

November 7, 2005

John Zych, Secretary
Ontario Energy Board
26th Floor
2300 Yonge Street
Toronto, ON M4P 1E4

Dear Mr. Zych:

We are Counsel to the Consumers Council of Canada ("Council"). We are in receipt of the Ontario Energy Board's ("Board") Procedural Order No. 1, dated November 2, 2005, regarding Generic Issues and Historical Test Year Filings. In that Procedural Order the Board has set out a process to deal with the hearing of generic issues and proposed a set of issues that will be dealt with through the generic process.

The Council will first provide comments on the proposed generic issues and then set out its concerns about the process.

1. The Council supports the inclusion of smart meters on the generic issues list. There is merit in attempting to treat the recovery of smart meter costs in a consistent manner for all LDCs. The Council agrees with the issues as framed in the proposed issues list. What is required, in addition, and because of the uncertain nature of those costs and the level of discretion that may be involved in incurring them, is consideration of a mechanism which would allow for a prudence review for those expenditures at some future date. We suggest, therefore, that the following issue should be added:
 - 1.6 What mechanism should be used to determine the prudence of an individual utility's spending on smart meters?
2. The Council supports the inclusion of Regulatory Costs on the generic list, and accepts the issue as framed in the proposed issues list. Given several LDCs are seeking to go beyond what was allowed for in the Rate Handbook this issue is best addressed through the generic process.
3. The Council does not support the inclusion of the issue related to Revenue Losses Attributable to Unforecasted Distributed Generation on the generic list. The point of the historical test year approach advanced by the Rate Handbook was to minimize adjustments. To establish deferral accounts for all LDCs to record

potential revenue loss associated with distributed generation should not be allowed in the absence of the creation of deferral accounts to record potential revenue gains associated with other activities. Throughout the year there will be unforeseen impacts on revenue. To single out the impact of distributed generation revenue loss would not be fair to ratepayers. If an LDC wishes to make a case for a deferral account this should be considered by the Board on a case by case basis.

4. The Council supports a generic approach to the development of standby rates, and accepts the way the issue has been framed in the draft issues list.
5. With respect to the issue of Other Deferral Accounts the Council does not believe this should be considered in a generic context. As noted above the point of the Rate Handbook approach was to streamline the process and limit adjustments. We believe there is a significant onus on each LDC to justify the need for a deferral account in its own case. If the Board is inclined to now establish a broad range of accounts to record only costs, this would be unfair to ratepayers without a consideration of off-setting costs or revenues. If these types of accounts were approved through a generic process are all LDCs free to establish them or only those that have already made the request?
6. It remains unclear as to how Conservation and Demand Management (CDM) issues will be dealt with. The Procedural Order states that The Board will address conservation and demand management programs submitted by distribution utilities on a case by case basis. However, in its Decision regarding the issues for Hydro One Networks the Board stated that it will soon announce a more generic process on CDM issues.

With respect to the overall process the Council has the following questions and concerns:

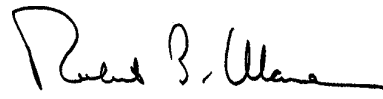
1. The deadlines that have been established are so tight that the effective participation of intervenors will undoubtedly be compromised. Had these deadlines been established at an earlier date, it would have allowed parties to plan its interventions accordingly.
2. It remains unclear as to the extent to which the generic process applies to all LDCs that have filed on an historical basis or just those that are included in Appendix 1.

3. The Board is requiring intervenors to notify its intent to file evidence on the generic issues prior to the Board establishing its generic list of issues.

The Council will attempt to work within the proposed schedules. Having said that, our participation may have to be limited given current outstanding OEB commitments and the Board's decision to proceed in such an expeditious fashion.

Yours very truly,

WeirFoulds LLP



Robert B. Warren

RBW/dlh

cc: Dr. Peter Dyne
Joan Huzar
Julie Girvan

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