

October 23, 2008

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File: 10606.00036

Kirsten Walli
Board Secretary
Ontario Energy Board
Suite 2701
2300 Yonge Street
Toronto ON M4P 1E4

Dear Ms. Walli:

Re: Horizon Utilities Corporation ("Horizon") Draft Rate Order/EB-2007-0697

We are counsel to the Consumers Council of Canada ("Council"). The Council is an intervenor in EB-2007-0697, Horizon's 2008 rate application. What follows are our client's submissions on the draft rate order and supporting evidence filed by Horizon on October 17, 2008.

The Council is generally supportive of the way in which Horizon has developed the rate order and its rate proposals in response to the Ontario Energy Board's ("Board") Decision dated October 3, 2008. We would, however, like to make the following observations.

1. Horizon is proposing to recover its Lost Revenue Adjustment Mechanism ("LRAM") and Shared Savings Mechanism ("SSM") amounts by a rate rider over a three year period ending April 30, 2011, and has proposed a set of rate rider levels for this purpose. The Council does not take issue with the proposed SSM and LRAM amounts, the proposed level of the rate riders, or the proposed recovery period. In order to ensure that both the ratepayers and shareholders are kept whole the Council submits that these accounts should be subject to a true-up mechanism. In effect, only the actual amounts should be recovered from customers. To the extent Horizon either over-recovers or under-recovers amounts through its rate riders, relative to the actual amount, the difference should be trued-up. The Council notes that the issue was not addressed in the Board's Decision and expects that it will be dealt with in Horizon's next rate proceeding.
2. Horizon is proposing to dispose of the amounts in its deferral and variance accounts as at December 31, 2006. With interest, the amount is \$7,372, 810. In order to ensure that both the ratepayers and shareholders are kept whole, the Council submits that these accounts should be subject to a true-up mechanism. This may be Horizon's intent, but again, the evidence does not specifically address how the amounts would be trued up. In addition, given this is an amount

owing to customers, the Council would prefer a shorter recovery period, but this may not be feasible from Horizon's perspective. We request that Horizon addresses the possibility of a shorter time period for disposition in its reply submissions.

3. Horizon is proposing that its new rates be effective May 1, 2008, with an implementation date of December 1, 2008. The billing quantities used for consumption and demand are actual billed quantities to September 30, and are forecast for October and November based on Horizon's original forecast quantities filed in its Application and adjusted for actual growth experience. The billing quantities for December 1, 2008 to April 30, 2009 are based on forecast quantities and "actual 2008 growth experience" (Evidence/October 17/p. 14). If Horizon's rates were approved prior to May 1, 2008, it would be setting rates on the basis of the Board-approved forecast. Horizon's proposal departs from that in two ways. The first is that Horizon is using actual billing quantities to September 30, 2008, and forecast quantities (as per the original forecast) adjusted for "actual growth" for October and November. The second point of departure is Horizon's proposal to use billing quantities based on forecast quantities and actual growth experience for the period December 1, 2008 to April 30, 2009. It is not clear if Horizon is using a forecast to set rates that has been approved by the Board, or a new forecast based on different assumptions.

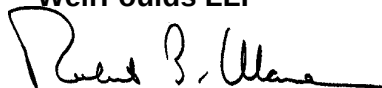
With respect to the implementation proposal, the Council recognizes that Horizon is attempting to use the best available information to determine how to recover the revenue requirement, but it does not appear to be using the Board-approved forecast. It would not be appropriate for Horizon to use a new forecast that has not been tested in the proceeding. The Council is not aware of how the Board has, to date, set 2008 rates approved mid-year. The Council urges the Board to establish a uniform policy to deal with these types of rate adjustments.

In Appendix F, Table 5, Horizon states that it is proposing to track the revenue requirement billed to customers through the rate rider in a variance account. It is not clear from the evidence whether Horizon is seeking to recover from its customers the actual revenue requirement approved by the Board through a true-up mechanism. Although this is appropriate for deferral and variance accounts as they represent pass-through items, it would not be appropriate for recovery of the revenue requirement. Horizon, like other utilities, should be subject to forecast risk. Horizon should, in its reply submissions, address this point.

The Council is not making any further submissions on the other components of the evidence or the rate order itself.

Yours very truly,

WeirFoulds LLP

A handwritten signature in black ink, appearing to read "Robert B. Warren", written over the printed name.

Robert B. Warren

cc: Horizon Utilities Corporation
cc: Borden, Ladner, Gervais LLP
cc: Julie Girvan
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