customers it specifically knows will be affected.

LUI's evidence demonstrates that it has not done any consideration of alternative rate methodologies that may be considered by or for its affected customers. In fact, its evidence appears to show that it used the methodology proposed in the Application expressly to avoid the need for a cost allocation study.¹⁴

In addition, we understand that, as part of the Board's consultation on Commercial and Industrial Rate Design (EB-2015-0043), it is considering the issue of rates applicable to distributed generators on a generic basis. In NHH's view, it would be reasonable to wait until the outcome of the Board's consultation on the issue before determining the appropriate standby rate methodology. It is reasonable to expect that, by the time LUI next rebases, and thus is at an appropriate stage to seek a standby rate, the Board will have a broadly applicable policy already in place.

Summary. The Board should therefore determine as a preliminary matter that it is not appropriate to consider LUI's standby charge proposal in this IRM proceeding.

Yours very truly,

Shepherd Rubenstein P.C.

Original signed by

Mark Rubenstein

cc: NHH (by email)
Applicant (by email)

¹⁴ LUI Application, p.29