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ONTARIO ENERGY BD

March 3, 2009

File No. 2080628

BY COURIER

OEB BOARD SECRETARY	
File No EB-2008-0234	Sub File 16
Panel	P.N. / C.S.
Licensing	
Other	Harold T. /
	Kristi S.
00/04	

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

Dear Ms. Walli:

Re: Lakeland Power Distribution Ltd. EB-2008-0234

Please find enclosed a copy of School Energy Coalition submissions in respect of the above captioned matter. An electronic copy has already been sent to the parties.

Yours very truly,

SHIBLEY RIGHTON LLP

per [signature]

John De Vellis
JDV/tw
Enclosure

EB-2008-0234

IN THE MATTER of the *Ontario Energy Board Act 1998*, Schedule B to the *Energy Competition Act*, 1998, S.O. 1998, c.15;

AND IN THE MATTER OF an Application by Lakeland Power Distribution Ltd. for an Order or Orders approving just and reasonable rates and other service charges for the distribution of electricity, effective May 1, 2009.

SUBMISSIONS

OF THE

SCHOOL ENERGY COALITION

Overview

1. These are the submissions of the School Energy Coalition ("SEC") in the application by Lakeland Power Distribution Ltd. ("LPD") for an order fixing just and reasonable rates for the distribution of electricity effective May 1, 2009.

2. SEC has reviewed the submissions of Board Staff as well as Energy Probe, which provided other parties with a draft version of its submissions in advance of the February 27 filing deadline. These submissions were most helpful to SEC and they have considerably reduced the scope of these submissions as well as the time required to prepare them. Prior to filing its submissions SEC also had the opportunity to briefly review the submissions of VECC, and we have made one reference in our submissions in support of a proposal made by VECC.

Rate Base and Capital Expenditures

3. LPD's rate base and declined steadily from 2006 Board approved (which was based on the average of 2003 and 2004 values) and 2008. The reason was that LPD's capital additions increased at a lower rate than depreciation. Indeed, the net book value of LPD's assets declined from $12,982,926 in 2006 Board approved to $12,255,406 in 2008, indicating that depreciation outpaced capital investment during that period. [see SEC IR#4, pg. 5]

4. LPD's revenue requirement for 2006, 2007 and 2008, however, would have been based on the level of capital expenditures and rate base in the 2006 Board approved. The under-investment during those years, therefore, means that LPD was adding to rate base at a rate lower than it was being compensated for in its revenue requirement.

5. For the test year, LPD projects a significant increase in spending, which includes the construction of a 10 MVA substation. The reported cost of this station increased from $1.5 million (with a net cost to LPD of $0.5 million) to $2.4 million (net cost to LPD of $879,000) from the initial application and LPD's supplementary interrogatory responses.

6. Given previous under-spending, SEC concurs with VECC that the Board should, for rate making purposes, consider holding the level of rate base for the test years constant at the opening level for 2009. That would mitigate the large rate impacts from this application, and would also normalize LPD's rate base during the rebasing years. That is, by setting 2009 rate base at the opening balance for the year, LPD's ratebase during the IRM years will not reflect abnormally high capital spending in the 2009 test year.

7. SEC also concurs with Energy Probe that the changes to 2008 and 2009 capital expenditures necessitates a change to the opening and closing balances in 2008 and 2009 rate base and will have resulting impacts on a number of revenue requirement items, such as cost of capital and depreciation. SEC believes these changes should be reflected in LPD's rate base.

OM&A

8. SEC notes that LPD's OM&A costs were below the 2006 Board approved level in both 2006 and 2007. 2006 OM&A was $2,493,651, which was $116,781, or 4.5%, below 2006 Board approved. In 2007, OM&A declined again, by a further 7.3%. As a result, 2007 OM&A was 12.1% below 2006 actual. The difference between 2007 actual and 2007 Board approved, however, would have been even higher, since 2007 Board approved number would have been an indexed amount based on 2006 Board approved. Although LPD's OM&A increased considerably in 2008, the 2008 actual was likely still below the Board approved amount for 2008.[1] As was the case for its capital expenditures, the result was that, for the years 2006 to 2008, LPD's expenditures were less than the amount for which it was being compensated in rates.

9. Though expenditures in 2008 are below the Board approved level for that year, they nonetheless represent a significant increase (16.9%) from 2007 levels. Maintenance activity in particular increased substantially. The large increase in 2008 came after several years in which OM&A either increased modestly or declined [see Board Staff IR#4].

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[1] 2006 Board approved OM&A=$2,610,432, when indexed at a rate of 2% per year (which is the approximate indexing amount per the Board's 2nd Generation IRM formula) would yield a 2008 Board approved OM&A of $2,715,893, which is approximately $13,000 greater than 2008 actual OM&A.

10. The Board has said repeatedly that it will look "significant variances between historical spending levels and proposed spending levels require compelling explanation."[2] SEC does not believe that the proposed spending levels for 2009 have been fully justified and believes that a reduction from the as-filed OM&A is appropriate.

11. In particular, SEC concurs with the specific reductions to OM&A recommended by Energy Probe.

12. SEC also concurs that the LPD's proposal to change its depreciation methodology has not been supported in the evidence and agrees that depreciation expense should be reduced by $162,444.

Cost of Capital

Short-Term Debt Rate

13. On February 24, 2009, the Board released new cost of capital parameters to be included in 2009 cost of service applications. In it, the Board adjusted the deemed short-term debt rate to 1.33%. SEC believes that the short-term debt rate used in calculating LPD's cost of capital (currently 4.47%) should be adjusted in accordance with the Board's guideline.

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[2] See, for example, the Board's Decision in EB-2007-0680 (re Toronto Hydro Electric System Ltd.), p. 36. The Board there also quotes a previous decision where a similar sentiment was expressed.

Return on Equity

14. The February 24 Board letter also adjusted the return on equity for 2009 cost of service applicants to 8.01%. SEC believes the new rate should be reflected in LPD's cost of capital.

PILS

15. SEC concurs with Board Staff's analysis regarding the proper starting calculation for regulatory PILS. However, SEC points out that the starting point for the PILS calculation needs to be adjusted slightly as a result of the adjusted return on equity set out in the February 24 Board letter. The revised amount for regulatory net income from which to derive the PILS amount should be $537,581.[3]

Cost Allocation

16. Although LPD's application makes progress towards eliminating cross-subsidization between rate classes, SEC notes that in 2009 the GS>50kW rate class will continue to over-contribute to the applicant's revenue requirement in the amount of $167,331 [SEC IR#14(b)]. That works out to approximately $1,838 per customer.[4]

17. The Streetlighting class, meanwhile, will continue to under-contribute by an almost equivalent amount to the over-contribution by GS>50kW: $157,028.

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[3] Being Rate Base of $15,499,710 times 43.3% (equity component) times 8.01% (new return on equity per Board letter.)

[4] $167,331 divided by 91, which is the projected number of GS>50kW customers for 2009 per Exhibit 3, Tab 2, Schedule 2, pg. 7.

18. It appears from the pre-filed evidence that LPD does not intend any further movement in the revenue to cost ratio for the Streetlighting class during the IRM period. However, previous Board decisions have found that, where movement to the bottom of the relevant range would produce a total bill impact that is too large, the appropriate solution is to do so over two years. Therefore, SEC submits that LPD should be directed to move Streetlighting to 70% revenue to cost ratio by 2010. The extra revenue derived from Streetlighting should be directed to the GS>50kW rate class, the only class that is over-contributing.

Rate Design

19. The fixed charge for the GS>50kW rate class ($506.32 in 2009, up from $499.25 in 2008) is well above the Board guidelines. In 2008, for example, the maximum fixed charge for this rate class per the Board Report on Cost Allocation[5] was $117.94. [SEC IR #15(b)].

20. Despite the fact that the fixed charge was already far in excess of the Board guidelines, LPD proposes to keep the proportion of revenue for GS>50kW derived from the fixed charge constant at 70.2% in 2009. By comparison, the proportion for the Residential class is 53.5% (down from 60.1% in 2008, which LPD says was done as a rate mitigation measure for lower volume residential users), and 62.3% for the GS<50kW rate class.

21. In SEC's submission, both the Board guidelines and the comparison with the fixed charge for other rate classes demonstrates the need for a reduction in the fixed charge for the GS>50kW rate class. SEC recommends that the fixed charge be $132, which is approximately equal to the

[5] EB-2007-0667, Report of the Board, Application of Cost Allocation for Electricity Distributors dated November 28, 2007.

2008 ceiling ($117.94) times 12%, which is the difference between LPD's proposed 2008 and Base Requirement [see SEC IR#2].

Costs

22. SEC participated responsibly in this proceeding and sought to minimize its costs by cooperating with other ratepayer groups. SEC respectfully requests that it be awarded 100% of its reasonably incurred costs.

All of which is respectfully submitted this 2nd day of March, 2009.

John De Vellis
Counsel to the School Energy Coalition