Howard I. Wetston, Q.C.

Chair

Ontario Energy Board

SPEECH

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Check Against Delivery

Thank you ***

It is good to join you here at Clevelands House. This place has an interesting history dating back to 1869 – it got its name because somebody made a mistake.

Apparently when the original owner, Charles Minett, tried to order the hotel's first register, he asked the printer to label it Cleeve Lands after his birthplace in England. The printer mistakenly changed the name to Clevelands, and it's been that way ever since.

You have experienced quite a bit of uncertainty in recent years, including, for the first time a full rate setting procedure which subjected electricity rates to a basic review of revenue needs and cost allocation analysis.

Because of this uncertainty, over the past year or so, the Ontario Energy Board has devoted a lot of our time and energy to working with you to bring stability to the sector. And that meant clearing away some of the legacy issues from previous years.

We have, for example, provided greater certainty on the regulatory assets that can be recovered and allowed the second installment of those to be reflected in rates.

We have also permitted the final rate increase related to utilities' rate of return, subject, as you all know, to your spending on conservation measures.

For 2006, we intend to complete a cost of service analysis - a review of the revenue requirements for each one of the over 90 utilities in our province.

There are also other issues, such as cost allocation and incentive rates, where I know you are seeking greater clarity – You will recall I wrote you on March 7, 2005 indicating we would do a review of cost allocation and we have posted our staff Cost Allocation Review Paper today.

The Board has been thinking very hard about these issues, especially in the context of the dramatic changes which you have undergone since we took over regulation of the distribution sector in 1999.

Let me just say we all know that a cost allocation exercise for the electricity distribution industry is long overdue. The Board did not look at cost allocation at the time of market opening. Now, the Board has started seeking technical input. And, let me say that the Board appreciates the expert input we will be receiving in this process from a number of electricity distributors as well as the ongoing cooperation of EDA members on a number of other major initiatives.

Our first job on cost allocation is to get a clear picture of where things stand. This fall, we will develop a common methodology for doing cost allocation studies. Then, next year, we will ask you as distributors to make informational filings based on that methodology. This way, we can establish the *facts* on cost allocation in order to decide to what extent the Board should move on adjusting rates among various customer classes - and how quickly. That is a decision we will approach in a pragmatic way and one which is mindful of the environment in the electricity sector at that time.

I should also say that because smart metering – and other initiatives – open the door to significant rate design changes, the cost allocation review will be based primarily on the existing rate classifications and on a limited number of rate design changes. This will allow us to

address anomalies on a utility by utility basis for 2007 rates.

It will also enable us to consider what rate issues have to be dealt with immediately and those which can be deferred until we have a better sense of how the sector is evolving.

With respect to revenue requirements, there are also a number of outstanding issues. As we work through them, I believe we should do so with two goals in mind. First, to reduce the need for annual rate-setting. And second, to provide incentives to utilities to provide distribution services in the most efficient way possible.

Specifically, the Board foresees setting rates, beginning in 2007, by using an incentive mechanism applied to the rebased revenue requirements determined for 2006. Our goal will be a simple and straightforward rate adjustment mechanism.

A multi-year rate plan would also allow the Board to selectively rebase the revenue requirements of some utilities, while focusing on the key issues to ratepayers, the regulator and utilities. By staggering the rebasing process, we can better prioritize – and that means a more efficient and less costly regulatory workload.

Now, I mention these issues because, as I've said, many involve clearing away leftover problems from the past. But they are also key elements in building a strong, viable electricity industry in this province. And that remains a priority for the Board. Why? Two reasons.

First, because without a strong industry – without a fair return on your investment – there is little incentive for future investment. And without future investment, reliability of supply will be at risk.

Second, because part of our mandate at the OEB is to protect the interests of consumers and that requires a strong industry.

Now, I know a lot of people, when they think about protecting consumers' interests**,** think only about price. But that's only part of it. It's also about reliability of service. It's about the quality of that service. It's about being able to maintain the system the way it should be maintained.

The bottom line? Ontario consumers – whether residential or commercial – benefit from a robust and dynamic electricity sector, and that benefit comes at a price – a reasonable price, to be sure, but a price nonetheless.

Of course, it is always a balance and the Board is very conscious of this. Because at the end of the day, where costs are being passed on to consumers, we have to be able to say, "this is fair" – and demonstrate that it is fair.

That's crucial for public confidence. And public confidence is crucial to Ontario's energy sector. We also want to help you manage the new regulatory requirements you face – and we're doing so in a number of ways, including issuing regular bulletins and streamlining administration through better tracking and reporting processes – but perhaps most fundamentally by developing a rate-making process that is less cumbersome and more standardized.
And, given the large volume of complex applications we receive, the more we can standardize, the better it is for everyone.

That's why I'm very pleased to tell you that the Board will soon be releasing new Performance Measures for Processing Applications. We committed to you, in our business plan, to improving the timeliness and efficiency for processing your applications. You asked for more certainty and clarity in the process and we've done our best to provide that.

In fact, quite a bit of effort went into developing these metrics. These new measures are more comprehensive than those applied in the past. While the previous measures only considered the decision phase of the application, now, moving forward, we will apply these metrics to cover all areas of the application process from *start to finish*.

The result is a guideline that significantly compresses the amount of time required to obtain a decision and sets out clear milestones, in number of days, for each step of the application process. This kind of tracking is groundbreaking for us and it will certainly be challenging – for us and for you.

For the Board it will require a determined effort. Sure, it may take some work, but I can tell you that we're all committed to making it happen because we know it is fundamental to achieving our goals. The Board will ensure that meaningful and relevant interventions continue to provide a valuable contribution to the application process. At the same time, we will be more rigorous in following the guidelines and will be asking the LDCs and intervenors, to do your part to help meet the timelines.

Why should you accept that challenge? Well, if we all make a real commitment to this, we can greatly improve the application process. You will know exactly when to expect a decision on your application. That makes planning easier. That should save money and time.

I genuinely believe that the new Application Processing Measures will be a tremendous benefit to us all. I won't get into all the details right now. So, keep an eye on the OEB web site where we'll be posting all the information shortly. You will receive more details directly and we're also going to organize a conference call session that will allow you to call in and ask questions or get clarification on the Measures.

Now I want to talk with you about some of the issues we recently experienced around MAADs applications.

You, of course, are well aware that the Board had been considering three separate applications for acquisitions of electricity distributors. Two of the cases also involve proposed amalgamations. Three different Board panels hearing the applications heard differing opinions from distributors and from intervenors as to what factors should be considered by the Board when it decides such transactions.

The range of opinion was wide enough that the Board determined a combined or consolidated proceeding would be appropriate.

This Decision, dated August 31, 2005, is significant for the distributors involved and the sector as a whole. First, we confirmed that the factors to be considered in deciding on MAADs application are those objectives confirmed in the legislation. They are: to protect the interests of

consumers with respect to prices and the adequacy, reliability and quality of electricity service. And to promote economic efficiency and cost effectiveness in the generation, transmission, distribution, sale and demand management of electricity and to facilitate the maintenance of a financially viable electricity industry.

Second, the Board will use a “no harm” test in deciding on a share acquisition or amalgamation transaction. In other words, the Board will approve if it is satisfied that the transaction, relative to the STATUS QUO, will not have an adverse effect when evaluated according to those legislated objectives.

As for some of the specific issues raised by applicants or intervenors, we have futher clarified the regulatory framework. The Board concluded that the price a purchaser pays is only relevant if the price is too high and creates a financial burden on the acquiring company. That could have an adverse effect on economic viability. However, a price that is too low would not have an adverse effect in terms of the factors the Board must consider.

Another issue before the panel was the conduct or motivation of a seller leading up to the transaction. For example, the amount of public consultation on, or public disclosure about, the transaction. Here, the Board found that these matters are not in and of themselves grounds for denying approval of a transaction. The “no harm” test looks at the effect of a transaction, not the reasons behind it for or the process preceding it for effects test not motivational.
With those issues clarified, the Board Panels assigned to the three applications proceeded with the individual reviews. The decisions have now all been released, Powerstream/Aurora yesterday.

We know our process meant a delay for the parties directly involved in the individual applications. But, we strongly believe this combined Decision will streamline and clarify consideration of future transactions. Moreover we plan to update our filing requirements which inform our filing evaluative criteria which lead to greater consistency in the manner in which MADDs applications are considered.

In this, and in other areas, we believe that by standardizing the process, we can expedite the process. These measures are another part of that puzzle I mentioned before.

Now, let me turn to Compliance. At the OEB, we’ve put a lot of effort into our compliance program, committing resources and expertise to monitoring, dispute resolution and stakeholder education. Our goal is straightforward: to ensure effective compliance through processes that are transparent, efficient and fair.

The Compliance Office has three main functions and is quite new:

First, issues management – responding to marketplace and industry issues which require an interpretation or clarification of the OEB’s regulatory requirements – rules, codes, etc.

Second, the Compliance Office deals with customer dispute resolution. This means attempting to facilitate a solution to assist you in managing the relationship with your customers.
The third function of the Compliance Office is compliance management – which means reviewing concerns or allegations of non-compliance and taking timely and appropriate action to resolve the matter.

Going forward, one of our priorities will be compliance with respect to the affiliate relationship code. Concerns have been identified about the way some distributors are interacting with their affiliates with respect to the adherence to the code – both for non-discrimination and consumer protection

Now, let me just say a couple of words about the regulatory audit function.

The first thing I'd point out is that both regulatory audit and compliance are part of the Market Operations section of our organization. While the Compliance Office may indicate items for audits, regulatory audit is focused on the reliability and quality of the information received from the LDC primarily through the RRR.

Like Compliance Regulatory Audit is new. We are really at the moment building the office under Bill Cowan's direction. We are also in the process of preparing a "regulatory audit plan". That plan will develop our audit approach and process including a risk matrix – probably low, medium and high.

Much of the information we get flows from the triple RRRs. As you know information is filed with us quarterly and annually. At this moment we are of the opinion that the tools and systems that we use for this evaluation are somewhat archaic both for you and for us. We intend to replace them by hopefully, April 2006. That should make life easier for both you and us.

The information helps us develop the accounting standards that we use and often provide advice to you. They are important and at this time we are in the process of doing an internal review on the interest rates charged for deferral accounts and CWIP and in 30 days or so we are going to prepare a draft accounting standard on interest rates for your comment.

We just did that and got excellent input from you on the clearance of the deferral and variance accounts that flowed out the Bill 23 Rates Freeze. The comments were well received. There are only going to be minor changes and it will be issued in the next couple of weeks.

The final message is around how we are doing this. For the first time Market Operations is working very closely together on the Rates side, the Compliance side and the Audit side to ensure that we give the best possible development of this function particularly in light of future PBR.

So, we believe the compliance and regulatory audit roles are important elements of what we do at the Board. Important for consumers. Important for you. And important for your relationship with your customers.

We try to help you manage that relationship in other ways too. Let me give you some examples.
We issue bulletins on issues of concern to you and your customers. A good example was the issue of security deposits, where we clarified the options for consumers and the responsibilities of utilities.
Similarly, we are helping you in calculating the final RPP variance settlement amount by clarifying the relevant event which will trigger a charge or credit.

Last Spring, we announced and publicized the new Regulated Price Plan. And, during the heat wave in July, we issued a statement reminding consumers of how the plan for residential and low-volume consumers works.

All of these were aimed at helping you deal with your customers – and helping your customers understand everyone's roles and responsibilities.

So let me just sum up. Our goal is to work with you to build a strong, viable electricity sector in this province and to do so in a way that protects consumers' interests**,** the public interest and earns the public's confidence.

Thank You.