

14 Carlton Street
Toronto, Ontario
M5B 1K5

Telephone: 416-542-2572
Facsimile: 416-542-2776
rzebrowski@torontohydro.com



2004 July 16

Mr. Peter O'Dell
Acting Board Secretary
Ontario Energy Board
P.O. Box 2319, 26th Floor
2300 Yonge St
Toronto ON M4P 1E4

via facsimile (416) 440 7656 and email

RE: 2006 Electricity Distribution Rates
Submission on Issues and Process for Generic Methodology Review

Dear Mr. O'Dell:

Further to the July 6-7 informal consultation held by Board Staff on the matter noted above, the submissions of Toronto Hydro are set out below. Toronto Hydro appreciates the opportunity to provide to the Board further input on these important issues, and continues to rely on the submissions it made at the informal consultation.

A foundation issue that was raised at the informal consultation concerned the regulatory system that would follow the rebasing process. While Toronto Hydro acknowledges the importance and necessity of rebasing, rebasing should be seen as the first step in an evolution toward a streamlined, outcome-oriented and incentive-based system of regulation.

The Need to Manage Issues

Toronto Hydro wishes to re-emphasize its view that it is not viable for the Board, applicants, or stakeholders to conduct a detailed cost of service review on the full preliminary list of issues circulated by Board Staff prior to the informal consultation. While Toronto Hydro does not dispute that any of the listed issues may in some circumstances be valid and necessary topics for the Board's review, there is a clear need to prioritize the issues such that filing requirements and the hearing processes in general be cost-effective for electricity customers and manageable for participants.

Toronto Hydro recommends strongly that the Board define a limited issues list, focusing on the highest priority items, for both the anticipated generic proceeding on electricity

distribution rates and for subsequent individual rate applications. Toronto Hydro appreciates that economies can be achieved through generic treatment of certain issues and supports that effort. Nevertheless, even on a generic basis very considerable resources and time will be required to adequately address just the most important issues. In addition, very significant issues around Provincial policy initiatives such as DSM and 'smart metering' will need to be examined separately, but integrated into the overall ratemaking framework.

By definition, a limited issues approach would not examine every matter which could be material in individual cases, and the Board or an applicant may wish to examine an issue that has not been generically determined or for which special circumstances apply. In those instances, as at any time, the Board may direct that the issue be examined, or an applicant could bring the issue forward for determination. Toronto Hydro believes that with this proviso, the interests of ratepayers can be efficiently served by a limited issues approach while preserving the right of applicants to bring matters of individual concern to the Board for determination.

Cohorts and Comparators

Toronto Hydro appreciates that the Board must establish an efficient method of dealing with the mass of applications it will have to determine. In that context, Toronto Hydro can support the use of comparators as an initial screening tool, possibly within cohorts where they can be reasonably defined, and otherwise with reference to a utility's own cost and performance history. As a screening tool, comparators could give indications of areas where additional evidence and a more detailed review could be warranted in individual cases.

However, Toronto Hydro does not believe that the existing state of information and analysis can support the use of comparators directly as ratemaking decision rules with potentially significant financial and operational consequences. Toronto Hydro along with many other stakeholders has substantial concerns around the comparability of performance and financial data as between utilities. It has become apparent in the Service Quality Regulation Working Group and other contexts that despite responsible efforts to comply with reporting requirements, differences in underlying definitions, assumptions, and methodologies between utilities can have material effects on reported data. Such differences can make unqualified comparisons significantly misleading.

In addition, even if those comparability concerns were resolved, the underlying drivers of differences between utilities have not been analyzed to determine their quantitative effects. The fact that utilities have very different histories of development, operational environments, rates of growth and customer bases is widely acknowledged, but the cost and performance consequences of these differences have not been determined. An accurate and thorough analysis of these factors is required to support the fair use of (adjusted) comparators for direct ratemaking purposes.

Process

Toronto Hydro currently understands that through the generic proceeding in the Fall of 2004 and subsequent revisions to the Distribution Rate Handbook, the Board intends to:

1. determine policy with respect to individual generic issues such as rate of return;
2. possibly determine the manner in which individual rate applications will be reviewed; and
3. determine the filing requirements that utilities will be subject to.

In addition, Board Staff has indicated that an unspecified informal process may take place leading up to the formal hearing to attempt to achieve consensus on a variety of issues.

All three of the above-listed outcomes could or will have fundamental effects on utility finances and operations. Therefore, the process by which these outcomes are determined must be fair and complete. In turn, a fair and complete process must provide a full opportunity for parties to bring, defend, and test evidence, and to file argument and reply, for each of the issues being determined.

Toronto Hydro supports informal consensus building as a prelude and adjunct to the formal proceeding, since consensus-building processes can help to narrow issues and better define stakeholder positions. However, Toronto Hydro could not accept an informal process as a substitute for the formal proceeding in the substantial determination of issues. Experience in a variety of recent settings has shown that stakeholders working in good faith often fail to achieve full or even partial settlement of issues owing to the natural disparity of views and the absence of a defined applicant with strong motivations to negotiate. Furthermore, it is unclear what evidentiary basis could emerge from the informal process that the Board could rely upon in determining the issues.

The requirement for procedural adequacy and fairness underscores the importance of issue management. Most if not all of the highest priority issues will require both a thorough factual basis and the application of expert judgement to determine. Given the demanding regulatory agenda facing the Board and stakeholders over the next several years, it will be vital for the Board to focus the efforts of all parties on those issues with the greatest materiality and significance.

Yours truly,

(Colin McLorg for)

R. Zebrowski

Vice President, Regulatory Services