



34 Cumberland Street N.
Thunder Bay, ON P7A 4L4
tel (807) 343-1111
www.tbhydro.com

February 23, 2012

Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Thunder Bay Hydro Electricity Distribution Inc. ("TBHEDI")
2012 IRM Distribution Rate Application
Board File No. EB-2011-0197**

This letter acknowledges receipt of the Vulnerable Energy Consumers Coalition (VECC) Final Submissions dated February 13, 2012. Thunder Bay Hydro Electricity Distribution Inc. submits two (2) paper copies of its responses to the VECC's Final Submission.

An electronic copy has been submitted through the OEB's RESS on-line filing system and via email, including a copy to all Intervenors.

Should you require any additional information, please do not hesitate to contact the undersigned.

Yours truly,

A handwritten signature in cursive script that reads "Cindy Speziale".

Cindy Speziale, CA
Vice President, Finance

cc: Robert Mace, President, Thunder Bay Hydro Electricity Distribution Inc.
Michael Buonaguro, Counsel for Vulnerable Energy Consumers Coalition (VECC)

**Response to the Vulnerable Energy Consumers Coalition (VECC) Final Submission
2012 IRM Distribution Rate Application
Thunder Bay Hydro Electricity Distribution Inc. (“TBHEDI”)
EB-2011-0197**

The Board Staff submission dated February 13, 2012 recognized that the Board in its Decision and Order EB-2008-0245 dated June 3, 2009, denied the specific CDM adjustment in Thunder Bay Hydro Electricity Distribution Inc.’s load forecast. Board staff also noted that this “does not necessarily mean that no CDM savings are imputed in the final forecast approved by the Board” (Page 10 of the Board Staff Submission in EB-2011-0197 dated February 13, 2012).

Upon reviewing EB-2008-0245, the original application, the ensuing interrogatories, responses and the Decision and Order, the following is clear:

1. TBHEDI submitted a load forecast which included a specific CDM adjustment (EB-2008-0245 Exhibit 3, Tab 2, Schedule 1, Page 9 of 20). (see **Appendix A**)
2. TBHEDI submitted an LRAM claim (EB-2008-0245, Exhibit 8, Tab 1, Schedule 10, Page 7 of 16). (See **Appendix B**)
3. The Board denied the CDM adjustment (Decision and Order dated June 3, 2009 of EB-2008-0245, Page 7). (See **Appendix C**)
4. The Board allowed the LRAM claim (Decision and Order dated June 3, 2009 of EB-2008-0245, Page 18). (See **Appendix D**)
5. The Board in its Findings did not make mention of the LRAM claim in its explanation of denying the specific CDM adjustment (Decision and Order dated June 3, 2009 of EB-2008-0245, Page 7). (See **Appendix C**)
6. The Board in its Findings did not make mention of the specific CDM adjustment to the load forecast in its explanation of allowing the LRAM claim (Decision and Order dated June 3, 2009 of EB-2008-0245, Page 18). (See **Appendix D**)

There is no discussion within the Board’s Decision and Order that suggests that CDM savings, as Board staff have implied, were “imputed” (Page 10 of the Board Staff Submission in EB-2011-0197 dated February 13, 2012), attributed or otherwise allowed in the final approved forecast. In fact, the Board stated quite simply that it “will not accept the 9.7 GWh adjustment for CDM impacts” (EB-2008-0245 Decision and Order, June 3, 2009, Page 7). The sole explanation was that there was “insufficient evidence to support the conclusion” (EB-2008-0245 Decision and Order, June 2009, Page 7).

As a result, it must be concluded that CDM savings were not imputed in the final forecast approved by the Board. Subsequently, an additional conclusion that must be drawn, and that was previously upheld by the Board EB-2010-0115 (Decision and Order dated March 28, 2011) (See **Appendix E**), is that it is still appropriate to allow the LRAM claim currently before the Board in EB-2011-0197.

Furthermore, TBHEDI has not rebased since EB-2008-0245 and will not do so until the 2013 rate year. It is through the rebasing year that CDM forecasts are incorporated into the load forecast. TBHEDI looks forward to submitting a fulsome and sufficiently supported specific CDM adjustment at that allowed time. Until then, and in keeping with Section 5.2 of the Board Guidelines for Distributor Conservation and Demand Management (EB-2008-0037), the LRAM application, as it relates to the persisting impacts of 2005 – 2009 programs as submitted, is appropriate and just.

VECC's Final Submission dated February 13, 2012 stated that "energy savings from TBHEDI's CDM programs deployed between 2005 and 2009 are not accruable in the year 2009, 2010 and beyond as these savings should have been incorporated in the 2009 load forecast at the time of rebasing" (Final Submissions of VECC, February 13, 2012, Page 7). This was VECC's position in EB-2010-0115. On Page 3 of TBHEDI's response to VECC interrogatories dated November 26, 2010 in EB-2010-0115 it states:

"TBHEDI's claim is based solely on the argument that the OEB should approve a continuation of the LRAM stemming from EB-2008-0245 as a result of the OEB's decision to not allow the conservation and demand management adjustment portion of TBHEDI's load forecast at that time.

To reiterate the claim in this filing, TBHEDI's distribution rates should have been adjusted for the load reductions as submitted; however, the load forecast reduction was not approved, and therefore, the fundamental principle in Section 5.2 of the Guidelines EB-2008-0037 (that the LRAM accrual ceases at the point of distribution rate adjustment) is null and void."

Subsequently, TBHEDI's position was accepted by the Board and the continuation of the LRAM was allowed at that time. In the Decision and Order in EB-2010-0115 on Page 10 it is stated that "the Board continues to endorse the principle of LRAM, which is that distributors are to be kept whole for revenue that they have forgone as a direct consequence of implementing CDM programs." (See **Appendix E**) TBHEDI respectfully submits that this is the reasonable and just conclusion to be applied to its LRAM claim in EB-2011-0197.

TBHEDI would also at this time reassure VECC that in TBHEDI's 2013 Cost of Service application a fulsome and sufficiently supported specific CDM adjustment will be incorporated into the load forecast.

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Table 5

Predicted Purchases Before and After Adjustments

| (GWh) | Predicted Before Adjustments | Adjustments | Predicted After Adjustments |
|-----------|------------------------------|-------------|-----------------------------|
| 2006 | 1,075.7 | -1.5 | 1,074.2 |
| 2007 | 1,092.3 | -31.4 | 1,060.9 |
| 2008 (WN) | 1,096.8 | -59.9 | 1,036.9 |
| 2009 (WN) | 1,099.4 | -59.9 | 1,039.5 |

3 The following table outlines the sources of the manual adjustments made to the forecast.

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Table 6

Manual Adjustment to Forecast

| (GWh) | Great West | Agricore | Northern Wood | CDM | Total |
|-----------|------------|----------|---------------|------|-------|
| 2006 | | | | 1.5 | 1.5 |
| 2007 | 14.9 | 1.6 | 2.1 | 12.9 | 31.4 |
| 2008 (WN) | 23.1 | 5.0 | 19.0 | 12.9 | 59.9 |
| 2009 (WN) | 23.1 | 5.0 | 19.0 | 12.9 | 59.9 |

6 With regards to Great West, annual energy sales including losses has reduced by 14.9 (GWh) in
 7 2007. Based on actual 2008 information from January to April it is expected the energy
 8 consumption will be reduced by 23.1 (GWh) in 2008 which is also the assumed reduction in
 9 energy for the 2009 forecast. There has been a significant reduction in energy usage for Great
 10 West since May of 2007, the month they announced an indefinite shutdown.

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12 With regards to Agricore, annual energy consumption in 2007 has reduced by 1.6 (GWh) in
 13 2007, including losses. Based on actual 2008 from January to April it is expected the energy
 14 consumption will be reduced by 5.0 (GWh) in 2008 which is also the assumed reduction in
 15 energy for the 2009 forecast. This reduction is a result of the decommissioning of one terminal,
 16 and significant drop in activity at other terminals at Agricore.

In terms of the overall approach, the Company argued that the proposed “top down” approach is appropriate because it has been used by Toronto Hydro and accepted by the Board in previous applications; and because Thunder Bay has the data required for this type of calculation, such as the exact amount of kWhs purchased from the IESO and others for use by customers of Thunder Bay. In Thunder Bay’s view, Energy Probe’s “bottom up” approach is problematic in that the monthly billed kWhs required for each class is dependant on other monthly variables such as billing cycle meter reading schedules which may include consumption from a previous month. Also, Thunder Bay suggested that relating billed monthly amounts to a variable such as heating degree days is not logical since the resulting regression model would attempt to relate heating degree days in a month to the amount billed in the month, not the amount consumed.

Board Findings

The Board accepts Thunder Bay’s load forecast, subject to two adjustments.

The Board will not accept the 9.7 GWh adjustment for CDM impacts. The Company based this adjustment on the difference between forecast and actual load. The Board finds there is insufficient evidence to support the conclusion that the difference is in fact attributable to CDM impacts.

The Board will not adopt the adjusted (distribution) loss factor as proposed by VECC. The Board finds Thunder Bay’s explanation of the use of the total loss factor to adjust the forecast to be reasonable. However, the Board will not accept either Thunder Bay’s or Energy Probe’s total loss factor numbers. The Board notes that the calculation supporting the 4.7% figure proposed by Thunder Bay includes purchases and billings over the eight year period 2000 to 2007, whereas the most recent five years are used to establish the factors approved on the Tariff sheet. Also, since Thunder Bay has forecasted no large customers as part of its test year customer base the Board finds that it would be appropriate for Thunder Bay to apply the approved Tariff sheet total loss factor for secondary metered customers below 5,000 kW only. The Board addresses the level of the loss factors later in this Decision. The Board notes that Thunder Bay has provided no rationale for why the total loss factor used to convert the load forecast to billing quantities should not be the same total loss factor that appears on its Tariff sheet.

The Board will not adopt the recommendation by Energy Probe that the 2004 Hydro One NAC data be used. There are some shortcomings to Thunder Bay’s forecast approach, a number have been noted by the intervenors in addition to Energy Probe’s

suggested reduction, Thunder Bay proposed that a 10% reduction of the amounts sought for the 2007 delivery year would be appropriate as 2007 is the year that the independent third party review was made part of the CDM Guidelines. It was Thunder Bay's position that the reduction is appropriate only for those programs funded by third tranche CDM dollars, since the OPA has asserted that its programs have undergone third party evaluations.

Thunder Bay submitted that its total LRAM and SSM amount for the 2007 delivery year is \$167,446. If OPA programs are excluded, the total LRAM and SSM amount for the 2007 would be \$117,168. If a 10% reduction were applied to this total, Thunder Bay stated that this would reduce the total LRAM and SSM amount for the 2007 delivery year by \$11,717, which the Company stated would be appropriate.

Board Findings

The Board accepts Thunder Bay's proposal to reduce its requested LRAM and SSM claim by \$11,717 in the absence of a third party review. The Board approves the recovery of the LRAM and SSM total of \$477,380 by means of the three-year volumetric rate riders proposed by Thunder Bay.

PAYMENTS IN LIEU OF TAXES ("PILs")

Thunder Bay forecasted a PILs allowance of \$970,138 for 2009, composed of \$800,672 for combined Federal and Provincial Income Taxes and \$169,466 in Capital Taxes, as shown in the following table⁸.

Summary of Actual and Proposed PILs Allowance

| <i>Description</i> | 2006 Board | | | | |
|------------------------------|-------------------|--------------------|--------------------|--------------------|------------------|
| | Approved | 2006 Actual | 2007 Actual | 2008 Bridge | 2009 Test |
| Income Taxes | \$ 1,092,369 | \$ 1,109,218 | \$ 737,431 | \$ 655,911 | \$ 800,672 |
| Large Corporation Tax | \$ 21,095 | | | | |
| Ontario Capital Tax | \$ 235,550 | \$ 230,440 | \$ 218,391 | \$ 165,897 | \$ 169,466 |
| Total Taxes | \$ 1,349,014 | \$ 1,339,658 | \$ 955,822 | \$ 821,808 | \$ 970,138 |

Thunder Bay provided a summary of its actual and estimated PILs in response to Board staff interrogatory #30. Further information on specific details and issues of Thunder Bay's PILs were provided in response to Board staff interrogatory #30 and Energy Probe interrogatories #24 and #25.

⁸ Exhibit 4 / Tab 3 / Schedule 1

Review and Disposition of Lost Revenue Adjustment Mechanism (“LRAM”)

In its original filing, Thunder Bay sought approval to recover a total LRAM claim of \$386,136 over a one year period.

The Board’s Guidelines for Electricity Distributor Conservation and Demand Management (the “CDM Guidelines”) issued on March 28, 2008 outline the information that is required when filing an application for LRAM or SSM.

The Board’s Decision on LRAM in the Horizon application (EB-2009-0192) stated that distributors are to use the most current input assumptions which have been adopted by the Board when preparing their LRAM applications as these assumptions represent the best estimate of the impacts of the programs.

In response to interrogatories from VECC, Thunder Bay confirmed that its LRAM claim is twofold. The first claim is for an extension of the LRAM claim originating in EB-2008-0245 stemming from 2005 to 2007 CDM activities. This amount is \$307,075. The second part of Thunder Bay’s LRAM claim is \$79,061 and comes from 2008 CDM activities that persist into 2009 and 2010. Also, in response to VECC interrogatory #3b, Thunder Bay discovered a persistency error in its original submission in the Summer Sweepstakes Program which would effectively reduce the overall 2008 LRAM claim of \$79,061 to \$61,897.

In its submission, VECC was concerned about Thunder Bay’s use of Best Available Input Assumptions as required by the Board’s TRC Guidelines Section 7.3 and the Board’s Letter, dated January 29, 2009, regarding its adoption of the OPA Measures and Assumptions List. VECC noted that the lack of an independent third party review may have resulted in a continuation of outdated input assumptions. VECC submitted that it was unable to provide any assistance to the Board as to whether the LRAM claim is accurate or not.

Board staff also submitted that it appeared as though Thunder Bay has not used the most recently published OPA Input Assumptions list when calculating its entire LRAM claim. Board staff submitted that Thunder Bay makes no reference to using the most recently published OPA Input Assumptions list when calculating lost revenues from its 2005 to 2007 CDM programs. Board staff further submitted that the Board should direct Thunder Bay to recalculate its LRAM claim using the most recently published OPA Input

Assumptions List and re-file the updated amounts for approval.

In its Reply Submission, Thunder Bay recalculated the LRAM claim for 2005 to 2007 CDM programs using the most recently published OPA Input Assumptions List. The new LRAM amount for that time period is \$194,006. As a result, the revised total LRAM claim requested for recovery is \$255,903 to be collected over a period of one year.

The Board continues to endorse the principle of LRAM, which is that distributors are to be kept whole for revenue that they have forgone as a direct consequence of implementing CDM programs. The Board is of the view that the most current OPA Measures and Assumptions List, as updated by the OPA from time to time, represents the best estimate of losses associated with a distributor's CDM programs.

The Board approves the recovery of the revised LRAM amount of \$255,903 which is consistent with the principles set out in the Horizon Decision. The Board approves the recovery by means of a volumetric rate rider over a 1 year period.

Late Payment Penalty Litigation Costs

In this application, Thunder Bay requested the recovery of a one time expense of \$160,239 related to the late payment penalty ("LPP") costs and damages resulting from a court settlement that addressed litigation against many of the former municipal electricity utilities in Ontario.

On October 29, 2010 the Board commenced a generic proceeding on its own motion to determine whether Affected Electricity Distributors¹, including Thunder Bay should be allowed to recover from their ratepayers the costs and damages incurred as a result of the Minutes of Settlement approved on April 21, 2010 by the Honourable Mr. Justice Cumming of the Ontario Superior Court of Justice (Court File No. 94-CQ-r0878) and as amended by addenda dated July 7, 2010 and July 8, 2010 in the late payment penalty class action and if so, the form and timing of such recovery. This proceeding was assigned file No. EB-2010-0295.

On February 22, 2011, the Board issued its Decision and Order and determined that it is appropriate for the Affected Electricity Distributors to be eligible to recover the costs and damages associated with the LPP class action in rates. The decision set out a listing of

¹ As defined in the Board's Decision and Order EB-2010-0295